

# Understanding the Role of Consumer Organisations in Policy Making and Regulation in the UK and Norway. Do they matter?

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## **Abstract**

Neoliberalism constructs a particular version of consumers as existing individually and within markets, and not collectively outside of markets where regulation and policy is made. This undermines the individual's ability, as a consumer, to influence how markets are constructed and regulated. This thesis investigates the role of consumer organisations in contemporary policy making and regulation, asking how they matter in terms of their representation of individuals. In so doing, it assesses the position of consumer organisations in the UK and Norway in terms both of their institutionalisation, and their intermediation with other political actors. The principal argument is that investigating consumer organisations illuminates the complex and deeply political relationships between states, markets and civil society. More specifically, it argues that despite the fact that consumer organisations have a relatively privileged position in terms of their involvement in decision-making, and that developments in governance have encouraged stakeholder inclusion, they remain largely peripheral to regulatory and policy processes. This undermines the potential collective power of consumers over how markets are regulated. Through a discourse analysis of elite interviews with consumer organisations, regulators and policymakers, it is found that their relevance remains largely dependent on a combination of the ideas, issues and ideologies involved in policy making and regulation. This is despite attempts to ensure that it is consumers' interests that are seen as paramount in the institutional design of the regulatory state. This thesis, through a thick description analysis of consumer organisations in policy making and regulation, problematizes the development of the regulatory state and the inclusion of consumer interests as a counter-balance to industry and agency pressures. In so doing it offers original insights into some of the variegated political dimensions of contemporary neoliberal capitalism, most specifically the ways in which people are represented in construction of regulation.

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# 1. Introduction

Being a consumer is a fundamental part of contemporary life. Our ability to act freely within markets is considered by most mainstream political hues to be an inalienable right. We are also regularly told in the media that, among other things, it is a lack of consumer demand that is suffocating our economy. At the same time we are being told in both advertising and by popular commentators that we need to buy greener, healthier and more ethical products. Furthermore, markets have continued to grow to include previously government run and controlled utilities, which we, as consumers, now have increasing choice over. It is uncontroversial to say that peoples' place as consumers dominates social and political life.

However, these developments primarily concern consumers *within* markets. The place of people as consumers *outside* of markets, where regulation and policy is made, does not receive attention. It is also not examined in depth in academic research. This thesis challenges the focus on consumers within markets, with an investigation of consumer organisations, and their role in regulation and policy making in the United Kingdom and Norway. It addresses the incorporation of consumer organisations into the policy process in order to map how their place is constructed by both themselves and policy officials, and in so doing investigates the underlying politics of regulation and policymaking.

Some regulators in the United Kingdom have sought to implement structural measures to ensure that the consumer voice is taken into account, and in Norway there has been a long tradition of consumer representation at a high level since the 1950s. In both countries, despite the various social democratic endeavours to ensure consumer representation in policymaking and regulation, neoliberalism as an ideology still plays a significant role in how consumer organisations are perceived. The neoliberal concern with consumers is explicit – consumers within markets are the vanguard, or at least the foot soldiers, of post-industrial capitalism, where the market is the democracy. In this respect consumer organisations are interesting as they address individuals in their neoliberal form, as actors in a market, yet represent them as a collective in a more social democratic mode. Consumer organisations therefore characterise some of the complexity in the competing political perspectives at the heart of contemporary politics.

The place of consumers in society, and subsequently how they are represented at an elite level, is therefore of significant interest if we are to understand policy making today. It is also something that has seen little scholarly analysis. This thesis confronts this problem by investigating the role of consumer organisations as political representatives in regulation and policy making in the UK and Norway.

## 1.2 Research Problem

Contemporary policy making and regulation is concerned with increasing the presence of stakeholder voices in areas of governance, in both theory and practice. This is done both for reasons of democratic legitimacy, and to ensure more informed and accurate regulation; simply 'better regulation'<sup>1</sup>. Various organisations and groups are called upon to represent a wide variety of perspectives in the construction of policy and regulation, through various forms of consultation and

1 As referred to in the UK's Better Regulation Task Force's *More Imaginative Thinking About Regulation* (London, 2003)

network governance.

What has not been well examined in the literature is the extent to which interest organisations, specifically public interest groups, have an impact on policy and regulation, and provide a counterbalance to industry and agency pressure. This is especially the case in terms of how well these organisations are *perceived* to have an impact on specific policy and regulation, by both the organisations themselves and by policymakers. This matters as the policy domain is to a great extent defined by the perceptions of the actors involved. Furthermore, the broader political context in which these developments have occurred has been one in which neoliberalism as an ideology has been dominant. This cannot be separated from the role that consumer organisations have come to have due to the relationship between states, markets and civil society.

Therefore we need to understand consumer representation better. In particular we need to understand the representation of consumers by organisations in regulatory and policy making forums. This thesis does this through exploring the connections, networks, politics and ideologies at the heart of consumer representation in two different states, the UK and Norway.

### 1.3 Research Questions

This thesis investigates the role of consumer organisations in regulation and policy making in the UK and Norway. The questions below combine looking at structures, processes and perceptions in order to gain a greater understanding of what place consumer organisations have in contemporary policy making and regulation. They will guide the thesis throughout. The key question that drives this research is:

What is the role of consumer organisations in contemporary policy making and regulation?

This question structures the broader orientation of this thesis in all the chapters and is addressed throughout. Furthermore, there are three supplementary questions which investigate important dimensions in understanding the broader role of consumer organisations.

First, a more straight forward question that focuses on the structures and the institutions established to take account of consumer organisations and consumer representation in policy and regulatory forums:

How are consumer organisations institutionalised by the state?

This is addressed in the literature review and theoretical chapter, and in the empirical chapters (chapters 6 and 7) where the key organisations and institutions involved in consumer representation are investigated, with regard to consumer organisations themselves.

Second, a question which directly assesses one of the claims about how the regulatory state, and the process of regulation, can be made 'better' in terms of the countering potential issues of 'capture':

To what extent do consumer organisations provide a counter-balance to industry and regulatory pressure?

This question is the most crucial in determining the specific importance and role of consumer organisations as public representatives. It attempts to address the empirical gap in the theoretical



literature on the regulatory state, and 'better regulation', by taking account of the organisations that aim to provide a 'counter-balance'. It is addressed in the analysis and concluding chapters (chapters 8 and 9), but is alluded to numerous times throughout the empirical chapters (chapters 6 and 7), the literature review (chapter 2) and theoretical chapter (chapter 3), when discussing some of the problems consumer organisations face.

And finally:

In what respect are consumer organisations understood to impact upon policy and regulation?

This third question most closely confronts the issue of influence, and is addressed in the empirical chapters (chapters 6 and 7). Influence is a common theme in the interest group literature but one which is notoriously difficult to address due to the complex causal inference of its subject matter. What is targeted here is the extent to which consumer organisations themselves, and policy makers, perceive their impact. This is just as important as direct influence on particular policy as it enables a greater understanding of the political context, and the extent to which consumer issues become embedded within a policy and regulation network.

I will now turn to the wider debates that this thesis contributes to.

## 1.4 Wider Debates

The arguments set out here contribute to a wider debate about the character of neoliberalism, on which great deal has been written from a variety of perspectives (Campbell and Pedersen, 2001; Harvey, 2005; Roy et al. 2006; Lee and McBride, 2007; Cerny, 2008; Turner, 2008; Plant, 2010; Steger and Roy, 2010; Crouch, 2011). Neoliberalism is widely understood to function as 'an ideology, a mode of governance, and a policy package emphasising the pivotal role of free markets and private enterprise,' (Steger and Roy, 2010, p.136). My thesis and arguments concern all three of these dimensions. More specifically, contained within the neoliberal paradigm is the changing nature of the state and civil society, and the connections between the two. This is where the debates on the regulatory state and network governance are important. What needs to be understood is the extent to which a consumer organisation's role is guided more by a neoliberal ideology or a more social democratic one.

More specifically the arguments speak to two particular bodies of literature; that on the regulatory state, and that on governance networks, that both deal with dimensions of neoliberalism in practice. Crucial though is that consumers, and by extension the organisations that represent them, come to have a particular significance in a more neoliberal political order due to the importance placed on consumers by neoliberal ideology.

First is the literature that has focuses on the emergence of the regulatory state (Majone, 1994; Moran, 2003). This is a state which concerns itself with regulation over traditional taxation and spending. The other is the scholarship on the development of governance networks (Adam and Kriesi, 2007; Blanco et al., 2011; Davies, 2011), which seeks to take account of the practice of governance through networks. Both of these literatures recognise the increasing desire for polities to include civil society organisations in the processes of governance. There are a variety of arguments from these literatures about the way that state-civil society relations have developed, but few of them consider the role of consumer organisations specifically.

It is also important to recognise that major corporations and big business have seen a significant increase in their presence in politics, as other forms of representation, like labour unions

have declined (Faccio, 2006; Wilks-Heeg et al., 2012). This is most obviously attributed to the favourable conditions for business provided by globalised neoliberalism, and its three tenets: de-regulation, liberalisation and privatisation. At the same time there has been growth in new social movements, NGOs and pressure groups (Grant, 2005). Furthermore, Grant (2005) has suggested there has in fact been a shift from a politics of production to a politics of collective consumption. This new political order is concerned not with the politics of the production process itself, but with the outcomes of the production process. It is concerned with the externalities, and the results, of the production process rather than being focused on what constitutes the production process itself. This can be witnessed in the increasing number of environmental organisations, new social movements and pressure groups concerned with the public interest.

My thesis is directly concerned with this new political order; a situation in which traditional modes of representation for individuals have either declined, or been undermined, where at the same time corporations and big business have seen their presence and influence in politics grow. I am concerned with finding out how a particular type of public interest, the consumer interest, is represented in contemporary governance against that of the interests of corporations, big business and the agencies themselves. What role do consumer organisations play in this context?

## 1.5 Wider Arguments

My thesis argues that through looking at consumer organisations we can gain an understanding of the extent to which individuals have representation in regulatory and policy forums. But furthermore, that this understanding can help us to see clearer the contours of state-civil society relations, in a context in which the market has become ever-present, and regulatory capitalism seemingly immovable. This is important as it can help us to see the contestations about the extent of regulation and marketisation, and to appreciate the deeply political nature of processes that some might suggest are at best depoliticised, and at worst 'neutral'. My research, like Hajer (2003), sees policy making as constitutive of politics, not as the *result* of politics. In this respect, my thesis does not aim to provide technocratic answers about how this should be resolved, but critically explores the dynamics involved.

The broader political context is one in which neoliberalism as an ideology has come under increasing pressure. This is in large part due to the global financial crisis, widely purported to have been the result of the doctrine's worst excesses (Krugman, 2008; Wolf, 2008; Tett, 2009; Hind, 2009; Rudd, 2009). However, in the UK governments and elites have continued to adopt a neoliberal mantra, arguing against the welfare state, and for the continued rolling back of regulation (Crouch, 2011). Understanding how consumer organisations have been involved or excluded from the developments, can show us the agency, potential or realised, individuals might have over decisions which impact on them on a daily basis, in contrast to that of industry and agencies. The extent to which politics take account of a consumer perspectives when embarking on particular regulatory regimes, and where consumer organisations feature in this, brings together two debates; 1) the extent to which governments have sought to decentralise regulatory responsibility to agencies, 2) while at the same time a norm of participatory practice is being encouraged. These are brought together in the inclusion of consumer organisations into the construction of regulation and policy making, something which is under-researched.

As will be taken account of in the literature review (chapter 2), there is a body of empirical work that has been concerned with measuring the extent of interest group influence on the rule making of governments (for example Potters and Sloof, 1996; Michalowitz, 2007; Dür, 2008).

Various empirical studies have specifically focused on business interests, and others on civil society, in the US, the EU and elsewhere (Greenwood, 2003, 2007; Bouwen, 2004; Eising, 2004; Mahoney, 2007). However these studies do not address the broader context in of how regulation and policy are made. When analysing interest group ‘influence’ the complexity of the policy process needs to be addressed and better understood. A more functionalist and instrumentalist account fails to appreciate a whole host of contingent concerns, like ideology, structure, institutional design, and sectoral and policy area differences. What is argued in my thesis is that much of the scholarship on interest organisations and public policy, by searching for specific instances of influence, and confining themselves to mere measurement of influence, are missing a contextual investigation of how individuals are represented in networked governance. My thesis aims to address this by considering consumer representation, specifically consumer organisations, in two distinct polities, the UK and Norway, and asking the question of what role they play? My research assesses contexts which are favourable to their participation in the regulatory and policy process.

A major concern for the regulatory state is that it can become easily ‘captured’ by the development of ‘too close’ relationships between the regulator and the regulated. It has been suggested that a system in which public interest groups are empowered within the regulatory process can help to ‘operate as counter balances to industrial and agency pressures.’ (Ayres and Braithwaite, 1992; Baldwin et al., 2012). However, counter to this *Republican Tripartism*, where public interest groups act as counter-balances to industry and agencies, critics have suggested that these organisations can become ‘shadow regulators’ (Mendeloff, 1993), and that, among other concerns, ‘disputes about the representativeness of empowered PIGs can be expected’ (Mendeloff, 1993).

This thesis unpacks and problematizes this tripartite system which was developed, in order to discern the extent to which consumer organisations contribute, and to argue that despite consumer organisations inclusion they remain relatively peripheral, and that their inclusion is bound to a particular ideological commitment to the market. This will be done in two ideologically and structurally different settings, the UK and Norway, by investigating the role of consumer organisations, a principal public interest group.

Furthermore, Davis (2011) suggests that governance networks reproduce ideology through a ‘hegemony of ideas’. As a system of ideas and practices the ideology of the network masks that power is still highly centralised, and *not* dispersed. This is linked to how neoliberalism has been about ‘transforming and enrolling civil society, attempting to cultivate a connectionist ethos.’ (Davis, 2011, p.151) However, there is still space for consumer representation if we take into account both the shift to a politics of consumption, and that consumer organisations themselves are not ideologically fixed. They can act as much in the frame of a social democratic force as they can a neoliberal one. This is outlined in the analysis chapter (chapter 8), where a typology of positions towards consumer organisations is set out; in that they can be seen as either a ‘toxic agent’, a ‘perfect form’, or a ‘fly-in-the-ointment’.

The shift in political order, as outlined by Grant (2005), is argued to be of far more immediate importance in a context of regulatory capitalism. Rather than focus on the production process itself, in a traditionally Marxist fashion, it would be better to consider consumer organisation in the context of a politics of collective consumption. Therefore understanding how consumer interests are represented in governance networks, and the regulatory state, can help us to better assess, and address, the character of contemporary policy making and public administration. In this respect we can address how governance networks include the perspectives of citizens inside of the state-civil society interface, and we do not necessarily have to throw the baby out with the bathwater.

## 1.6 Key Findings and Principal Argument

What my research shows, which is addressed in the empirical chapters (chapters 6 and 7), and in the analysis chapter (chapter 8), is that consumer organisations are given significant space in governance networks, but that they face inconsistency in the extent to which they are included as core participants. It was found that despite the reasonably close connections to regulators and policy-makers, the good working relationships, and the structures and institutional design, that they still had few ‘victories’ in their eyes.

In addition it was found that consumer organisations in both political systems face similar issues in their operations, despite the differences in structure and ideology. Consumer organisations are often bracketed under ‘the consumer voice’, and included as a single interest, whereas business are often included individually and as a result generally outnumber the consumer interest. This causes significant difficulty for consumer representation in both polities. Consumer organisations are generally seen in a favourable light by policymakers, and their presence is considered as a positive development, yet feel they have little genuine impact on final policy and regulation. This seeming contradiction underpins the activities of consumer organisations in contemporary policymaking and regulation.

In this respect, my thesis argues that policy and regulatory systems could be theorised in two perspectives. First, a situation in which the consumer interest is core to the process, where all actors would recognise this and policy and regulation would marginally meander to being preferential to either industry or agency interest. But that the consumer interest would be predominant. Here consumer organisations’ role is to ensure that the process is kept on track. Second, a situation where the consumer interest is peripheral and policy and regulation would constantly drift away from statutory obligations to consumers, as regulatory capture, and regulatory mission creep, occurs. In this circumstance consumer organisations’ role is to try to bring the regulatory and policy process back into line with the statutory requirements through lobbying or legal proceedings. These circumstances exist simultaneously in both polities, being different in different sectors, markets and industries, and can also change overtime. What this analysis provides is scenarios which we can draw upon to take account of a particular policy processes, and governance networks, even though there are no generalisable rules.

In summary, this is not a thesis about the intricacies of particular regulation, it is not a thesis about how better regulation might be made, nor whether or not there is more or less regulation that there once was. It *is* a thesis about critically understanding the processes involved in regulatory networks, and what place a particular set of interests has in the interconnections that make up contemporary processes of governance. The focus therefore is not on the regulations themselves but on the contexts of their making. It is the structures that form these contexts which are of principal concern, and which will be analysed in a comparative and interpretive fashion (the methodology will be set out in chapter 3). It is in this respect that this thesis finds itself aligned with the tradition of critical policy analysis. The sub-field is fundamentally concerned with critically analysing the features of contemporary policy networks and governance. This includes addressing the structural, ideological and *political* dimensions of policy and regulation.

What this thesis offers is a better understanding of the development of policy making and regulation. It takes account of some of the intricacies of neoliberalism by investigating the representation of consumers in regulatory forums in two ideologically different settings. It suggests that consumer organisations are a potentially incisive force against that of corporate power, and the negative effects of markets, but which is being undermined by ideological and structural changes in both polities.

## 1.7 Original Contribution

This thesis is original, theoretically, methodologically and empirically, in five respects.

First and foremost, there are no studies that compare the UK and Norway as political systems. This is seen to be a great loss, especially when trying to understand the extent to which different ideological underpinning, and different political systems can have on the particular characteristics of a liberal democracy. The key point for this comparison was to discover similarities by comparing cases-most-different. What we see that is similar in both countries despite the differences in ideology, political system, and decision making. This can then help to show common problems, and potentially common solutions to issues around consumer representation and organisation. What has been gained from this comparison is that consumer organisations in both countries do experience similar issues concerning how consumer representatives are often grouped together under one label, whereas business interests are not. It was also significant that consumer organisations in both countries, despite the relatively favourable structural conditions, found themselves to be peripheral to the policy and regulatory process. Additionally consumer organisations in both countries face similar issues in their connections with policymakers, due to the fact that perspectives towards consumer organisations matter when trying to get points of view across.

Secondly it is original theoretically as it links together three bodies of literature which have not been previously linked. Through bringing together the theory on the regulatory state, the theory on governance networks and the theory on constructivist institutionalism, this thesis has been able to take account of the processes around policymaking, regulatory forums and consumer organisations. It has also been able to show that although much of what these theories have to offer is accurate, there are still gaps. The state, and the processes of governance, are fraught with clashes in political ideology. This can be witnessed in the significant changes taking place in the ‘consumer landscape’ in the UK, which have resulted in the closing of one of the central consumer organisations Consumer Focus. This is part of a drive on behalf of a more market liberal orientated government to consolidate and pull back from the public funding of interest organisations and agencies. In Norway on the other-hand, the relatively stable social democratic structures, although not facing threats to their existence, as in the UK, the consumer organisations are still having to cope with the increased professionalisation of the business lobby and a more neoliberal discursive culture.

Thirdly it is original in that it is the first study to explicitly try and understand consumer representation *outside* of markets. Other studies have considered consumer representation (Rose, 1981), and consumer organisations (Hilton, 2009), and although valuable to this research, they do not take account of consumer organisations outside of markets, in the policy making and regulatory processes in detail.

Fourthly, it is original in its methodological approach and data collection through conducting a range of interviews in both the UK and Norway with elites involved in consumer representation and policy making and regulation. These interview have enabled a ‘thick description’ account of the role that consumer organisations play in contemporary public policy and governance, and have enabled a deeper understanding of institutional cultures and the perspectives, ideas and issues that characterise them.

Lastly, it is original in its analysis, in both how it has framed how consumer organisations are understood ideologically, and how they are understood to be either core or peripheral to the policy and regulatory processes. As will be shown in the analysis chapter (chapter 8), a typology of perspectives towards consumer organisations, by those involved in the policy process, helps us to see more clearly the politics behind consumer representation. These positions towards consumer

organisations underpin how individuals, and broader systems generally, address consumer organisations. They are seen by policymakers and elites, from left to right on the political spectrum respectively, as; a ‘toxic agent’, a ‘perfect form’, and as ‘a fly-in-the-ointment’. In addition it will be shown how we can understand the extent to which consumer organisations are seen to play either a core or peripheral role in policy and regulatory processes by considering the ideology, ideas and issues that have an impact on their place in the process. This will be shown in two diagrams set-out in the analysis chapter (chapter 8).

## 1.8 Organisation of Thesis – Overview of Chapters

The thesis is organised into nine chapters on consumers, consumer organisations, the state and the connections between them. Chapter one has been an introduction into the main arguments of the thesis. It has covered the key research questions, the wider debates, and the original contribution. Chapter two is a broad literature review of consumer organisations, interest groups, governance and the state. It overviews this literature in order to show the state of the art in the understanding of consumer organisations. There is relatively little written on these organisations specifically, so a broader concern with organisations as public representatives has been considered in order to gain an understanding of the important, relevant, questions to political science. From this review the research questions were reached.

Chapter three overviews the theoretical literatures engaged. This concerns three bodies of literature; theory on the regulatory state, governance network theory and constructivist institutional analysis. This is done in order to situate the thesis theoretically, to show how the thesis is framed in terms of these three dimensions. The three theories together take account of the three elements considered to be vital for a comprehensive understanding of consumer organisations: the state (regulatory state theory), the intermediation the state and civil society (governance network theory), and to take into account the role played by ideas in institutions (constructivist institutionalism). One theory was not enough to explain the dynamics that are being addressed here, therefore it was necessary to utilise these three different perspectives and bring them together to investigate consumer organisations.

Chapter four concerns the epistemology and methodology of the research. It sets out the interpretive tradition that this thesis situates itself in, and makes clear why this position was reached, and what it means for the research. This is done in order to show the focus and breadth of the research, but also to show its strengths and limitations. It also describes how the research was conducted, what the priorities were, and how the research questions were addressed.

Chapter five overviews the political systems under analysis. It considers the literature on the two different states and outlines the key features of each system for an analysis of consumer organisations. This was done in order to appreciate the different political contexts under analysis.

Chapter six moves into the empirical inquiry where consumer organisations in the UK are examined. The chapter looks at the two main consumer organisations, Which? and Consumer Focus, one of the main regulators, Ofcom, and a particular policy issue: product placement legislation. It principally investigates the connections between the organisations and the regulator, and how the regulator has institutionalised these organisations. In addition it looks to see in what circumstances consumer organisations did, and did not, impact upon policy.

Chapter seven then moves to address Norway in a similar fashion by looking at the main consumer organisations, Forbrukerombudet, Forbrukerrådet and SIFO, in addition to the main government department dedicated to consumer issues. This chapter concerns how the different setting

in Norway impacts on the intermediation between the organisations themselves and policy makers.

Chapter eight is the comparative analysis chapter, where the findings in the previous two chapters (chapters six and seven) are brought together. This chapter combines the analysis of the empirical material and the original reflections on the wider literature and the theory utilised. It sets out two main arguments with regard to both the framing of consumer organisations ideologically, and also in terms of their inclusion into the policy and regulatory process.

Chapter nine then concludes by summarising the thesis as a whole, considering the literature on consumer organisations, the regulatory state, and governance networks, and how this research contributes to it by taking account of consumer organisations in contemporary policy making and regulation. It sets out the original contribution of the thesis, the main argument and directly addresses the research questions in turn. It also finishes with some suggestions for future research with regard to three topics: the EU, the Media and representation.

# 2. Literature Review: Interest Groups and Governance, the Case of Consumer Representation

## 2.1 Introduction

This chapter reviews the literature of three relevant fields and sub-fields: political and sociological literature on consumers and consumption, the literature on interest groups, both public advocacy groups and business, and also the literature on state-civil society relations. These three literatures are all relevant in trying to understand the role of consumer organisations in contemporary politics, and in understanding characteristics of contemporary capitalism more broadly. What this literature review will argue is that consumer organisations, as a particular type of interest representation, are symptomatic of how governance practices have been constructed by neoliberal discourse. Their inclusion into systems of policy making and regulation are systematic of practiced neoliberalism. Here discourses about the market promote particular regulatory structures. These are concerned with optimizing market circumstances whilst allowing for the representation of citizens, as consumers, in creating these structures. This is argued to be of interest in better understanding some of the complex politics that characterise state-market-civil society relations. Consumer organisations connect these spheres in a way that promotes both the political representation of citizens in addition to underlining the primacy of the free market as the principal organising structure. Most importantly the focus here is *not* on consumers within markets, where the consumer has been lifted above passivity to be the active ‘prosumer’, or ‘citizen consumer’, but to understand people represented as consumers outside of markets in the networks of policy making.

Contemporary life is saturated by consumer choice. Processes of neoliberalism<sup>2</sup> have required individuals to identify with being a consumer in evermore spheres of life, both public and private. We engage in consumption activities with increasing regularity both in full knowledge and without much consideration, and consumption, and our place as consumers, is of distinct significance to the functioning of our economy. This has not always been the case, and is historically a relatively recent phenomenon<sup>3</sup>. Beyond the obvious economic importance, the cultural and social aspects of this development are also significant, and have seen considerable analysis (Bauman, 1998, 2007;

2 Here it is understood, in line with Boas and Gans-Morse (2009), that the concept of neoliberalism in political science, and scholarship more widely, suffers from conceptual ambiguity. In this thesis I am principally concerned with neoliberalism as an ideology, as a set of principles that structure the character of institutions, policy processes and political economies more broadly. Neoliberalism should be understood as not pure Hayekian free market, nor as outright Keynesian interventionism, but as a hybrid of the acceptance of the primacy of markets as an organising structure with the necessary use of ‘tools’ to optimise the outcomes of markets. These can be seen as economic, legal and political instruments that make markets work ‘better’, that in addition to deregulation, liberalisation and privatisation, there is a re-regulation through ‘reform’ where-by principles of light touch, and steering, are seen to be optimal. What is crucial is the acceptance and promotion of markets as the most optimal form of organisation. It is also vital to appreciate that as well as neoliberal theory being different from practice, there are also many types of neoliberalism, or neoliberalisms (Collier, 2012).

3 Mass-consumption is widely understood to be a post WW2 phenomenon. However consumption, and therefore consumers, has been a feature of capitalist economies for centuries (Brewer & Trentmann, 2006; Trentmann, 2006).



Baudrillard, 1998; Sassatelli, 2007; Lury, 2011). The political implications have however seen far less investigation, and this is especially the case with regard to how individuals, as consumers, are represented in the political sphere. This is of significance, both to political science, and to the wider world, as how the public is represented, and the extent of the influence of that representation, can have considerable impacts on the ways our lives are governed. The existence of consumer organisations as in capitalist liberal democracies is not a ‘natural’ phenomenon; there are reasons why these groups have come to play a role in policy-making, and the differences in both how they have emerged and what happens when they do, is of significance.

Consumer organisations, although having existed for some time, are under researched in political science, specifically in terms of their place in the policy process. It is the intention of this research project to better understand the extent of the influence of consumer organisations in contemporary liberal democracies, through understanding their place in the policy and regulatory process. In so doing it will address questions about how individuals are represented, and what role these groups play in policy making. In this respect there is both an empirical aspect, understanding the role these groups play, and a normative dimension, questioning what role they *should* play? The intention is to add to the debate in a variety of ways; by bringing the understanding of consumer organisations up-to-date, through questioning the conceived wisdom that these particular groups are both ‘outsiders’ (Grant, 1993), and are largely ineffectual (Greenwood, 2007), but also adding a critical perspective to the understanding of how particular groups have come to have a distinct place in policy making in capitalist democratic systems.

It is argued that there are three conditions that are significant in establishing their position. First, that consumer organisations fail to mobilise organically in any significant way and therefore need to be represented by advocacy groups, both publicly and privately funded. Second, that developments of neoliberalism, the deregulation of economies (D), the liberalisation of trade (L), and the privatization of state-owned industries (P), (DLP), (Harvey, 2005; Steger and Roy, 2010), have required that social democratic states make markets work for *consumers*, and in so doing consumers need to be represented in regulatory forums. Third, and intimately connected to neoliberal developments, is the impact of modes of governance that require arm’s length bodies to conduct market regulation, whilst at the same time requiring input from the public, or ‘civil society’<sup>4</sup>. This input is used as a symbol of legitimacy, and also provides valuable information as regard to how policy may impact upon consumers, but is crucially part of the discourse around networked governance, and neoliberalism. It is argued that consumer organisations have come to have a distinct role, in two very different polities, and in different ways, due to these developments. This literature review seeks to provide an overview of these key areas of scholarship, with direct relevance to consumer organisations.

### **2.1.1 Consumers in Contemporary Life**

Consumer politics has been addressed from a variety of perspectives. There is an abundance of social theory on the issues of consumer identity (Lewis et al., 2005), consumer culture (Featherstone, 1991; Lee, 1993; Sassatelli, 2007; Lury, 2011), the consumer society (Baudrillard, 1998; Bauman, 2007; Goodwin et al., 1997), and the dichotomy between citizens and consumers (Aberbach and Christensen, 2005; Clarke et al., 2007; Livingstone et al., 2007). Although there are various dimensions to this analysis, most argue that something is lost in this reconfiguration. The general line is

4 According to Rhodes (1996), the concept of governance is currently used in contemporary social sciences with at least six different meanings: the minimal State, corporate governance, new public management, good governance, social-cybernetic systems and self-organised networks.

that we should not sacrifice our place as citizens for an identity lacking in depth and difference, as this would somehow undermine the potential of the democratic process, and would corrupt our institutions and public life in favour of a more individualised and ‘economised’ public sphere<sup>5</sup> (Habermas, 1984, 1987). This perspective should not be taken lightly, even though its criticism of ‘consumer politics’ is at times dogmatic, as it also reflects some fundamental concerns about the nature of contemporary democracy. In this respect it is a useful critical tool for understanding the extent to which people, and institutions, have become embedded in an architecture that demand that we recognise ourselves as consumers in increasingly diverse spheres of life, most famously by Habermas (1984, 1987), but also by others (Keat, 2000; Barber, 2007; Mouffe, 2000).

Consumer organisations are active in the policy making and regulation of both the UK and Norway, yet the extent of their influence is unknown, as is an adequate explanation of how and why they have come to have the roles that they do in contemporary forms of governance. There is little known about the characteristics of contemporary governance in terms of discourses around representation and neoliberalism. It is a cardinal thread of this research that neoliberal ideology plays a significant role in the extent to which these consumer organisations have become institutionalised. This is in addition to other significant dimensions – the particular conditions of a democratic state with regard to groups and organisations (pluralism/corporatist), and how these states have tended to involve the public (actively exclusive/actively inclusive) (Dryzek and Tucker, 2008), and the type of ‘capitalism’ that the state manages (Hall and Soskice, 2001; Coates, 2005). The UK and Norway represent these differences in liberal democratic state, and in comparing them we can better understand how consumer organisations are institutionalised, and through that better understand the characteristics of contemporary policy making and regulation.

It is also the intention here to challenge the claim that market liberalism as a policy paradigm has ‘peaked’ (Dunleavy and Dryzek, 2009), in that the inclusion of consumer organisations into policy making, as a form of mitigation against market failures, is a feature of interventionism that could be regarded as social-democratic, but has, in Britain at least, recently started to lose state support<sup>6</sup>. Whilst at the same time the inclusion of consumer organisations can also be seen to represent aspects of neoliberal ideology and neoliberalism in practice, they do not challenge the primacy of the market. It can therefore be suggested that consumer organisations sit on contested ground; they are at once a socially inclined voice for ordinary people but simultaneously fit into a paradigm where people are seen as individual consumers. Therefore has the status of consumer organisations as consultees grown in significance as markets have been liberalised and the need for public representation has increased? Why would this now be in decline? It is in this respect that an analysis of consumer organisations, in their various forms, should be done so through the lenses of both network governance theory and state theory, whilst acknowledging the importance of both institutions and ideology.

In addition an analysis of group intermediation requires both an appreciation of the organised interests and of the state, and the extent of a particular organisation’s influence, in comparison to others is at the heart of this. If it is the case that traditional sets of interests, and political cleavages (Labour vs. Capital), are giving way to more complex forms of politics with the inclusion of a particular conception of civil society then we need to understand how these new forms of governance

5 This is explored at great length by Habermas in his two volume work *The Theory of Communicative Action* (1984 and 1987) where he develops the argument that the bureaucratisation of the social world leads to a colonisation and rationalisation of the ‘lifeworld’ through the suppression of particular forms of communication.

6 This is evidenced in the Department of Business and Innovation’s (BIS) consultation and subsequent reforms of the Consumer Landscape. The report can be found here: <http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/e/12-510-empowering-protecting-consumers-government-response.pdf>

are constituted – both institutionally and representatively.

What this chapter investigates is consumer organisations as political actors, in terms of their formal recognition by politics, in the UK and Norway, which will take into account analysis of group intermediation and the changing nature of the state. The research more broadly seeks to acknowledge, and cast light upon the ‘...many complex and varied ways in which government and governance interact in public policy-making’ (Jordan et al., 2005, p.477), and it is argued that consumer organisations provide a unique example of a site of some of the contestations and developments. This will bring an original contribution to the literature on neoliberalism and networked governance specifically, but also on how politics have sought to engage publics in various forms. This is vital to a contemporary understanding of the relationship between capitalism and democracy, which in turn is vital to understanding contemporary politics generally.

Contemporary political science has yet to fully address the existence, and influence, of consumer organisations in policy making. This research aims to correct this, whilst at the same time asking questions of the current literature on interest group intermediation, and the place and role of the public in systems of governance. The representation of consumers, and the co-option of these organisations by states, is embedded in a particular social and political context. This research is interested in the political context, both neoliberal and social democrat, and in so doing with the representation of consumers in the policy processes in different states which typically embody these ideologies (UK and Norway).

### **2.1.2 Structure of Literature Review**

This chapter will provide an overview of the literature on interest groups in relation to consumer organisations, seeking to show how consumer organisations form a particular type of interest group in a political context in which capitalism as a mode of production, and the market as an organising force, remain largely uncontested. This chapter will also consider democratic state theory, as interest group intermediation requires us to understand the relationship between organisations and states – they are interconnected. The extent of group-state relations has been one of the determining factors in different politics – whether or not a state is deemed either pluralist or neocorporatist is done so with regard to the nature of interest intermediation. This chapter will analyse how consumer organisations as a phenomenon fit into this body of research. In this respect, there will initially be a discussion of definition: what are consumer organisations? This is important as the concept of a consumer is understood differently by different disciplines<sup>7</sup>, as well as the sub-discipline of interest group scholarship being ‘awash with neologisms’ (Beyers et al., 2008, p.1106). This research wants to take a fairly nuanced approach to this, both accepting the more narrow definition that consumers are those merely engaged in economic transactions, but also that this takes place within a socio-political context that demands an appreciation for the encumbered, and non-neutral nature of contemporary consumers. It is in this respect that this research aims to add to the literature; it will address consumer representation in contemporary policy making as a phenomenon of a particular socio-political context.

The literature review will pay particular attention to the analysis and theory on public interest groups, civil society actors, and business interest intermediation. The intention of an analysis of business group lobbying will be to provide a counter example of a set of ‘producers’ whose interests, although not necessarily at odds with consumers, are concerned with favourable conditions for profit maximizing, not consumer welfare. It is this dichotomy that will make for an interesting analysis which puts the analysis of consumer representation alongside that of business representa-

7 Economics, Sociology, History and Political Science all analyse and assess different notions of ‘the consumer’.

tion. That although consumer representation may have been institutionalised to varying degrees they are relatively marginalised as an interest, something which complicates the impact of some more participatory governance practices on the state. This chapter will pay particular consideration to how the public are represented as consumers in policy making that takes place in a paradigm dominated by markets and network governance. To understand the role of groups and organisations Woll says, in relation to democratic theory, is of central concern: ‘The power of private actors and the balance between individual interests and the public good is a central question of democratic theory.’ (Woll, 2007, p.570) Consumer organisations therefore need to be analysed as representatives of the public good, or consumer welfare, which may balance the supposed dominance by business. More generally it also remains the case that there has been little substantial analysis of group influence, in terms of a close analysis of the contexts and conditions of intermediation, and although this thesis does not seek to in anyway measure influence per say, it does seek to better understand how a particular set of interests are *perceived* to impact on policy and regulation. This can show us a great deal about the ideological and discursive contours of systems of governance. Michalowitz says: ‘Whether interest groups actually exert substantial influence, when they do so and why are therefore reasonable questions to be posed and answered.’ (Michalowitz, 2005, p.5), and it is the intention of this thesis to address these questions in relation to consumer organisations, but also being clear that definitive answers with regard to measurable influence are worthless without appreciating the deep and complex context in which political phenomena occur.

The argument in this chapter, as stated, is threefold: (1) that consumer organisations fail to mobilise organically due to problems of collective action associated with public interest organisations, (2) that neoliberalisation has meant that people are identified as consumers in more spheres of life and need to be represented accordingly, and (3) that developments in process of governance have required states to appeal more to ‘civil society’ in policy and regulation formation. The literature review is therefore structured in this order.

Initially, there is, however, an appreciation for the complexity of what is meant by both ‘consumers’ and ‘consumer organisations’ in the contemporary political context, which progresses into a more general discussion of how groups have been understood in relation to the state. The chapter then moves to discuss the particularity of consumer organisations, as an interest constituency in ‘civil society’, this is then counterpoised with an appreciation of the role of business intermediation. The chapter then discusses the context of both neoliberalism, and developments in governance – both economic and political contingencies that are not mutually exclusive. This is done in order to set out the argument related to how consumer organisations have developed as part of broader political trends. This chapter will conclude by showing how consumer organisations have come to play a role in contemporary politics though the arguments set out here, and therefore the questions that arise are: What role do consumer organisations have now? How are consumer organisations institutionalised by the state? To what extent do consumer organisations provide a counter-balance to industry and regulatory pressure? And in what respect are consumer organisations understood to impact upon policy and regulation? This will then lead into the theory chapter which provides the theoretical framework through which the analysis will be done, followed by the methods chapter that will show how these questions will be tackled empirically.

### **2.1.3 Consumer Organisations Defined**

As will be discussed, consumer representation more broadly can be broken down into six particular types: (1) the free market model, (2) the consumer co-operative model, (3) the independent consumer association model, (4) the corporatist model, (5) the quasi-public consumer agency model,

and (6) the bureaucratic elite model (Rose, 1981). More specifically it is the intention here to bring clarity to what is meant by a ‘consumer organisations’, in relation to interest groups, states and the connections between the two. Within that, even more specifically, it is important to state that ‘consumers’ are here individual end-users, not organisations or businesses. These organisations may well be consumers, but can more readily be seen as producers. Here I am concerned with organisations that represent individual citizens in their role as consumers, and that are concerned with doing so as an explicit and sole intention of the particular organisation and not as a second order concern. This section will now contextualise where consumer organisations fit in to the nexus between political organisations and the state.

Theories of pluralism suggest that political groups in various guises are the core ingredients of any democracy (Dahl, 1956, 1961; Dryzek and Dunleavy, 2009, Truman, 1951). Political parties are the most institutionalised, and obviously embedded, set of groups that matter to democratic systems. Parties embody the core form of representation for citizens, and the conflict between them for voters could be argued to be the life-blood of a democracy. Political parties, as groups, do not however exist on their own. All kinds of groups of individuals, with particular goals, intentions, trajectories, life-spans, sizes and organisational structures populate the democratic process and have a varying degree of impact on those in power. These groups and organisations all compete for an audience, and for influence, with the political elites, with varying degrees of success. The general term for groups and organisations involved in the political process is ‘interest group’. However, as Beyers et al., acknowledge there is an ‘abundance of neologisms’ (2008, p.1006) in the sub-field of interest group analysis. For example, organisations such as universities and businesses, form a type of interest group – they lobby for favourable conditions in which to conduct their primary function (education, profit making). On the other hand, charities form a type of interest group, with members forming the key constituency for the groups lobbying intentions. These are also often referred to as NGO’s (Non-governmental organisations), and are considered to be part of ‘civil society’ – the section of society composed of voluntary, public interest, non-state, and non-commercial. The variety of group types, both public-interest spirited, and those concerned with private interests, is considerable.

What sets interest groups apart from other forms of political organisation, like political parties, is what Beyers et al. 2008, determine as three particular factors: ‘organisation, political interests, and informality’ (Beyers et al. 2008, p.1106). *Organisation* relates to the aggregation of individuals for a particular political purpose. *Political interests* relate to the groups’ intentions to influence policy outcomes on behalf of a particular constituency, membership or general political idea. *Informality* characterises the fact that these groups are not interested in gaining formal political power through public office, but prefer informal and extraneous channels of influence. But as they point out: ‘This, however, does not rule out that important facets of state-group relations in capitalist democracies can be heavily institutionalised.’ (Beyers et al. 2008, p.1107)

In this respect the relationship between interest groups and the state is significant, and forms one of the core elements in the scholarship of group intermediation, and of this investigation. However, consumer organisations can be seen as a type of interest group despite the fact that they are often publicly funded, and also aligned to the state in different institutional relationships, as Beyers et al. suggest. Furthermore, it could well be argued that any organisation that attempts to articulate issues from the perspective of a consumer – and from some more extreme market liberal positions this would be *any* issues that concerned people on an individual level, could be seen as a *consumer organisation*. This could range from wheelchair users, to radio listeners, to coffee shop customers, to health service patients. This shows the issues with the identification of consumers that

Trentmann (2007) acknowledges:

The consumer is sometimes a descriptive or analytical category, at other times a normative one, and at yet others all at once, giving little attention to the specificity of the consumer as a subject and object in public life. That this should be so is curious, not only since the category has undergone significant changes in the course of the modern period, but also because who counts and who does not count as a consumer has implications for law and regulatory politics to the present day. (Trentmann, 2007, p.150)

Who are the consumers being represented is of normative significance, as it will call into question the legitimacy of consumer organisations as advocates of what seems a rather nebulous constituency. However, what is important in this section is to determine what exactly a consumer organisation is with regard to both interest groups in general, and in relation to the state. In this respect to distinguish them from interest groups in general, as it is reasonably clear that they do by-in-large fit the predicates of the description of interest groups. That they are generally autonomous actors who are principally engaged in representing a particular constituency but not in gaining public office. The populations of interest groups are however heterogeneous, and their make up greatly varied.

Taking this into consideration it should now be important to outline a broad definition of what a consumer organisation is. Consumer representation, and consumer organisations, will be examined in more detail below, but for the importance of cogency a short definition (this author's) will be provided:

Consumer organisations are bodies whose explicit and primary function it is to investigate, research and lobby on behalf of individuals as consumers in respect of their place in the market. This includes a range of consumer organisation types, which have varying independence from the state, but whose intention it is to lobby for fair prices, increased information, better quality products, and increased protections and to strengthen the ability for redress.

There will now be a discussion of more general scholarship on interest intermediation, and the relationship to democratic state theory. This will be done in order to show how consumer organisations have come to have the position that they do in contemporary politics, and to show how consumer organisations make acute some of the tensions between social democratic and neoliberal ideology and practice.

## **2.2 Interest Group Literature: Interest Intermediation and State-Civil Society Relations**

The study of interest groups, and lobbying more broadly, has been a staple part of political science since the beginning of the 20<sup>th</sup> Century (Bentley, 1908; Truman, 1951). This scholarship continues today in evolving political settings – the E.U. being a prime example, and include both qualitative and quantitative assessments of group intermediation and interest group populations (Mahoney, 2008; Berkhout and Lowery, 2010; Wonka et al., 2010; Messer et al., 2011). The extent of the relationship between states and groups/organisations has been a defining factor in determining the nature of a polity – from the more pluralist US to neo-corporatist Austria. Pluralist states have been characterised as the state being an independent arbiter between interest groups competing on equal terms, whereas corporatist states are characterised by the inclusion of groups into the polity.

Much political science has in recent history been concerned with this relationship, and the level of intermediation between states and groups in different polities. It is however argued to be the case that we have moved into a paradigm of ‘governance’ that, to an extent, eclipses previous defining polity characteristics for a broader definition (Rhodes, 1996). This development will be looked at in greater detail below, as consumer organisations form an interesting example in regard to these evolutions as they connect how states have come to incorporate civil society whilst at the same time deferring greater responsibility to regulatory bodies – two features of trends in ‘governance’.

This section will now discuss scholarship concerned with interest groups as political actors: how they mobilise (or fail to), how they organise and the extent of their influence. Even though consumer organisations have a variety of forms, it is their intention to represent the interest of consumers, and their success or failure in doing so is what is of significance here. Interest group literature tells us about the characteristics of interest representation, and the subsequent intermediations with the state, and literature on the state tells us how states are structured – how consumer organisations fit into this is a fundamental part of this investigation.

It is conventional wisdom that to really understand the nature of democracies one must have an understanding of how groups function within the system. From early observations, including De Tocqueville (1838), the free association of individuals for political ends has been a fundamental aspect of what democracy as a political system is understood to be. This research takes this as axiomatic, but considers the role of consumer organisations within this process to be of particular interest as they acutely characterise some key tensions between social democracy and neoliberalism and the relations between the state-civil society and the market.

Originally analysis saw the political process in a fairly ‘rose-tinted’ way. These original authors (Bentley, 1905; Truman, 1951) were pluralists – they saw the political process as being one where a multitude of different interests would form and influence politics on an equal footing, with the state as arbitrator, deciding on who would, or would not, be involved in the policy process. As salient issues demanding interest representation would rise and fall, so would the population of groups accordingly. Pluralism as a school of thought, was in this respect an explanatory theory of how various actors interacted with the state – it also had normative dimensions in that a plurality of representation was seen as an inherently good thing in liberal orthodoxy (Dryzek and Dunleavy, 2009, p.35). Interest groups play a core role in this body of theory – the ability for free association of a multiplicitous range of groups is the defining feature of this conception of democracy. In the U.S consumer organisations, originally set up as Home Economics groups in the 1930s, were seen as part of this conception. They were one, amongst many, of interest groups that represented a particular constellation of citizens.

Pluralism, in political science, was the dominant frame of thinking during the 1950s, and to an extent still holds authority today – albeit in a reworked fashion. Pluralism as a theory of government had numerous detractors, from both sides of the political spectrum. It was, however, the rational choice theorists that really challenged the understanding of interest groups in a polity. Rational choice theory approached political phenomena, including groups, organisations and institutions, from an individual perspective, instead of a structural perspective like most theories of the state had so far done. Groups were made of individuals and it was these individuals that were of significance. It is in the next section that the rational choice analysis of group mobilisation will be addressed, a key element in the scholarship on interest groups. This is particularly relevant to public interest groups, which consumer organisations are, as it is argued, by Olson and others, that these groups fail to mobilise organically due to the ‘logic of collective action.’ This will now be discussed in relation to consumer organisations, and advocacy groups generally, as part of the pos-

sible reason why it is that consumer organisations have come to be institutionalised as part of the regulatory state.

## 2.3 Olson and the Rational Choice Approach

One of the most prominent theorists in the scholarship of interest groups was Mancur Olson (1965), who wanted to analyse why it was that individuals joined public-spirited interest groups, when any rational individual would *not* join such a group. His general argument was that individuals will not want to join such groups as the groups actions will benefit all, therefore by not joining they will still accrue the benefits of the group – known as the ‘free-rider’ problem. Most rational individuals would free-ride off other more public spirited individuals. The puzzle was: why is it that anyone joins these groups despite the problem of the logic of collective action? Why would a worker join a union when the union would get a wage rise that would benefit everyone? In this scenario it would not be rational to join the group, and if everyone thought like this there would be no public spirited interest groups. However, his explanation as to why it was that individuals joined these groups was that there must be certain ‘selective incentives’ to the members; these can be both material (in the case of the Sierra Club), and non-material, or soft-incentives (Jordan and Maloney, 1997, p.82). These would be explicit benefits for individual members of the group beyond the more general advantages to the wider public. The logic of collective action was in this respect deemed to be one in which individuals would form groups for the benefits to themselves that they would otherwise not get. This has been challenged (Jordan and Maloney, 1996, 1997, 2006, 2007), in the view that individuals are not rationally self-calculating to this extent monetarily, and that in fact people join public groups for many reasons both benign and public spirited, and entirely self-serving.

This is significant, as this logic of group mobilisation has dominated understandings of interest groups. It has also been significant in recent assessments of civil society groups, most notably the analysis of Jordan and Maloney (1997), whose assessment of Amnesty International and their membership showed that people join groups for a variety of reasons, and in the case of these public spirited groups, mainly noble reasons. Why is it then that consumer organisations fail to organically mobilise to any significant degree, bar a few charitable organisations aimed at a particular sub-set of vulnerable consumers, and are mostly publicly funded organisations? This question is important as consumer organisations are, by-and-large, not member based groups, especially in the UK and Norway, but publicly funded, or funded through magazine subscription like Which?. The few that are, tend to represent consumers in niche areas, which then calls into question their representative scope due to the nebulous nature of the concept of consumers. Vulnerable consumers in one area, either geographically or needs-based, may have significantly different needs from consumers in another. This could be argued to be the benefit of having broader consumer organisations, like Consumer Focus, as they are able to represent a variety of interested parties, and have the resources and capacity to do so effectively. Unlike smaller more niche consumer organisations which can lack this ability.

The public choice, and rational choice theory, approach to interest groups has held considerable weight since its conception but has been challenged more recently (Jordan and Maloney, 1996, 2006, 2007). This body of theory is mainly concerned with group mobilisation – how and why groups come to exist, and desist (although there is very little quantitative and qualitative research on group death (Berkhout and Lowery, 2010)). These perspectives, public choice and RCT, draw from the economics tool box – theorising the state and groups in terms of rational self-maximizing



individuals. Furthermore the public choice approach promoted market liberalism as the best way to administer previously state owned enterprises, a core component of neoliberalism in theory and in practice. It was, and still is, a perspective that has influenced the regulation of many Western states, as well as post-communist countries and many developing countries – it is an approach that has global reach. This is important to consider here, as ‘rational choice theory’ (the more abstract form of public choice), impacted upon a wide range of scholarship due to its promotion of analysing *individuals* – whether they be in groups, states or civil society. As a body of theory it was also used to explain institutions in terms of how they behave, and that they are essentially made up of individuals behaving in a rational self-maximising way, but that they use institutions as vehicles through which to gain rents<sup>8</sup>.

RCT is essentially an ontological position about human nature, and forms a foundation for, thus impacting upon, all forms of analysis that draw from it. The analysis of interest groups from a rational choice, market-liberal perspective, has had an indelible impact on the scholarship on groups. This work is essentially concerned with the fact that groups contain individuals and these individuals have *individual* goals and desires, and it is this which is of significance. This focus prioritises individuals over other forms of social actor: ‘...whether groups (as in pluralism), elites (as in elite theory), and social classes (as in Marxism), or society as a whole (as in traditional conservatism).’ (Dryzek and Dunleavy, 2009, p.106) This perspective, although being at its peak in the 1980s with various public and economic reforms, still resonates in contemporary political debates about the allocation of resources and the regulation of particular sectors of society. But the theories are important to consider here, as this body of thought recognises that groups exist, but only as a collection of the *individuals* within those groups (Dryzek and Dunleavy, 2009, p.106). The idea of having a more structural account of social and political change was largely relegated to addressing the behaviours of individual actors.

What is of significance is the vast changes that took place as a direct result of this theorisation and scholarship throughout the 1980s and 90s, often referred to by the broad term New Public Management (NPM). This process established a perspective toward state organisation in which: ‘Big, hierarchical public service systems should give way to more competitive arrangements designed to establish individual consumers’ control over services like education, health care and social insurance.’ (Dryzek and Dunleavy, 2009, p.105) What these developments show is the interconnected nature of both the analysis of groups, and the analysis of states, and why it is important to draw upon both, bodies of literature in order to understand the role played by consumer organisations in this political setting. Although axiomatic, consumer organisations, as a feature of contemporary policy making and regulation, are both historically and politically constituted meaning that the context in which they are found today is the direct result of these neoliberal reforms.

It should therefore be possible to see that the logic of collective action, with regard to public interest groups, and the re-organisation of public institutions along market liberal lines are connected in terms of the existence of institutionalised consumer organisations. In this respect consumer representation entails the organisation of a population wide, and nebulous constituency, which would have the obvious ‘free rider’ problem. Why is it the case then that these groups exist? And how have they come to play such a role in public policy making, in seemingly very different polities? These questions will be addressed later in this chapter with regard to the changing nature of the state, and after a discussion of interest group intermediation.

It is now important to discuss less abstract conceptions of mobilisation, or the lack thereof,

8 RCT analysis when concerned with institutions is part of a body of a body of theory often referred to as ‘new-institutionalism’ (Guy Peters, 2005).

and look at some of the other characteristics of group intermediation, with regard to the business lobby, and civil society groups.

## 2.4 Pressure Groups' Power

The literature on 'pressure groups', another neologism for interest groups, is also important to recognise, as is the general lobbying literature. As stated before 'interest groups' is the broadest term used in analysis of bodies concerned with the influence of the political process. Pressure groups, and lobby groups, although arguably different, are used interchangeably here. The analysis of these groups, is concerned with their intermediation as well as their characteristics – their external and internal dynamics. Whereas previous analysis of groups, from a more rational choice perspective, were concerned with questions about why groups mobilise, later literature on interest groups – which often referred to these groups as pressure groups, or lobby groups, were concerned with questions about how these groups behaved in regard to their desire to impact upon official government policy. One of the important theories in this respect was Grant's (1989) notion of insider and outsider groups. This is to an extent illustrative of a quasi-neocorporatism that is occasionally witnessed in politics where particular groups are co-opted by the state for a specific reason, as they need particular technical expertise or some accurate information on a particular topic – they become insiders. It is also argued, as suggested earlier by Lindblom (1977) and others (Dahl, 1971), that business, in liberal capitalist democracies, have a special place as permanent insiders. This is one of the fundamental aspects of neo-pluralism as a body of theory, that there are many competing groups but business interests are prioritised. The dichotomy between 'insiders and outsiders' has, however, been challenged by Page (1999), who asserted after significant empirical analysis that 'to characterise a group as an insider or outsider in the process of policy-making is at best an oversimplification, and at worst simply misleading.' (Page, 1999, p. 212) His justification for this is that government departments (in the UK) consult with such a wide range of groups, on a variety of issues, on such a regular basis, and there is not a clear distinction between those whom get access, and influence, and those who do not. He makes a distinction between 'big hitters, and small fry', but suggests that: 'in some circumstances small fry can be decisive and big hitters silent, ineffective or side-lined.' (Page, 1999, p.122) This suggests that the strict dichotomy between insiders and outsiders is not really helpful, as it presents the idea that there are some groups that always get heard where as others do not, when in reality it really depends on the issue and the context. This conception of the interest groups in the policy process is a far more fluid one than theories of neo-pluralism generally allow for, with business groups always remaining the key 'insider'. This also does not take into account consumer organisations, which have been considerably active in both policy forums and in processes of consultation. They could well be considered as 'insiders' in many respects, as in Norway they are an extension of the state and in the UK have institutionalised forums for representation. This is the target of this investigation; why is it the case that consumer organisations have come to have a significant position in policy forums in both traditionally pluralist and neocorporatist states? Could this be shown to be an example of governance processes, or as a result of neoliberal developments, or an aspect of both? In this respect does the ideological make-up of a state structure the way in which different groups are both included in the public policy process?

So far it has been shown that some public spirited interest groups have difficulty mobilising due to the problem of collective action proposed by Olson, and that there is significant heterogeneity in both access and resources of groups and organisations. However, Olson only provides a start as

his focus on the behaviour of individuals misses the underlying structural reasons for the lack of mobilisation, and does not explain why we see consumer organisations involved in the policy process *despite* the low salience of consumer issues and lack of mobilisation. This has in some circumstances been challenged due to its focus on material, rather than the non-material benefits, which can explain the rise in membership of groups such as RSBP and Amnesty International (Jordan and Maloney, 1997). In the case of consumer organisations, however, grassroots organic mobilisation has remained a problem, yet has been deemed sufficiently important form of representation to be supported by government. This is the case in both the UK and Norway; although to different degrees as will be shown later in the empirical chapters.

The shift in the importance of ‘civil society’ with regard to the state and the market, and their role in formal politics, is in this respect significant. The body of theory dealing with civil society actors, which consumer organisations are understood to be a key constituent of (Greenwood, 2007), concerns the importance of non-business, non-labour, interest groups in contemporary policy making (Anheier, 2004; Harvey, 2005; Powell, 2007; Enjolras and Sicesind, 2009). I will now turn to the literature on civil society groups, with a focus on what has been written on consumer organisations, and their intermediation, after which the role of business interests will be assessed in more detail as counter example – as the role of business is not divorced from that of the consumer. This will in turn lead to a discussion of the political context in which these groups operate; a paradigm of neo-liberal economics and evolving governance practices (Lee and McBride, 2007).

## 2.5 Civil Society and Consumer Representation

Civil society, and public participation, has always been vital to democratic polities, and subsequently to political science. There has however been a recent turn to better understand the constitution of civil society in terms of its existence outside of the state-market division. There is significant literature on the intention to engage with civil society (a variety of public interest groups, from charities to environmental groups) in order to ‘bridge the gap between the state and citizens’, and in so doing alleviate what some have called the ‘democratic deficit’. This is in particular reference to research done at the level of the E.U. Greenwood (2007) explores in detail the extent of civil society representation at the E.U. level, and these intentions to ‘bridge the gap’ between the polity and citizens through use of civil society organisations as representatives. For Greenwood ‘civil society’ is an umbrella term that includes all groups participating in the public area, however here civil society is understood to be the population of interests that exist outside of state-market relations – NGOs, GROs, non-profit organisations, voluntary organisations, environmental groups and citizen groups (of which consumer organisations are a part of). This section aims to give a brief understanding of what is understood to be ‘civil society’ as a constituency in democratic societies, and what role civil society organisations play and subsequently what role consumer organisations have within this community.

Understanding of civil society as Anheier (2004) suggests is rather ‘uncharted territory in a world dominated by a two-sector view of market versus state’. (Anheier, 2004, p.1) It has also been analysed theoretically by political philosophers in a more abstract fashion. However, the concept and existence of civil society as a political force in actual existing polities is taken increasingly seriously by states in connection to evolving governance practices that will be looked at below. Civil society, and civil society groups (CSOs), are understood differently, but here is taken to be the totality of non-profit groups acting between the state and individuals – intermediating public spirited interest groups, this is in line with both Anheier (2004) and Enjolras and Sivesind (2007).

Unlike Greenwood (2007) this does not include labour union and consumer organisation inclusion in policy making as a fundamental aspect. It is a redefinition of a section of society that would in a pluralist understanding have a heterogeneous character. The core aspect of the emergence of 'civil society' is that it brings with it problems of its own, or at least puzzles for research. Much of the research done on this area focuses on the citizenship aspect – the grassroots participation of individuals in communities. It is a broad and deep understanding of public activism, and personal connection to the political world. However, consumer organisations are, as stated, generally quasi-state, in that they are often publicly funded advocacy group with a professional staff and no members. There are some groups that are member based, but more often than not they are either public bodies or charities (Hanvey and Philpot, 1996). This will be significant when the normative implication of this type of representation are discussed, but for understanding consumer organisations' role as part of civil society it is sufficient to appreciate that they are part of a body of groups that have a broader national and international population (Keane, 2003). Consumer organisations are one of many citizen focused representatives that have been to an extent co-opted by states to facilitate evolutions in governance that require an engagement with various 'stakeholders' – and individuals as consumers find representation in these publicly funded groups.

What this section has demonstrated is that being part of civil society is important to how consumer organisations have been included into forums of participation. How they are perceived is vital to how they are included, and ultimately what role they have. Consumer organisations have to an extent been co-opted as a particular type of civil representation, only in advocacy, rather than grassroots form. This chapter will now move to consider the role of business in policy making and governance, and will address them in relation to their role as interest groups much like that of consumer organisations.

## 2.6 Business Interests: Comparing Intermediation

From a neo-pluralist and Marxist understanding of interest intermediation, there is no more powerful set of interests than the business lobby. It is also understood that in 'market democracies' businesses are going to have a level of privilege. It is also commonly asserted that today this business lobby is more powerful, than it has ever been, and this is especially the case in the UK which some empirical studies have shown (Beetham, 2011; Wilks-Heeg et al., 2012)<sup>9</sup>.

The acknowledgement that there was an uneven distribution of power amongst groups changed both interest group theory and theories on the state in significant ways. Understanding was moved from optimistic pluralist conceptions, to what has been evidenced empirically - that it was business that had considerably more power in negotiations with government than had previously been recognised. Although it was still the case that labour unions remained crucial, they were of second order importance to the business community, especially in a market democracy, but less so in a more social democratic order.

To an extent this is obvious, and perfectly understandable from a neoliberal perspective, which privileges the interests of business over workers. Under present conditions growth is vital to national economies, and in order to warrant growth there has to be favourable conditions for businesses. It is therefore built into the fabric of states that the business community matters, and their interests matter to such an extent that their agenda setting power is not explicit but part of the normal course of state management. Lindblom (1977), previously a pluralist, found this out in a ground-

9 The recent Democratic Audit of the UK can be found here: <http://democracy-uk-2012.democraticaudit.com/how-democratic-is-the-uk-the-2012-audit>

breaking study of interest intermediation in the U.S., in which he acknowledged the superior place given to business within liberal capitalist democracies. In a later article he also states that in this respect the ‘market is a prison’ (Lindblom, 1982), as governments adapt policy in order to ensure favourable markets, that will in turn ensure better economic growth. This is also a fundamental element of the understanding of the neoliberal state (Plant, 2010; Harvey, 2005), in which:

Businesses and corporations not only collaborate intimately with state actors but even acquire a strong role in writing legislation, determining public policies, and setting regulatory frameworks... patterns of negotiation arise that incorporate business and sometimes professional interest into governance through close and sometimes secretive consultation. (Harvey, 2005, p.76-77)

The idea of ‘back-room’ politics, and the role of business in agenda setting is not a new one. It has seen recent in-depth analysis from Culpepper (2011) who sees a significant amount of policy making conducted in areas of low political salience; businesses have considerable power in this area of ‘quiet politics’. He does however say that business power is limited with issues of high salience, as politicians will go to considerable lengths to stay in office. Although this is questionable given the public furore at bankers in the wake of the financial crisis, and the seeming lack of influence politicians have in responding to this particular public mood.

Other interests are therefore considered to be tertiary compared to the concerns of business. This, as Dryzek and Dunleavy (2009, p.134) point out, is closer to the story that Marxists tell with regard to the functionalist approach to the state – the state functions as a facilitator for the accumulation of capital, and this is far from the pluralist conceptions of the 1950s (Dryzek and Dunleavy, 2009, p.134). Even though the power of business in politics had been assumed for a long time, it was not until Lindblom’s (1977) seminal study that an appreciation of the relationship between the state and business interest was seen as significant. In the early 1980s there were a few more studies, following Lindblom’s lead, which brought business groups into focus. Useem’s (1984) *Inner Circle*, and Grant’s (1984) analysis of the UK Chamber of commerce, sought to show the extent of business – government relations, which all followed from Dahl’s (1959) work on the importance of this relationship to political science.

It is in this respect that corporate power is seen as vital here – the relationship between the state and business, in the contemporary context, will provide an interesting contrast to the intermediation of consumer interests. It is the case that numerous consumer forums include businesses, and there is significant discussion between consumer organisations and business in addition to their connections to the state. In an investigation of consumer organisations the place of business in the policy making and regulatory environment should be considered as important. This also provides the motivation for one of the key research questions: To what extent do consumer organisations provide a counter-balance to industry and regulatory pressure?

Contemporary analysis of business intermediation suggests that the domination argument is not always the case. In addition to Culpepper’s (2011) appreciation of the relevance of salience to the role of business, Greenwood (2007) also acknowledges in relation to the E.U., that both the multi-levelled polity, and the increasing importance of ‘civil society’, have sought to curb the power of business to an extent – they do not have a *carte blanche* as some may suggest. ‘Market power does not automatically translate into political power, as detailed analysis of collective action among business interests demonstrates.’ (Greenwood, 2007, p.49) This is interesting as it suggests a space for other potential interest influence – that of civil society, and the extent of consumer organisation involvement in this is of core relevance to the policy making and regulation agenda.

As has been shown the influence of interests is a core concern for political science. It has to date

been the neopluralist view that business has considerable power in intermediation with the state in liberal capitalist democracies, due to the importance of economic performance. However, others have noted that it may not be so simple. In this respect Woll's (2007) work on business power and influence is interesting as she leaves space, much like Greenwood (2007), for other non-governmental actors to be influential in the policy process. She questions the idea that business does 'Lead the Dance', and although still acknowledging the power of business suggests it is better to look at resource distribution and interdependence of interests to get a fuller appreciation of the locus of power and the multifaceted nature of influence. However, it is still the case that much of the analysis on interest groups is captured in a paradigm of 'resource determinism' where it is only the resources of interests that really matter. It is also coupled with an overwhelming concern with measuring influence – something that is seen here to be too narrow a focus, not to mention methodologically complex. What this thesis investigates is the context around consumer group institutionalisation in order to build up a picture of the complex politics at the heart of the relations between the state, the market and civil society in policy making and regulation. This picture is key to this investigation of the policy process, and where an in-depth qualitative analysis will work well as it will be able to provide a 'thick description' of these complex and interconnected relationships in intermediation between consumer organisations, businesses and the institutions of the state.

It should now be possible to see that the state's relationship to business, and the conditions in which that relationship exists, is vital to understanding how consumer organisations play a role as political actors. If consumer organisations can be seen to be the protagonist in this story, then business groups provide the antagonist, a balance that will enable a comparison of intermediation, access and organisational resource distribution. This chapter will now move to consider how consumer organisations as are understood to be part of civil society.

## 2.7 Consumer organisations as Public Servants

As stated in the introduction consumer organisations (including NGOs, NDPBs and Ombudsmen) as phenomena of Western political systems have seen relatively little academic analysis, in terms of in depth qualitative assessments of their role as political actors. This excludes some more speculative historical studies in regard to the American revolution (Breen, 2004), radio consumer organisations in the U.S. (Newman, 2004), and as part of an overall research project on consumption led by Frank Trentmann (2007). Contemporary analysis leaves Grant's (1993) assessment that these groups are 'generally outsiders', a brief study by Greenwood (2007) on consumer organisations in the EU that refutes their 'outsider' status framing their inclusion in terms of *an evolution through events*, and a short chapter by Winward (1994) on consumer organisations in the UK. Here he suggests in a less descriptive assessment that it is the 'oppositional relationship that gives consumer organizations their wider social role, acting on behalf of consumers against producer interests, and is the reason that all consumer organizations, to a greater or lesser extent, perceive themselves as political organizations.' (Winward, 1994, p.79) Trumbull (2006) does assess consumer organisations in France and Germany as part of a wider research project on consumer capitalism. His analysis suggested that the culture of consumer organisations was very different in both countries, yet there consumer mobilization was in general a 'highly contingent phenomenon' (Trumbull, 2006, p.72). Their success was said to depend on an array of important variables that included institutional and ideological contexts. It is in this respect that this thesis seeks to analyse consumer organisations by unpacking these institutional and ideological contexts. Although the investigation will ask different questions focusing on both how consumer organisations have come to have the place they do, but

also by assessing the extent to which they are perceived to have an influence and whether or not they provide a counter balance to industry and agency pressures.

A good place to start assessing the broader political context is Grant's assessment that we have moved from 'a politics of production to a politics of collective consumption' (Grant, 2005, p.366). This is of pivotal importance when considering the broader trends described in the theory on group intermediation. He outlines a situation in which we are '...concerned with the outcomes of the production process rather than what happens inside the production process itself. It is concerned with the externalities of that process.' (Grant, 2005, p.366) This is significant for this project, as we are concerned here with the collective representation of individuals *as* consumers explicitly, not merely the organisation of groups with interests outside of the production process; like Fathers 4 Justice, animal rights campaigners or the hunting lobby (Grant's examples). But, as it is possible to see from the examples given, the 'politics of collective consumption' goes beyond mere consumption to include a *politics of identity*. It is also the case that this assessment took place in a time of relative economic strength, whether this is still the case in times of economic prudence and restraint will be interesting to observe<sup>10</sup>.

This project, however, is explicitly interested in the collective, both in advocacy and grassroots form, representation of citizens as consumers – in their being represented against the interests of the production process, and both the market failures and negative externalities that result. In this respect it would be wise to consider the empirical literature on both the business lobby, and on social movements and other NGOs. How these groups organise and lobby, in two distinct institutional settings, will provide insights into general group intermediation that can be used to inform an analysis of consumer organisations in the UK and Norway. This will be significant as it enables Grant's broader theory to be empirically – have consumer organisations been able to adequately establish themselves as both public representatives and consultees in market democracies? The networks and connections made with policy makers, in addition to businesses and unions, as well as downstream consumers and members (the constituents), are all of significant interest to this project – what role do consumer organisations have in the policy and regulatory process? How these groups establish themselves and then operate as interest organisations demands empirical analysis. This is in order to answer some important questions on contemporary group intermediation and states' regulatory regimes.

This chapter has shown that there has been little comprehensive analysis of consumer representation in the political science literature, bar brief acknowledgement by Grant (1989) and Greenwood (2007), and some early work by Rose (1981) and Winward (1994), although Trumbull (2006) has provided some analysis of consumer organisations as part of research into the broader topic of consumer capitalism. This is a significant gap, and research into this phenomenon may well be able to bring to light an area of contestation that features numerous political developments, often encompassed under the umbrella term of 'governance'. These include the shifting of traditional political cleavages (Dalton, 1996; Grant, 2005), the significance of the participatory turn (Gaventa, 2004; Saurugger, 2010), the growth, and possible decline, of the regulatory state (Majone, 1994, 1997; Moran, 2003), the importance and prevalence of market mechanisms in policy making (Dryzek and Dunleavy, 2009; Bevir and Rhodes, 2003), and most obviously here, the rise in civil society actors (non-party, and non-business) as a significant political force (Anheier, 2004; Harvey, 2005; Powell, 2007; Enjolras and Sicesind, 2009). It is argued here that consumer

10 The recent announcement by the UK's coalition government to cut and merge numerous 'QUANGO's' including Consumer Focus – one of the leading campaigners and advisors on consumer issues, in addition to other fiscal restraints, may well indicate a potential return to 'a politics of production'.

organisations form a nexus of these developments, and that their existence and their actions characterise some of the most significant changes in contemporary democracies. Consumer organisations, in both UK and Norway, have developed in particular, and in some circumstances significantly different, ways but share some essential features in terms of the issues they cover and the issues they face. These will be discussed in greater detail in the empirical and analysis chapters.

The most significant research on consumer representation was by Rose (1981), who saw that consumer organisations highlighted a particularly interesting phenomenon in regard to collective interest policy making. He determined that there are six models of consumer representation: (1) *the free market model* – consumers act as individuals and demand quality products and services, businesses want more business so will satisfy these demands. This is a pure business-consumer relationship. (2) *the consumer co-operative model* – this is where consumers act together in order to secure ‘greater market leverage...but like the free market model...is at base an alternative in which consumer interest are represented and protected via essentially economic means.’ (Rose, 1981, p.21) (3) *the independent consumer association model* – represents individuals in political, as well as economic spheres, and although their organization and methods may differ their primary devotion is to the consumer protection cause (Rose, 1981). (4) *the corporatist model* – where special issues groups co-opted by the government for specific concerns move to consumer interest related issues. (5) *the quasi-public consumer agency model* – specialist agency charge with consumer watchdog function, these are not exactly groups but would court consumer organisations along with other interested parties. (6) *the political-bureaucratic elite model* – where existing regulatory bodies have concerns about consumer welfare, some specialist ‘individuals, offices, or departments’ will concentrate on representing consumer interests.

These six types of consumer representation that Rose (1981) sets out have a great deal to tell us about consumer representation today, in that the various forms of consumer representation that we see today fit into the models he outlined. He also states that these are ideal-types, and in reality are not mutually exclusive in any one policy or regulatory context. Many of these types of consumer representation will exist alongside one another. This is the situation today, with a variety of different groups involved at varying levels of policy making to different degrees. This also varies between countries too; with the Norwegian system being known as a ‘consumer family’<sup>11</sup> – a tripartite system with a research body (SIFO), the Consumer Council, which sees itself as an interest group, and the Ombudsman which acts more like a general overseer – all of whom are connected but autonomous. The UK is different, with a mixture of types of organisation both publicly funded (Consumer Focus) and privately funded (Which?), but also having regulators with specific consumer protection roles (BIS, OFT). What is of interest here though is how the consumer organisations have come to play the role they do in policy making? Does this represent a move to try and be more inclusive of ‘a public’ in policy making, whilst remaining true to particular neoliberal economic principles? Or is it a general trend of appealing to individuals in particular constituencies, and not as citizens in general? What is the case is that consumers fail to mobilise collective interests to any significant degree autonomously, at a grassroots level, and rely on both publicly and privately advocacy groups and government regulators to represent them. The empirical part of this investigation shows how consumer organisations have been institutionalised into particular policy processes, and as a result the extent to which they provide a counter balance to industry and agency pressures, and the influence they are perceived to have by the actors involved.

If it is the case that consumer organisations are understood to have influence in certain contexts – be that through political expedience, genuine salience among policy makers, moves to reduce a

11 From preliminary interview with Senior Researcher at SIFO, Oslo, Norway.



democratic deficit, or for epistemic needs – then this is of significance to having a full understanding of the nature and extent of interest intermediation in contemporary democracy. Extending questions that would arise would be whether this alters with changes in government? Whether it varies between polities? And more generally, what this may tell us about consumer representation, and influence, in contrast to business influence?

In this respect it is important to recognise at this point that the relationship between interest groups and the state has evolved considerably, as has the scholarship on these relationships. From pluralist appreciations of the state as a neutral arbiter, to the state as active mediator, to the state as subservient in some more extreme accounts, to the state being a facilitator of interest intermediation between a range of actors. This chapter will now move to acknowledge some of the literature on the more contextual aspects of state-civil society relations, considering the connection between developments in governance as significant to the role of civil society groups, and consumer organisations specifically in policy making.

## 2.8 Governance and the Neo-Liberal State

So far the chapter has been concerned with organised interests, and these interests' engagement with polities. It is now necessary to discuss how states have changed in relation to these groups, and what impact this may have had upon the co-option of consumer organisations – which would in turn, one would assume, have an impact on the influence they have, although not necessarily. The scholarship on states and interest groups, especially in relation to group intermediation, are closely connected. They could well be seen as two sides of the same coin – in order to fully understand the state one must understand the role of interest groups in relation to that state, and vice-versa. In this respect, this section will more fully explore contemporary analysis of the state, with significant focus on recent developments in the understanding of governance. Governance as an evolving process is argued to be eclipsing traditional understanding of the state (Bevir and Rhodes, 2003, 2004), and in accordance state-interest group intermediation. This is relevant to a comprehensive account of the role of consumer organisations, as their co-option by states could be seen as part of this shift to a paradigm of governance. The extent to which this has actually happened, and is currently happening, will be a key determinant in the empirical trajectory of this investigation – what role do consumer organisations play in traditionally different states in an era of governance? This section will draw out the salient aspects of this body of literature in relation to consumer organisations, whilst constantly reflecting on the question of the extent to which interest groups in general, and consumer organisations specifically, influence the policy process.

The argument here is that the role of consumer organisations in policy making forums, and therefore the extent of their influence and power, is context dependent. Much like Trumbull (2006) suggests in relation to mobilisation, consumer organisation intermediation is also contingent upon ideology, institutions and resources. In this respect the prevailing understandings of the state should be acknowledged, especially in relation to aspects of political economy. Lee and McBride (2007) summarise well some of the key characteristics of developments of the neo-liberal state and governance:

Policies of privatization, deregulation, and liberalization of markets have not only given entrepreneurs and trans-national corporations greater freedom to innovate and take risks in pursuit of profit, but also largely redrawn the boundaries between the public domain of the state and

citizenship and the private domain of the market, entrepreneurship and consumerism. (Lee and McBride, 2007, p.1)

These characteristics are key to how this chapter seeks to argue that the inclusion of consumer organisations as significant political actors has been contingent upon numerous evolutions of the state; trends in governance which promote market principles and the inclusion of civil society into policy making and regulation. How the public has come to be represented in significant arenas of policy change is of vital importance in better understanding the contemporary nature of capitalist democracies. The state in this respect becomes the lynchpin of the dynamic intermediations that occur between various interests, therefore its composition is fundamental. A state's definition can be reduced to their particular relationship with interest groups, either being pluralist or corporatist (and the theories' variations). Although interest group theory has undergone some changes, theories on the state have by-and-large crystallized into a broader definition of 'governance'.

This chapter will now outline how consumers have become important for developments of governance, which is connected more generally to the spread of neoliberalism as an economic paradigm. One particularly important aspect of this, in relation to public policy making and to the place of consumers, is New Public Management; a way of organisation that sought to bring market mechanisms to public bodies – and to treat patients, audiences, users etc. as consumers (Keat, 2000; Aberbach and Christensen, 2005).

## 2.9 New Public Management and the Role of the Consumer

An analysis of consumers in relation to governance and public policy cannot be done without reference to New Public Management (NPM). NPM was<sup>12</sup>, and to an extent is, a broad range of reforms that sought to apply the logic of the market to the public sector. The UK has been at the forefront of some of these reforms, but Norway and other countries have also been impacted to greater or lesser degrees (Christensen, 2005). NPM identified people as consumers of services, and required that previously state-owned monopolies be conceived and run as regular businesses. The debates on NPM and public choice theory that occurred throughout the 1990s and into the 2000s provide a significantly fruitful analysis on the role of the citizen as a consumer of public services, ending up in New Labour policy hyphenating the identities into the citizen-consumer.

This hybridised characterisation was often seen as the answer to efficiency problems in public services, by instilling market mechanisms of competition and consumer choice into rigid bureaucratic structures, through the promotion of consumer sovereignty. The creation of this identity has been well addressed by Clarke et al. (2007), who analysed the public choice theory of the early 1990s (Dunleavy, 1991; Niskanen, 1971) and the implementations of NPM under the New Labour governments: '...which offered an 'economic' critique of public bureaucracies and provided one of the intellectual cornerstones for the 'New Public Management'.' (Clarke et al., 2007, p.30) It was also well analysed by Trentmann et al through the 'Cultures of Consumption'<sup>13</sup> research programme, whose work culminated in an acknowledgment of the ambiguous and conflated nature of the citizen-consumer moving beyond the binary oppositions: 'It is wrong to see consumers and citizens as natural opposites, one private, the other public. In fact, it was battles over civic rights and duties that forged a stronger consumer identity in the first place.' (Trentmann, 2007, p.1) In

12 Although Dunleavy et al. (2005, 2006) have argued that NPM is 'dead' and that public policy is now done in an era of 'digital governance'.

13 More information can be found here: <http://www.consume.bbk.ac.uk/news/about.html>

this respect the citizen and the consumer have come under scrutiny in terms of how individuals choose to identify themselves in given situations, but in large part made (or returned) the consumer to an empowered *political* actor. This is underlined by studies on consumer politics where individuals are seen as agents of change through their consumption habits (Jacobsen and Dulsrud, 2007; Baek, 2010).

Although not of strict concern here, this body of literature draws out the specific socio-cultural circumstance of the *politicisation* of consumers and consumption (Mort, 1994) – which makes a focus on the collective representation of these individuals apposite. Although not the direct focus of this investigation, which focuses on the more formal political arena, it is important to recognise that consumer organisations exist in particular political contexts, and consumer capitalism involves phenomena beyond merely understanding the consumer as an economic entity. The role of consumer organisations in public policy is argued to be intimately linked to both ideological currents, developments of the state and the problem of collective action.

## 2.10 Groups, Governance, and Neo-Liberalism – Consumers at a Cross-Roads

There are, however, numerous reasons why consumer organisations have been included to the extent they have in public policy forums, not to mention contemporary enthusiasm for public consultation, and ‘the wider trend, in which policy-making is seen in terms of interactions amongst a plurality of interested parties’ (Hagendijk and Irwin, 2006, p.168), and even more generally the ‘participatory turn’ (Saurugger, 2008, 2010) evidenced in the contemporary language of ‘good governance’. The question of whether this is political marketing or a genuine attempt to include ‘stakeholder’ perspectives is a different debate, but is still an important consideration (Hagendijk and Irwin, 2006 p.170). This chapter has argued that why and how consumer organisations have come to have the role that they do is primarily due to the necessity to have people as consumers recognised as stakeholders in the regulatory process. Their inclusion is bound to the various developments in the relationship between the state and civil society, and the broader impact of neoliberal hegemony.

Harvey (2005), as well as Plant (2010), is critical of this form of politics, as have been others unhappy with the reduction of political opposition to one of the ability to ‘consume better’. For example Harvey states: ‘The period in which the neoliberal state has become hegemonic has also been the period in which the concept of civil society – often cast as an entity in opposition to state power – has become central to the formulation of oppositional politics.’ (Harvey, 2005, p.78) This is especially relevant here, as it aims to suggest that the political constituencies are determined by the constitution of the state – something that is not far divorced from suggesting the role of consumer organisations has been determined by neoliberal policies and practices of governance. This is not to suggest that consumer organisations are a force of intervention bereft of positive outcomes for individuals, but to be wary of the possibility that this reduction could be detrimental in democratic terms. In respect of the developments suggested, consumer organisations actually embody a solution to the problem of collective action under market conditions which Plant (2010) explicates:

The question the neo-liberal has to answer in the context of the claim that the market empowers people is whether individuals as consumers without having pre-market agreement on a policy could

as consumers, without such agreement, have come to such a strategic policy as consumers within a market? (Plant, 2010, p.228)

This supports the reasons as to why consumer organisations have had to have public support – that due to the various problems of collective action, and the lack of salience of most consumer issues, it does not seem to be the case that these groups form long term grassroots organisations. This is a problem as has been suggested, oppositional politics has been today moved to the realm of civil society as particular economic and political developments have cross-party support in most government settings. The character and extent of this representation is however called into question, as issues of accountability and legitimacy arise. This will now be considered in relation to consumer organisations.

## 2.11 Normative Concerns - Who's Representing Who?

There are a number of issues that advocacy groups face when addressing legitimacy, especially in light of both national politics, and multi-level politics like the EU attempting to alleviate the 'democratic deficit' through 'good governance' by including more voices from civil society (Kohler-Koch, 2010). This is the case with civil society groups generally, but specifically the case with consumer organisations as the represented constituency is so nebulous. It also forms an antagonism between representation and participation – as participation is understood to have better democratic credentials than representation (Kohler-Koch, 2010). In the case of consumer organisations this is relevant as they are generally representative advocacy groups, rather than grassroots organisations, which is from some perspectives not as 'democratic'. This presents a normative issue as we have already established consumers seem reticent to form collectives, mostly due to the problem of collective action explored by Olson (1965) which Plant (2010) situates in a market context.

Further empirical analysis will be necessary to fully understand how these groups are structured, and the extent of their influence, these are still theoretical precedents that can help to distinguish possible problems. This issue of group bias in advocacy and public interest groups is well documented, and is raised from both sides of the political spectrum. In interest group theory, in addition to more Olsonian perspectives scholars have recognized this bias in advocacy groups:

The sort of impressions we have about the relative power of interest groups are dependent on the way in which 'interest group' is defined and how it is operationalised. Noting the bias to middle-class participation in groups, Schlozman (1984) has picked up Schattschneider's well-known observation about the interest group system being congenitally biased in a middle-class way and asked 'what accent the heavenly chorus?' At least in part the answer depends on who is conducting the research and their conceptual interpretations – because that determines who is counted as singing. (Jordan et al., 2004, p.210)

This is not in fact a recent development either, as Trentmann (2008) acknowledges of the ACLL (Anti-Corn Law League), a 19<sup>th</sup> Century 'consumer group': 'The ACLL itself was largely middle-class and was viewed with suspicion as a bourgeois interest group.' (Trentmann, 2008, p.8) This is significant as both sides of the political spectrum view these groups with similar suspicion but for different reasons – which makes the demands on these groups ever more prescient. They both however regard the level of power and influence that these groups have to be disproportional to the constituents they represent, thus undermining their legitimacy as advocacy participants and as epistemic communities. This also strikes a chord with what interest group scholars have said of

numerous NGOs and interest organisations, in particular Schattschneider's well-known account, as quoted above. This research aims to address the issues of representation as a 'many-faceted and elusive concept' (Sartori, 1968, p.465) and participation that has been a buzzword of politics in the age of 'good governance'. The importance of addressing the extent of representation by groups, especially when called upon to represent civil society, as it is argued that consumer advocacy groups do, is, as Kohler-Koch (2010) states, vital.

## 2.12 Conclusion

This chapter has considered various literatures on interest groups, on states, on consumer representation, on civil society and on governance. This literature review has shown that three key issues emerge from the literature about how consumer organisations have come to play a role in a paradigm of 'governance' due to problems of collective action, neoliberal reforms and developments in governance that encourage inclusion of civil society in policy making and regulation. It has argued that consumer organisations function as representatives of the public in scenarios brought about by neoliberal economic developments, as an attempt to mitigate market failures and appealing to the need to 'bridge the gap' between formal politics and citizens, both for informational and representational reasons. Consumer organisations have become a way in which regulation can be put in place which adheres to certain fundamental market limitations. They provide policy makers with information and expertise on a range of policy issues which will affect both the most vulnerable consumers, and the general consumer. Due to the distinct lack of salience of some of the issues that consumer organisations are active upon (as recognised by Grant (1989, p.157)), and the reticence of citizens to form grassroots organisations, it is largely left to the government to fund consumer representation in the form of quasi-autonomous interest groups. This is seen in both the UK and Norway and will be looked at in greater detail in the empirical and analysis chapters later. However, it has been noted that when there is high salience consumers can alter policy without formal representation. As Kurzer and Cooper (2007) show, in some circumstances (GM Foods) consumer activism alone (without official representation) can alter policy decisions. This is more than an obvious parallel with the commercial sector, where it is consumers who ultimately decide whether a good or service will be successful, and ultimately whether or not businesses survive or not. The dominance of this form of representation in regulatory forums in recent history has also been argued to be due to the particular influence of neoliberal economic developments in which individuals became consumers. There are clearly normative concerns, briefly alluded to here, which will be further examined later in the investigation.

However it is important to connect these theoretical concerns with the empirical aims of this investigation. This thesis now moves to consider the theoretical grounding of the investigation where it will look at three dimensions: (1) the theory on the regulatory state, a particular formulation of the state with regard to its primary role as a regulator, (2) the theory on network governance, a body of work which both intends to describe and prescribe the concept of networks onto state-civil society intermediation, and (3) constructivist institutionalism which see the role of ideas and discourse in politics as a principal factor.

What has been shown in this chapter is that consumer organisations are not taken into account as political actors in any great depth by political science, and that an investigation into their role as public representatives can bring insights into the character and nature of the contemporary state, policy making and regulation, and neoliberalism as actually practiced beyond just theory, as Collier suggests: 'we should look *past* neoliberal theory to show how actually existing neoliberal regimes

are constituted.’ (Collier, 2012, p.187) The various developments in public policy and state governance have been argued to have a direct impact on the role of consumer organisations as they form the context in which these political actors operate. What this investigation does is confront this context through the analysis of the role of consumer organisations, how they are institutionalised by the state, to what extent they provide a counter-balance to industry and regulatory pressure, and the extent to which consumer organisations are understood to influence policy and regulation. These are the key research questions that drive this investigation. The thesis will now move to put this research questions in a theoretical frame.

# 3. Theory Chapter: Understanding the State, Networks and Institutions in Terms of Consumers

## 3.1 Introduction

In the last chapter I looked at three bodies of literature and sought to address how consumer organisations could be understood in terms of the literature on interest groups, civil society and the state. I also argued that these dimensions were necessary in order to understand consumer organisations, and their role in the political process today, as a particular phenomenon of actually existing practices of neoliberalism. Consumer organisations, despite being allied to developments in social democratic endeavours to curb the excesses of the market, have become co-opted into a nexus between the state, the market and civil society which, whilst predicated on an argument to better the economic and political circumstances of consumers and citizens, sees the scope of their importance reduced. The workings of the market and the importance of appeals to business remain the concern for states, and the input from civil society, including consumer organisations, is at best a way to ‘mitigate market failure’, or at worst a way to justify and entrench a particular neo-liberal ideology towards the state and market. This chapter aims to put these broader arguments and literatures into a specific theoretical context by drawing upon theory on the regulatory state, network governance, and constructivist institutionalism. This will then move onto the empirical chapters where the empirical analysis will be carried out through the framework set out here.

This chapter will outline the key theory that this research both speaks to and uses, and there are three elements to this: (1) theory on the state, specifically the regulatory state, but also including Marxist theory of the state for its critical dimension, and (2) theory on governance networks. These two bodies of theory are both principally concerned with the analysis of the institutions, and the connection between these institutions, of capitalist states. It is in this respect that this research seeks to understand the place of consumer organisations in contemporary policy making. It is important to use the Marxist analysis of the state as this brings together some of the critiques of both neo-liberalism, and how governance, and network analysis, has developed. Third (3) a constructivist institutionalist approach will be used in order to assess the process of institutional change witnessed in the evolution of the use of consumer organisations in the structure of the regulatory state. This particular approach allows for a focus on, and analysis of, the discourse of policymakers and elites.

This chapter intends to position the research as both descriptive but also as prescriptive. This is where the theoretical, the empirical and the normative elements are laid out. Network theory, both Policy Network (PN) analysis and Governance Network (GN) theory, as Blanco et al. (2011) state:

...take different normative stances on the democratic implications of networks...the PN literature tends to stress the negative consequences of networks – their resistance to change and their democratic downside...In contrast, the GN approach coincides with the normative rehabilitation of networks within policy-making discourse and practice...The GN literature conceives the spread of networks and partnerships as part of a strategy to open up decision-making processes to interest groups and to citizens themselves. (Blanco et al., 2011, p.303-304)

How these approaches contribute to investigating the role of consumer organisations in contemporary policy-making is one intention of this chapter. That in order to understand the particular role of one type of organisation, we need to have a broader appreciation of the state and the connections that exist between the state, its institutions, and outside actors, like consumer organisations, and business.

This chapter forms the basis for a comparative and empirical approach to analysing the connections in governance networks between state, non-state and semi-state organisations and institutions in regulatory capitalist states, through taking account of consumer organisations as public representatives. This chapter will therefore outline and analyse the theoretical framework and implications of the questions that arise from the literature review. In this respect it is a development of the literature review in a relevant frame of reference.

This chapter serves three purposes. (1) To show that the theoretical literature, in addition to the literature surveyed in the literature review, does not take account of consumer organisations as an instrumental part of contemporary state structure. (2) To argue that the theory on the regulatory state, in not taking account of civil society interests, has not confronted the deeply political nature of the regulatory process, which some governance network theory does. (3) And also to argue that in trying to understand the place of consumer organisations as a political actor, we need to focus on the discourses surrounding their inclusion, and perceived influence, as this can tell us a great deal about their role. In this respect together GN, PN, regulatory state theory, and constructivist institutionalist theory can help us to think about how the problem is framed, but can simultaneously be developed further through this investigation.

This chapter will also develop the argument that consumer organisations matter to us as political analysts as they form a locus of contestation between markets, states and civil society. In this respect they can act as a litmus test on contemporary institutional change where the debates surround the extent of state power in markets. It specifically argues, in agreement with Davis (2011), that existing theories of the developments of the democratic states, that utilise concepts such as ‘governance’ and ‘networks’, are part of the ‘neoliberal struggle’, about ‘...transforming and enrolling civil society, attempting to cultivate the connectionist ethos’ (Davies, 2011, p.151). Through taking account of consumer organisations it will be possible to assess the extent to which the state is developing in this respect. However, the bodies of theory brought together here each, on their own, possesses important insights yet are unable to adequately take account of consumer organisations. Together, however, it is possible to develop a theoretical framework that we can use to analyse the empirical phenomenon of consumer organisations as a core constituent of contemporary capitalist states.

In short, the theory on the regulatory state develops an account of the state where the regulation of markets as a policy paradigm dominates over more traditional tax and spend issues. This links into policy network analysis and governance network theory that assess, in different ways, the degree to which the business of governing is now done through a complex and diffuse network of organisations and institutions; that ‘call into question the monopoly of state bodies over the policy-making process.’ (Blanco, et al. 2011, p.304) These theoretical bodies can then be viewed through the lens of constructivist institutionalism that focuses on ideas and ideologies as keys to understanding the process of institutional change in a period of *disequilibrium* (Hay, 2006a, p.59-60). The three elements are all essential: The regulatory state theory needs to be assessed in terms of consumer representation as its principal function is intended to be of benefit to consumers. It is also a valuable way of conceiving of the changing nature of the state in western national and supra-national bodies. The network analysis approaches, both policy network approach and the govern-



ance network approach, are concerned with the connections forged in the process of government, and how institutions and organisations are to a greater or lesser degree reliant upon each other in the policy process. The place of consumer organisations in these networks, and the institutionalisation of consumer organisations into the state, therefore demands investigation. It is in using these theoretical tools, that we can also assess their deficiencies in terms of how well they take account of the particular empirical phenomenon that this research is concerned with.

This chapter will then lead into the methodology chapter which will outline in greater detail the particular methodological, and epistemological, distinctions of this research. Previously the literature review has covered various scholarly approaches to understanding the relationship between interest organisations and the state, and the political context in which this has taken place. This chapter will now use three particular theoretical approaches; theory on the regulatory state, theory on governance networks and constructivist institutionalist theory, as a framework to analyse consumer organisations in light of the context presented in the literature review. This chapter outlines the theoretical frame of reference; the limits of the investigative strategy. The methods chapter will then outline the particular methodological approach taken in order to conduct an empirical analysis of the phenomenon on consumer organisations. This will principally consist of elite interviews, in both the UK and Norway, on which a discourse analysis will be used through a qualitative interpretive frame.

### **3.2 Reforming for Consumers: Understanding the State and the Place of Consumers**

This section will outline the theory on the state whilst taking into account consumers. It will draw out how consumers fit into the changing nature of the state, and will suggest that the theory has yet to take account of consumer organisations as an important aspect of the contemporary state and processes of governance. This research is not concerned with the state as an actor in international relations but is concerned with the state as a domestic actor through a set of institutions. It is therefore focused solely on understanding the characteristics of these institutions. In this respect, the analysis of consumer organisations and their relationship with the state is used as a vehicle with which to better understanding the contours of the state. The primary concern of the investigation is the consumer organisations, but this will be able to tell about broader developments of the state. This will lead me to a more specific discussion of regulatory state theory.

As Hilton (2009) acknowledges, in his study of consumer organisations, consumers have been of central importance to the ways states have evolved over the last half century: ‘...it seemed that the expansion of consumption and the promotion of consumer society to everybody were defining features of the role of the modern state.’ (Hilton, 2009, p.9) Various policy agendas throughout the 1960s and 1970s sought to provide a more stable consumer economy, and sought to democratise the consumption of goods and services. This is also highlighted by the growth in consumer protection measures over this period. In Germany consumer protection legislation went from 25 laws implemented between 1945 and 1970, to 338 between 1970 and 1978, and in France there were only 37 laws and ministerial decrees before 1970, and 94 by 1978 (Trumball, 2006). The UK and the US also saw numerous major laws relating to consumer protection implemented during the 1960s and 1970s that applied to a variety of sectors (Hilton, 2009, p.52). However it was with the growth of neoliberalism in the US and UK during the 1980s that were to have the most profound effect in how consumers as targets of legislative reform were addressed, and which this thesis argues underpins the continuing relationship between consumer organisations and states generally, for better or

worse.

There was a change in the ideological framing of consumers, from a more social democrat force concerned with issues of *access* to a more neoliberal casting concerned more with *choice*, sovereignty and better functioning of markets. The question for my research is how has the relationship between consumer organisations and the state changed alongside the changing public policy paradigm, and how has this impacted on the extent to which consumer organisations are institutionalised, are an effective counter-balance to industry and regulatory pressure, and the extent to which they are perceived to have an impact.

The turn toward greater economic liberalism positioned the market as the best way in which to allocate resources. The intention being to create a better climate for business which simultaneously benefits consumers with lower prices and greater choice. In this respect consumers are seen as the ‘caretakers’ of these reforms as consumers’ individual economic decisions police markets. However, it was in the area of public policy where the debate around the role of consumers became most contentious. These developments involved the emergence of the amalgam identity, the ‘citizen-consumer’, which became an important part of further reforms by New Labour after 1997 (Clarke et al., 2007). The citizen-consumer identity is an important element in NPM and has been addressed elsewhere (Aberbach and Christensen, 2005), and will be analysed in greater detail later as part of the more normative debate on the adequacy of consumer representation as a primary focus for reform. It is claimed to have been an instrumental part of how public policy has developed over the past few decades. Essentially if public services follow market mechanisms and appeal to consumer sovereignty then *citizens* will more likely get what they want, be it more trains on time, or reduced hospital waiting lists. But what is important here is that these particular developments related to the policy process, have occurred alongside, and in connection to, how states are organised and function. This has been particularly acute in the UK, but is visible in other less market-orientated states also. It is one intention of this research to connect this more descriptive investigation of the role of consumer organisations in the policy process with more normative questions as to whether these groups *should* represent individuals in policy-making.

The role of consumer organisations therefore needs to be considered in this context, and their place in the architecture of the regulatory state examined with due reference to the politics of the state. Analysing the role of consumer organisations enables us to have a clearer picture of the way in which states have changed in relation to policy reform, as they have been involved in policy making and regulation in, it is argued, an atypical way. Consumer organisations are given a relatively privileged position in capitalist states, both liberal and social democratic, in respect of other civil society interests, yet still remain somewhat of policy ‘small fry’ (Page, 1999) against established institutions and business.

This chapter will now move to consider broader theory and literature on the state before moving to assess what has come to be known as the regulatory state specifically. The literature can be split into three broad camps: the retreatist view, the state-centric view and the state-in-transformation view. There has been considerable work on how the state has become subordinate to a variety of global processes, and this is leading, and in some cases has led, to seriously under-mining of the power and autonomy of states. This is mirrored by those who consider the state to be even more important than ever, taking into consideration recent events around the financial crisis as key examples of how states are the fundamental units of international and national politics (Schmitt, 2009). The third perspective takes a more nuanced approach, arguing that the state is changing and adapting as a result of global pressures, but still remains an important unit of analysis. Most individuals, as Sørensen (2006, p.191) says, would consider themselves to be *transformationalists*, ‘but

that the devil is in the detail'. It is in this frame that this thesis wishes to address the state in relation to consumer organisations. As part of this transformation is the relationship between state and markets, and it is this which the regulatory state analysis is primarily concerned with and which an investigation of consumer organisations can shed light upon. In addition, understanding the place of NGOs and other semi-state organisations within the regulatory and governance process is crucial to understanding how states have evolved both theoretically and empirically. This is why it is important to utilise network theory, both PN and GN approaches.

'The State' as Flinders (2006) suggests is '...arguably an unhelpful and misleading concept in that it suggests a stability and homogeneity that simply does not exist.' (2006, p.244) This is what will be brought out here. That although elements of the state remain somewhat constant, there is much that is in flux, and the case of consumer organisations is argued to highlight this ambiguity and complexity well. It is in this respect that consumer organisations could well be seen to mitigate the 'legitimacy gap' that occurs when the primary mode of governance is carried out by regulatory authorities and not public representatives. They also enable civil servants to carry out regulation with a better grasp of consumers concerns than they would otherwise have. In this way they could be seen as a 'go-between' for policy makers that confer both greater legitimacy on regulatory and policy proposals whilst simultaneously giving them useful information on various sector specific concerns and technical detail. They also fit into overarching neoliberal frame – consumer sovereignty is still paramount with the addition that some consumers need a leg-up (provided by consumer organisations). They could be seen to provide an 'adapted rationality' that mitigates potential market failures. However, this concern is couched in the language of neoliberalism that to some undermines the relationship between the citizen and the state. A relationship that should be determined by a broader understanding of what it means to be a citizen instead of the rather narrow identity of being a consumer. This is part of the normative debate around consumer representation that will be considered later in this chapter. What is important to address now is how theories of the state have, or have not, taken into account the consumer as a focus of policy. The normative debate on whether this is a sufficient focus or not must then come later.

In theory the regulatory state is argued to be of benefit principally to consumers, in fact its primary motivation is to enable consumers a better deal, as it does not dictate the provision of services, but supports a framework in which private sources can provide goods and services, and consumers can then use their ability to choose to distinguish between worthy and unworthy providers. Consumers in this respect have become the focus of much reform in public administration and policy. The various developments in NPM, and in neoliberalism more broadly, has brought the consumer to the fore in terms of political reform. There have also been calls towards 'co-production', in which public services are delivered together with the input of consumers, theoretically enabling a better targeted and in the end more efficient service. This has been championed by social-democrats as a way in which citizens are involved in the policy process in broader terms than merely consumers (Leadbeater, 2004, p.23). As Flinders says regarding the tensions between the institutions of the state with regard to the transformations taking place, specifically with regard to the 'connections' between institutions, and with the public 'out there':

...the state is a rapidly evolving organism within which a severe tension exists between the centrifugal pressures of management reform and the centripetal logic of political control....the relationship between state structures and democratic frameworks are becoming more opaque and this risk of disconnectedness becomes more pressing. (Flinders, 2006, p.246)

With regard to the consumer becoming an important locus of reform, Hilton (2009) importantly

notes that this was by no means just a phenomenon of capitalist states, but of planned economies too. The consumer became a powerful force in regard to the demand of particular goods and services, therefore consumer organisations became an important mediator between the mass of consumers ‘out there’, and the institutions of the state. This most importantly concerned departments and regulators tasked with administering particular markets and industries which have *significant* importance to citizens like the media, energy, food and telecommunications.

This section has outlined how consumers have fitted into understandings of the state and public administration. They have, by and large, been seen as individuals at the end of the line – they are the ultimate recipients of the goods or services, and will, in the neoliberal ideal, police the market in order to ensure maximum efficiency. However, as we are aware there is significant debate about the usefulness of using consumers as targets of reform, as in the neoclassical sense at least, consumers are seen in a rather narrow and individualised light. The next section will outline the specifics of the regulatory state thesis, and will highlight how consumers have been largely left out when it comes to the theory. It is not here consumers as the end focus that I am concerned with but how consumers are represented in the architecture of the regulatory state; how they are part of the regulatory state. However the political context, where consumers are seen as the necessary beneficiaries of reform, is crucial. This is the intention of this thesis: to take account of consumer organisations as part of the structure of the regulatory state that sees consumers as the fundamental recipients of policy reform.

### 3.3 Consumers and the Regulatory State

This section will consider how the regulatory state as understood by both Majone (1994; 1997) in its European form, and Moran (2002; 2003) in its British form, is concerned with consumers, and by extension consumer organisations as a component of the contemporary state. It will assess how their analysis has in fact left out an important element of the regulatory state’s constellation; that of the representation of consumers by particular organisations. It will attempt to show how this is important in our understanding of how the regulatory state functions by acknowledging work in governance network analysis. Simply put, the demise of the involved state at the hands of particular reforms gave birth to the regulatory state where markets would be administered by devolved agencies. These are in turn part of a broader policy and governance network. This has involved the inclusion of consumer organisations as checks on market failures in the form of super complainants in the UK, but also as ways to derive legitimacy and receive technical information through consultation and other formal and informal processes (that together form the governance network). Consumer organisations have played an integral part in advisory forums, as consultees and in the various sector specific consumer expert panels. Although consumer organisations have been seen as generally outsiders to the policy process (Grant, 1989), and may consider themselves to be peripheral to policy process, it is argued here that they play a key role. In terms of their status as organisations they are very much part of the broader structure of the state, especially when taking them into account through governance network theory.

I will now move to discuss the particularities of the regulatory state, and how it has evolved both as a conceptual lens and as an institutional structure. The literature on regulation is vast, as Moran (2002) notes, and the politics of regulation complex. So what this section focuses on is: what is it that we understand the regulatory state to be, how do consumer organisations fit into this understanding? But crucially always bearing in mind the central question of whether they matter to the policy process?

The regulatory state is a label that has come to bring together the variety of transformations that have occurred in governments across the capitalist world (Moran, 2002). It is not a catch-all, but a catch-much term. Its main aim is to try and take account of the way in which states have evolved to adapt to processes of governance. The theories are concerned with how regulatory agencies have grown to be fundamental in the process of governance, and the important role put upon regulation as *the* way in which policy goals of various kinds are achieved. Majone (1996), as Moran acknowledges, virtually invented the idea of the EU as a regulatory state, and focused on three elements of the modern state: ‘...redistribution; stabilization (for example, in the form associated with Keynesianism); and regulation (meaning promoting efficiency by remedying market failure). The rise of the regulatory state consists of the rise of this third function at the expense of the other two.’ (Moran, 2002, p.402) It is this trade-off that concerns us, and why the idea of the regulatory state with regard to consumer organisations and representation is so relevant. How have consumer organisations played a part in a state that regulates more in a policy paradigm that is concerned with consumer sovereignty? How have citizens, as consumers, been represented in these processes? As it is clear to see, the regulatory state sits in stark contrast to the welfare state, as Mabbett points out:

The paradigmatic regulatory type of policy is market coordination, and its type of politics is nonmajoritarian, technical and supranational. The welfare state has redistribution as its paradigmatic type of policy, and the dominant type of politics is majoritarian, party-political and national. (Mabbett, 2011, p.1)

This is of significant interest, as we need to understand whether it is conceivable that consumer welfare is maintained with the inclusion of consumer organisations into the policy process. Or whether or not they play a different role in a regulatory state like the UK than in a traditional welfare state like Norway. This has both interesting theoretical and empirical dimensions. The theory of the regulatory state idealises the type. It proposes how a particular type of state has come into existence, both in the form of the EU (Majone, 1997), and in Britain (Moran, 2003). However, in Britain in particular, the welfare state has a long history, and although diminished, still exists to some considerable degree. In this respect consumer organisations can be seen as part of the welfare state, being conceived in a time of social democratic reforms of the 1950’s. They have managed to survive into being a constituent of the regulatory state although this position has been challenged by the reforms of consumer representation and advocacy at the hands of the Department for Business, Innovations and Skills<sup>14</sup>.

The development of the regulatory state, and the appeals to civil society groups, are two distinct elements in the ‘governance’ turn, both at national and supra-national level. Which is why there are considerable connections between the understanding of the regulatory state, and what will be discussed below with regard to policy and governance network analysis. This is the connection being made in this chapter. The characteristics of the regulatory state illustrate some of the developments of capitalist states in terms of their function, but do not make sense of some of the complexity in intermediation that the network approaches do. Utilising them together we are

14 Current (2012) BIS consultation on the future of consumer empowerment and advocacy which has sought to rebuild the ‘consumer landscape’ in the UK. This will mean the closure of Consumer Focus and a concentration on Citizens Advice, it will be the new Regulated Industries Unit that will take all the advocacy work on particular industrial regulation.

able to describe a state which is moving to being more concerned with regulation, and using more technocratic and de-politicised methods, whilst at the same time becoming reliant upon various networks that have developed around particular sectoral and policy issues. Consumer organisations fit here as an empirical phenomenon that are not tackled by the literature. They are somewhat a relic of the social democratic state that has managed to be repositioned in terms of competition and choice under a more neoliberal guise.

The difference between the EU as a regulatory state and the British regulatory state is that the EU can only be described in terms of its regulative and enforcement capacity – not by traditional command and control measures, especially taxing and spending. This Britain still does, even though the trend maybe toward becoming a regulatory state. In this respect consumer organisations might play a key role as representatives of civil society that have welfare concerns, enabling a smoother transition to a more pure form of the regulatory state.

However, developments of the regulatory state are not necessarily synonymous with developments in neoliberalism, and it is claimed should be more accurately called ‘regulatory capitalism’ (Braithwaite, 2005). As Braithwaite suggests of states in this regard: ‘They bake cakes, slice them, and proffer pieces as inducements to steer events.’ (2005, p.1) But neoliberalism as a term helps us to appreciate the ideological dimension of practical policy initiatives. Here ‘regulatory capitalist state’ is little different from a ‘neoliberal state’ in this respect; they are states that steer markets. What needs to be better understood is how the various formulations of the state are born out empirically, and what this means for consumer representation, as it is consumers (who are citizens) that are the recipients of the outcomes of these events. This is important as in this new formulation of states it is consumers that become both the focus and the beneficiary of the developments (Aberbach and Christensen, 2005). The way in which institutions are arranged in policy networks and governance networks, in respect of consumer issues and concerns, is therefore of interest when wanting to understand how consumers are actually being represented in the formal, and informal, processes of governance. This also shows the complexity and contextual nature of capitalist states’ development. This matters for a variety of reasons, both empirical and normative, and this is what this research is concerned with; what are the particularities of institutional arrangements in terms of consumer organisations and consumer representation?

The idea is that through the logic of the market the state would be freed from responsibilities that it was never able to fulfil, and would reduce government failure simultaneously. This is a well-trodden neoliberal argument against state intervention, and one which according to many (Harvey, 2005) dominates as the policy paradigm today, even after the 2008-2009 crisis (Crouch, 2011), both ideologically and in practice (albeit to differing degrees (Simpson, 2008)). This policy paradigm is bound to understandings of the regulatory state, even though there are discussions of a neoliberal state (Plant, 2010), as these conceptions often exist in parallel depending on the particular characteristic being discussed. Here it is how the state functions as a regulator of markets, where markets play an increasingly dominant role, but which takes place in a broader political context where the regulation is conducted on particular terms. These demand that the state acknowledges the place of producer groups (both business and labour), but also that of consumers. Traditional understandings of the state with regard to interests have been broadly divided into pluralist and corporatist conceptions (Truman, 1951), but have all been concerned with the ‘iron triangle’ between states, labour and employers. This leaves out consumers, who are seen as having an increasingly important role in the formulation of regulation, at the hands of various policy and governance networks, within the context of neoliberal regulatory state. As has been suggested, these theories were updated to take account of the empirically suspect stylisation of the theories into neo-pluralism

and neo-corporatism. They told a similar story but acknowledged that some interests were more equal than others, mainly that of business in pluralist democracies and that of labour in corporatist ones (Lindblom, 1977). However, the literature tends to focus on consumers as active only *within-markets*, and what is of interest here is how their role *outside* of markets, as constituents of the state, and in this respect they have not really seen much analysis at all. This is especially important if we consider the broader notion from Grant (2005) that we are seeing a shift in politics (both empirically and theoretically) away from capital vs. labour, to producer (both capital and labour) vs. consumer, or a situation in which these interests are triangulated (Crouch, 2011), which also reflects the triangulation of politics generally away from state versus market, to state versus market versus corporation (Crouch, 2011). It is in this respect that civil society becomes such an important element. Consumer organisations are not, in this regard, taken account of in understandings of the regulatory state.

As an empirical phenomenon the regulatory state is tied to the politics towards the state that has been evident in most countries as a result of neoliberal ideology. This is the political context of the regulatory state. Moran (2002) does acknowledge that in the case of the UK the idea of the regulatory state cannot be divorced from the developments of NPM (2002, p. 404), but says that this does not mean that regulation was absent from Britain before the Thatcher years. The UK has had a long tradition of regulatory practice in various sectors, and has had a culture of self-regulation in many too which has had significant problems: ‘much of this growth of self-regulation turned on appropriating public authority while evading mechanisms of accountability for the exercise of that authority.’ (Moran, 2002, p.405) The regulatory state is now regarded as a key determinant in the evolution of capitalist states across the world (Moran, 2002). Whether this is an empirical phenomenon or merely theoretical is as yet unresolved, even though analysis continues to exist for both camps. Majone’s original conception of the regulatory state, as witnessed in European states, is a state that has shifted from being concerned with taxing and spending to rule making, the second at the expense of the first (Majone, 1997). It is important to keep this in mind as understandings of the regulatory state have become increasingly complex, but still orbit around this central premise. That there is something that has changed in the way states behave that is less interventionist and reactionary, more hands-off, allowing circumstances to evolve under set conditions where regulatory authorities unsure that the limits are upheld. This is the strict definition of the regulatory state, which is often found in various guises and to differing degrees. The regulatory state is therefore more of a conceptual lens (Humphreys and Stimpson, 2008), useful in understanding some of the broader developments in processes of governance with regard to how states function specifically. It can therefore be seen as a characteristic of processes of governance in that they are principally concerned with devolution of power away from central government, and with forming networks with civil society organisations. Do consumer organisations therefore matter to these developments? Why do we see them as included as part of many policy networks, yet they often seem themselves as peripheral?

What is particular about the institutional design of regulatory states is the devolution of power to regulatory agencies, which are in turn responsible for upholding the rules set out by the legislature. This is a fundamental part of the move to a regulatory state. The increasing use of what have come to be known as ‘Quangos’ (Quasi Autonomous Non-Governmental Organisations) is also part of this development. These bodies range in their distance (determined by ‘arm’s-lengthness’) from the central ministry or department, but who are given particular roles and responsibilities with regard to the upholding of rules and regulations. Quangos also play a crucial part in the policy process when determining policy and the implementation of regulation.

However, the regulatory state is in some corners now thought to be in crisis itself. Lodge and Wegrich (2010) suggest that the financial crisis, although seeing a reliance on the state to sure up problems of deregulation, has been weakened into a ‘naked state’ – unable to call upon previous interventionist authority due to the weakening to its position as a regulatory state.

What is important to appreciate here is that a variety of interest groups are still involved in the increasingly complex policy process under an evolving regulatory state. It is also important not to divorce these developments from the evolving ‘governance paradigm’ and neoliberal ideology. The emergence of the regulatory state has occurred in line with policies of DLP, where regulators are tasked with overseeing deregulation, as in the case of Ofcom. This particular regulator was created by bringing together various authorities under one name, as part of the Communications Act 2003. As Smith says, the creation of Ofcom was: ‘...[a shift] away from the allocation of relatively scarce spectrum to achieve public service objectives and towards the control of market power to facilitate free market competition,’ (Smith, 2006, p.929). This also reflects the ‘paradigm shift’ of media regulation as suggested by Van Cuilenburg and McQuail: ‘The emerging policy paradigm for media and communications is mainly driven by an economic and technological logic, although it retains certain normative elements.’ (Van Cuilenburg and McQuail, 2003, p.198) This is a shift in policy that has dominated the last few decades, and continues to do so. What is important is that regulators, and by extension the regulatory state, are integral to this, as is the role of consumers and therefore consumer organisations. Consumers become the way in which the markets are policed in terms of public interest without the moralising overtones of government, if it sells then it works and consumer welfare is maximised. This neoliberal tenet underpins these policy developments, including the emergence of the regulatory state.

In a specific UK context much of these developments can be seen in the creation of the media regulatory Ofcom. Ofcom has as its mandate to regulate in the interests of ‘consumers and citizens’, as did Ofgem, the energy regulator. But both have been criticised for a lack of attention to the needs and wishes of consumers: ‘OFTEL, too, under its various Director Generals (DGs) could be seen in general to be on the side of the consumer. In spite of this in the first five to ten years after privatization it was not apparent that the consumer’s lot was improving in terms of lower prices or better standards of service.’ (Young, 2001, p.55) Young also suggests that privatisation has been of benefit to consumer organisations, and by logical extension consumers. This is of significant interest, as it is the suggestion that consumer organisations have become *more* relevant with DLP as consumers are the target interest:

Under nationalization, consumer bodies were weak and had little influence (Ogden, 1997, p. 535). Those established at privatization developed a much stronger role, each with its own individual structure and modus operandi. Other organizations such as the PUAf, NCC, CA and the National Association of Citizens Advice Bureaux (NACAB) have also been instrumental, through lobbying parliament, Whitehall and the regulatory offices in gaining improvements for all categories of customers. (Young, 2001, p.64)

However, the complexity of the regulatory environment is not given justice by simple calls about it all being neoliberal, and that consumer organisations have had across the board success. It is certainly the case that this particular ideology has driven much of the changes we have witnessed, but the place of the public interest is still implicit in the need to regulate markets in consumers’ interests, even though the particular discursive language may have changed. This is where consumer organisations become relevant. They can be seen as potential mitigators of market failure – they



represent consumers outside of markets and are thus called upon by policy makers as important consultees. This will be discussed in greater detail in the next section, but suffice to say that the argument here is that consumer organisations play a key role in the apparatus of the regulatory state but their specific impact is not considerable.

This section has outlined the main tenets of regulatory state theory, and how this body of theory has, to a greater or lesser degree, been concerned with consumer organisations and representation more generally. What has been argued is that although the theory on the regulatory state, as a way of conceiving of contemporary capitalist states, is a useful one, it does not adequately account for consumer representation. It is useful as it enables a reasonably accurate understanding of the state in a process of transformation, as an entity that exists primarily to ensure the proper functioning of markets. This encapsulates both ideas around regulatory capitalism but also more pejorative ideas on the neoliberal state. It is also useful to my research as it is essentially concerned with the politics of regulation and the state, the connections that exist between institutions and organisations. This is where network analysis, both policy network and governance network approaches, come in and what will now be discussed.

### **3.4 Network Theory – Principals, Policies and Governance**

This section will outline the current thinking on networks in relation to governance and the state. It will show how the concept of the network has numerous dimensions, both descriptive and prescriptive, and will set out how the organisation of government and the state is now understood in terms of ‘networks’. This forms the second part of the theory chapter and develops some of the aspects discussed previously in relation to the regulatory state, most importantly how the state has devolved power to regulatory agencies, and how these agencies have sought to include the interests of civil society. It specifically looks at how these theoretical bodies are connected, in that they both seek to take account of contemporary changes in state organisation, but also what they might have missed empirically; how consumers are represented in the process. First this section will consider the broader thinking on networks as a contemporary paradigm, it will then move to discuss the two variants of network analysis in political science: policy network theory and governance network theory. It will then finish by focusing on how governance network theory can help to form a foundation for this research by adapting the elements of the regulatory state theory and using them in combination to take account of consumer organisations at part of the structure of the contemporary capitalist state.

However, before we delve into the particularities of network theory, there will be a short overview of some Marxist theory of the state. This is done in order to try and overcome some of the dichotomies that exist in the theory between hierarchy and network, ideational and material interests, and empirically between state and market, labour and capital and consumer and producer. This is important as network theories, although describing some of the processes of governance, do not outline the social and political context as Marxist analysis does. In trying to understand consumer organisations and their place in the policy process (as a meeting point between the state, civil society and the market) it is necessary to take account of the social political context, which Marxist analysis can help to do. As Hay suggests, in relation to Jessop’s work: ‘All social and political change occurs through strategic interaction as strategies collide with and impinge upon the structured terrain of the strategic context within which they are formulated.’ (Hay, 2006b, p.75) In this respect Marxist accounts take seriously the particular vested interests, both class and capital related, in the production and reproduction of the state in a capitalist society. This is not to say that

in this research the argument essentially boils down to the economic structures alone, that is what is explicitly *not* being said, but that to fully understand the policy process today we need to *both* take account of the interconnections and relationships between institutions and organisations (network approach) *and* the political economy of the policy process including the ideological and material dimensions (Marxist approach).

### **3.5 Marxist Understanding of the State – Regulating in the Capitalists’ Interest?**

In this respect, where Marxist theories of the state largely concern simplistic (and somewhat conspiratorial) aspects of class and the state as the ‘ideal collective capitalist’ (Altvater, 1973), network theory can better help us understand the complexity of the issues at stake. That is not to say that Marxist theory has nothing to say but that some of its conclusions beg serious questions and it does not go into enough detail. Here governance and network theory can help us, as it enables a greater appreciation for the contours of the state, and here that includes the place of consumer organisations in the policy process. It is not enough to simply say that it’s all the capitalists’ fault: (a) capitalism is much more complicated than that, and (b) that does not really tell us anything anyway. But as Hay suggests: ‘The state thus emerges as a nodal point in the network of power relations that characterizes contemporary capitalist societies and hence, a key focus of Marxist attention,’ (Hay, 2006b, p.63) and that: ‘The state presents an uneven playing field whose complex contours favour certain strategies (and hence certain actors) over others.’ (p.75)

It is in this that it is possible to see the advantages of combining governance network analysis with a Marxist approach, as we are then able to take account of the relative power relations between actors in a particular network and how the particular social and political context may impact upon this. In relation to the cases examined in this investigation, the UK and Norway have distinct polities (pluralist and neo-corporatist), capitalist systems (liberal market and co-ordinated market) and ideology (neo-liberal and social-democrat), but share similarities in various institutions; like the consumer organisations which are non-governmental bodies, and regulatory bodies, although they are different as will be shown later in the empirical and analysis chapters. It is the way that these institutions are arranged (the character of the networks) and the place of the consumer organisations in these networks that is of interest, in addition to the various social and political conditions in which these networks exist. To understand whether consumer organisations matter in the contemporary policy process we need to understand where power lies in regulatory capitalist states, and to do that we need to have a detailed and in-depth understanding of the character and contingent contexts of governance networks. In the next section this chapter will outline and detail how governance network theory can help us, in combination with aspects of Marxist state theory, in understanding the particularities and details of the contours of capitalist states.

Additionally, although the issues concerning the role and place of consumer organisations in contemporary policy making and regulation is largely an empirical concern, there is also a normative dimension. Marxist theory, that of considering the importance of the political economy of policy making in relation to the reproduction of capital and the structure of the state, can also help in trying to understand the normative dimensions of consumer organisation inclusion. Consumer organisations, and their place in the policy and governance networks of the state, can in this respect help us to better understand the *politics* of policy making which include the reproduction and contestation of a particular neo-liberal hegemony, something that will be considered in the empirical analysis chapter. They also demand that we ask questions such as: are consumer organisations

part of the state or part of civil society? And as a consequence do they empower or disempower citizens and consumers? Although not a primary focus of this investigation, these questions will be considered in the conclusion chapter.

However, now we will move to consider governance network theory and its relevance to this research. This section of the chapter will start by considering the rise of network analysis as a paradigm in social and political theory generally. It will follow by considering how governance network theory differs from the policy network approach. The section will then argue that governance network theory can benefit, as suggested, from Marxist understandings of the state in trying to take account of the complexity of contemporary policy process. It will then conclude by suggesting that together regulatory state theory, governance network theory and Marxist underpinning can combine to provide a forceful and compelling framework to understanding the role of consumer organisations. Furthermore, this can help us to better appreciate the characteristics of contemporary capitalism and the relationship between states, markets and civil society.

### **3.6 Understanding Networks**

The use of networks, in both the understanding of contemporary social and political phenomena, and in practical application as an organisational mode, is paradigmatic. The analogy of 'the network' is used to describe both the meta-level social processes (Castells, 1996) and the micro-level processes like those illustrated by social networking technologies. What is important to note is that the idea of 'the network', that is a de-centred and nodal form of organisation with multiple connections between constituting parts, is both a way of understanding social phenomena and an organisational practice. Furthermore it has both descriptive and normative dimensions. It has also been argued to be ideological in its own right (Deleuze and Guattari, 1988; Hiltz and Turoff, 1993) evidenced in ideas as diverse as free-market globalisation and the progressive dimensions of particular social movements. However, for this research I am concerned with the concept of the network in policy and governance scenarios as a way of understanding connections in and between institutions of the state and civil society organisations. This is what is referred to as the meso-level (Marsh and Rhodes, 1992) in that it is not concerned with meta-level developments like globalisation nor urbanisation, nor micro-level concerns like voting behaviour patterns, but is concerned with groups and how groups and institutions of the state intermediate. These are the boundaries of the networks that this research is concerned with. This section will now outline the theory on both policy networks and governance networks, and consider how they differ and why governance network theory is more relevant here.

### **3.7 Networks and the Policy Process**

The policy network approach, which is both distinct from and which came about prior to governance network theory, was developed in the late 1980s and early 1990s as a way of explaining the increasingly complex institutional arrangements and intermediations between interests. It was intended to move the debate beyond both the 'advocacy coalition approach' (Sabatier, 1987) and the concentration on 'epistemic communities' (Haas, 1992), and to try and have a more general theory on the policy process (Dowding, 1995). All of these approaches were ultimately concerned with getting under the skin of the 'policy community' (Jordan and Richardson, 1979) and trying to take account of the various dimensions that led to policy change; mainly concerning the connections between interest groups and civil servants. These were however largely considered to be

concentrated communities, or networks, around specific policy issues. This is where the element of 'epistemic community' is important in taking account of how various elites with particular knowledge sets congregate around policy issues relevant to their particular specialisation. The 'policy network' concept then came to be an important way of describing the various conditions witnessed in the policy process, and was loose enough to encompass the variety of relationship between various actors, both institutions and organisations. However, as Dowding pointed out in 1995: 'Whilst the metaphors are heuristically useful, as they have to be if they are to be metaphors, they are incapable of explaining transformation.' (Dowding, 1995, p.139) Whatever the intricacies however the 'network metaphor (Dowding, 1995) is a recurring theme in most attempts to analyse or theories contemporary governance.' (Blanco et al., 2011)

Dowding, although largely critical of theories of the state, does concede that Marxist theories (along with rational choice theories) avoid the problem of not being generalisable, as they posit that it is essentially the same mechanisms which underpin capitalist states. The discussion is then about difference in degree rather than kind; it is about the particularities of capitalist states and the various characteristics that determine both the institutional arrangements and intermediations with interest organisations. An analysis the role of consumer organisations can help us to do this, and understanding the extent to which they matter can help to better understand where power lies in the process. It is in this respect that using a combination of governance theory, underpinned by some observations from a Marxist perspective, can be of significant benefit.

The key figure in the development of the policy network analysis governance network theory is R.A.W. Rhodes. His thinking progressed the more contained and policy specific thinking on policy networks, to try and take account of meso-level developments and structures more generally across polities. What is essential to make clear, and which Blanco et al. (2011) insist upon, is that these approaches, both policy network (PN) and governance network (GN), should not be used interchangeably and are distinct: '...the PN and GN perspectives should be seen as coexisting, offering distinctive interpretations (and research strategies), resonant with – but not dependent upon – any particular empirical context' (Blanco et al., 2011).

The next section will now directly outline the important aspects of GN theory, and some of the criticisms. It will show that GN theory provides a framework for understanding how some of the ideological, and ideational, dimensions of governance impact upon practices and institutions. The chapter will then move to consider how a constructivist institutionalist framework can help us in trying to better understand these institutional changes and developments.

### 3.8 Governance Network Theory

As said the network metaphor has been adopted in a wide range of academic disciplines, for both descriptive and normative purposes. What needs to be understood here is how a particular form of network theory, governance network theory, helps us in understanding some of the developments that have occurred in democratic states. What needs to be made clear is that *governance networks* are in principle a mode of organising that exists somewhere between neoliberal marketisation in line with the ideas of New Public Management, where private forces and the market take over the provision of public services, and top-down hierarchically controlled state facilitated services. Here services are provided, and markets regulated, with the input from a broad range of actors, often called 'stakeholders', who are all part of a governance network. The academic work on these forms of policy making is relatively novel (Sørensen and Torfing, 2007, p.3), but has gained significant attention in the area of public administration. It is also bound with the broader literature on

governance in general, in which the literature on the regulatory state also exists. Governance has in this respect become an umbrella term for a variety of phenomenon associated with the changing dynamics of the state in the last four decades. This has become pivotal for contemporary political science as a whole range of phenomena have been attributed to processes in governance; this is evident in the fact that a two volume encyclopaedia of governance was published in 2007 (Bevir (ed.), 2007). Bearing this in mind this investigation wants to focus upon governance networks specifically. This is in order to take account of the intermediation between organisations and institutions as this can help in understanding the role of consumer organisations as a particular political body in the process of policy making and regulation.

Where the policy network approach can be characterised as being concerned with ‘...how policies are *really* made,’ (Blanco et al., 2011, p. 298, original emphasis) and takes account of how various actors have always come together in ‘policy domain-specific subsystems’ (Blanco et al., 2011, p. 298), governance network theory is different. GN theory attempts to take into account the wider, and more meta-level, developments in society and how traditional bureaucratic government is attempting to adapt to these by appealing to both an array actors and shifting norms. These norms include both an emphasis on increased legitimacy in policy through a constant deliberative engagement with ‘stakeholders’, but also the reduction in hierarchy that is meant to result from the development of the regulatory state. This is supposed to challenge both ‘...the hierarchical forms of governance associated with social democratic welfare states,’ but also importantly ‘...the market reforms of the neo-liberal ‘new public management’’. (Blanco et al., 2011, p. 299) It is in this respect seeing consumer organisations as part of governance networks becomes so interesting, as on the face of it they directly appeal to these developments. They are organisations representing individuals, often vulnerable, in particular markets that have seen, or could be seen, to have certain failures. But which at the same time conform to a particular ideological emphasis on the primacy of markets as a progressive mode of organisation.

Governance network theory is built upon the idea that the state has changed, and is continuing to change, moving away from a command and control monolithic entity to conduct itself through the increasing use of networks, and that much of these developments have been the result of neo-liberal policy practices. Bell and Hindmoor (2009) suggest that the general governance approach is ‘society-centred’, and that the focus on the ‘hollowing out of the state’ that has occurred as a result of governments wanting to devolve power, and NGOs and interest groups wanting a greater say, is greatly over-stated. This is why this chapter has also looked at the theory of the state, as the understanding of the regulatory state places some of these dimensions concerning de-centralisation and devolution of power away from the executive, and governance network theory, as these two dimensions are key in trying to understand the extent to which consumer organisations exist as part of this governance network. Is it the case that Bell and Hindmoor are correct and that the state in fact plays a far greater role than the general governance literature suggests, and what implications does this have for consumer organisations? This will be addressed in the empirical and analysis chapter when discussing the question of the extent to which consumer organisations have been institutionalised, and the extent to which they are understood to have an impact on policy and regulation.

What the GN literature does is bring together the broader understanding of the importance of the network metaphor and the argument that we live in a period of ‘governance not government’, in that ‘the cultivation of networks by policy makers as a preferred paradigm for governance has thrown up new phenomena for study.’ (Blanco et al., 2011, p.305) What the theory is trying to take account of is how policy and regulations are made in a period where the state has enabled other organisations and institutions to have decision-making power other than the core executive. This

is why the regulatory state, as a theoretical frame for understanding the development of capitalist states, is useful, and also why they are brought together here. The regulatory state theory frames how we understand developments in governance from a state-centric perspective, and governance network theory enables an appreciation of the connections and relationships built up between institutions and organisations.

What is pointed out in the GN literature (Sørensen and Torfing, 2007; Blanco et al., 2011) is that governance network theory is concerned with taking account of the more diffuse and malleable connections and relationships between agents and organisations in the governing process. In addition to various formalised procedures, including regulatory forums and consultations with stakeholders, other more informal connections between actors emerge. This, in more traditional accounts like policy network analysis would be more difficult to pin point as they are not evidenced in the formal settings, yet could have significant impact on the nature of the connections and relationships between institutions and organisations. In this way the GN approach acknowledges the complexity of the policy process: ‘...network-based governance is a complex and potentially chaotic process in which numerous interests, identities and rationalities fuse and collide.’ (Sørensen and Torfing, 2007, p.25) What GN theory does is try to take account of policy processes that have grown up in parallel to the significant changes of the state, and how public policy is achieved with various partnerships between the state and other bodies; private, NGO, charities and semi-state NGPBs. What GN literature does is to: ‘...conceive[s] the spread of networks and partnerships as part of a strategy to open up decision-making processes to interest groups and to citizens themselves.’ (Blanco et al., 2011, p.304) This is, on the face of it, crucial to understanding the role of consumer organisations in the policy process and their institutionalisation – they are organisations whose sole intention is to represent the interests of consumers in the decision-making process. These developments in governance are seen to be a way to bridge both the gaps in the ‘democratic deficit’, that brings decision-making closer to citizens, but also which has a more pragmatic impact of making policies and regulation that actually function in the interests of those whom it is intended for. As Sørensen and Torfing also say: ‘The inclusion of relevant and affected groups and organisations in governance networks help to overcome problems in terms of societal fragmentation and resistance to policy change, and thus tends to make the governing processes more effective.’ (Sørensen and Torfing, 2007, p.4) The extent to which the ‘effectiveness’ can be assessed in practice is difficult to know; however what can be done is to investigate the extent to which the actors involved, both in the organisations representing consumers and in the institutions (regulators and government departments), perceive the importance of the connections with the other, combined with the more formal institutionalisation of forums and consultations. In this respect GN theory, as outlined here, provides a framework, and background, for which these relationship and connections can be analysed. However, there are issues which will now be considered before moving on to look at constructivist institutionalism that will be the third element in the theoretical framework.

As outlined above, it is widely acknowledged that the contemporary policy paradigm is one in which elements of what has been termed ‘governance’ feature. The extent to which this is, or is not, the case is still contentious, but most literature acknowledges that the moves to decentralise the state through various techniques is also bound up with neoliberalism as a policy practice. One of the contentions around governance theory, and governance network theory by extension, is that it is itself ideological. Most importantly, from a constructivist perspective, these theoretical models are themselves contributing to and reproducing a particular way of looking at relationships in the policy process. Whether or not the descriptive and normative dimensions can be neatly separated when considering a GN approach is contentious. Especially when the ‘governance’ paradigm is

argued to have ideological dimensions to it (Davis, 2011). This concurs with more post-structuralist analysis that sees theory as a determining practice itself. The argument is that by being confined to a particular theoretical position, the researcher is predetermining the outcomes, or at least the boundaries of the outcomes, from the start. This will be considered in more detail in the next chapter on methodology, but it is important to take note here of one of the criticisms of governance theory, that it itself is ideological.

Davies, using Marxist and Gramscian perspectives, takes a critical look at governance theory in general. He argues that ‘actually existing governance networks appear dysfunctional ...tending to replicate practices they were meant to surpass.’ (Davies, 2011, p.101) That instead of governance network practices actually enhancing the democratic integrity of policy making and regulation, they undermine them by re-introducing inequalities and hierarchies. This is made worse for the fact that institutionally there is a semblance of participation where in reality it is limited. The elements of practices of participation, that have been largely accepted into the rhetoric of governance at the highest levels, including in the UK and Norway, have also, Davies argues, been part of the way in which neoliberalism has attempted to co-opt oppositional forces (2011, p.74). This also chimes with what Harvey (2005) suggests of the neoliberal state’s relationship to civil society organisations – that they make up the bulk of contemporary oppositional politics. In this way governance networks, Davies argues, have become ‘hegemonic’, and exist in combination with a ‘connectionist ideology’, which ‘...lent vision and promise to the global capitalism renaissance, transposed by governments into the language of opportunity and inclusion and strategies for cultivating governance networks.’ (Davies, 2011, p.151) What is important about this perspective towards the otherwise rather optimistic accounts of governance network theory, is that it takes a critical stance towards the rhetoric about participation and connectivity and asks probing questions about the extent to which these processes genuinely transform practices of government. This investigation adopts the perspective outlined by Davies, in that although the governance network theory provides a framework, as does the theory on the regulatory state, these are not seen as necessarily progressive developments but bound up in the ideology of neoliberalism. In this way analysing the connections between organisations and institutions, the institutionalisation of organisations, and how actors within these processes perceive their relationships with other bodies can tell us a great deal of the extent to which this governance process is challenging hierarchical forms of organisations or reproducing them.

This section has outlined the theory on governance networks, and shown that there is contention as to the extent to which these networks exist as a necessarily positive development that some commentators might suggest. This chapter has outlined two key aspects of the theoretical framework through which the analysis of consumer organisations in policy making and regulation will take place: the regulatory state and governance network analysis. The chapter will now outline a third aspect, constructivist institutionalism, which will provide a more epistemological dimension to the framework. When investigating both the state and governance networks it is also important to frame what the analysis focuses on in understanding institutions. This will be provided by constructivist institutionalism which is concerned with the ideas and discourses of actors in institutions.

### **3.9 Constructivist Institutionalism**

This chapter has so far outlined the theory on both the regulatory state, and governance network theory. It has shown that there are key elements of both of these theoretical approaches, the increasing importance of regulators, the encouragement of civil society participation in the policy

process, and the overall move towards 'governance' over government. This chapter will now discuss and outline the third dimension in the theory that guides this thesis, constructivist institutionalism. This will be done to provide both a framework for what is considered as important in both the regulatory state and governance network theory, but also will provide a bridge to the methodological aspects of the thesis which will be outlined in the next chapter. This is due to the fact that it is the ideas and norms that are framed by broader ideological structures of the people involved in policy making and regulation that this investigation sees as fundamental to an understanding of consumer organisations role in policy making and regulation. This is in addition to the fact that in investigating consumer organisations, and their relationship to the state, what is being looked at is the institutions of the state and their relationship to each other. This is then combined with the more epistemological concern with the role of ideas, norms and discourses in how institutions perceive themselves and others. Therefore a constructivist institutionalist theoretical framework makes most sense. In order to investigate these institutions and their relationships to each other, the people that make up the institutions need to be asked about how they perceive and understand the role of consumer organisations, which is why elite interviewing is chosen as a research method. This will be explained further in the next chapter. Now this chapter will look in greater detail at constructivist institutionalism as a way of understanding institutions and institutional change.

The concern of constructivists with the ideational and discursive aspects of policy making, and institutional change, are what this investigation sees as the most interesting phenomenon in understanding the role of consumer organisations. The ways in which consumer organisations have developed, and how they have come to be institutionalised and part of the state, lends itself to being approached through a constructivist institutionalist frame, as it is the discursive and ideational dimensions, evidenced in elite actors thoughts that is argued to be most vital in understanding political life more generally.

Constructivist institutionalism is part of the body of theory that makes up 'new institutionalism'. This combines a variety of perspectives on the study of institutions – what many see as the 'roots' of political science (Guy Peters, 2005, p.1). Other parts of 'new institutionalism' are: rational choice institutionalism (RI), that sees institutions made up of primarily self-interested individuals; historical institutionalism (H), that sees institutions being more the product of a path dependant history; and sociological institutionalism (SI), which sees institutions as part of wider society and therefore impacted by it. In terms of sociological institutionalism this includes values and norms held in society, in addition to population ecology models and symbolic dimensions of institutions (Guy Peters, 2005). Guy Peters suggests that discursive institutionalism (DI), as a way of understanding institutions through the 'use of discourse analysis' (Guy Peters, 2005, p.115), is under the umbrella of sociological institutionalism as it is essentially targeting values and looking to see how they are evidenced in wider discourses. However, others (Hay, 2006a; Schmidt, 2008, 2012), see both constructivist institutionalism (CI), and discursive institutionalism, as separate ways of analysing institutions as they prioritise the place of ideas and arguments of agents above merely instrumental motivation (Rational Choice Institutionalism), or path-dependency (Historical Institutionalism): '...change is seen to reside in the relationship between actors and the context in which they find themselves, between institutional "architects," institutionalized subjects, and institutional environments.' (Hay, 2006, p.64) In this respect this theoretical frame see arguments and ideas as of principle interest in understanding the political institutions that are the focus of much political science. Furthermore, it is these ideas that have a reproductive quality: 'it is not just institutions, but the very ideas on which they are predicated and which inform their design and development, that exert constraints on political autonomy.' (Hay, 2006, p.65) It is possible to see then,



that although insights from RI, HI and SI are all of interest, they do not take seriously enough the ideas and arguments that have a structuring impact on the institutional contexts. CI and DI do.

Guy Peters (2005) notes that discursive institutionalism shares the concern with ideas that historical institutionalism does, but ‘differs in that it is less concerned with the equilibrium conditions that may result from the initial selection of ideas to guide policy.’ (Guy Peters, 2005, p.115) Bell (2011) goes further to suggest that discursive institutionalism, and institutional theory concerned with understanding the role of ideas does not need to be a new, separate, institutionalism, like Schmidt suggests, but can be targeted using an adapted version of historical institutionalism. Bell’s argument is that scholars like Hay and Schmidt are ‘over emphasising’ the alleged problems in understanding institutional change through other new institutionalist perspectives. Bell suggests that constructivist institutionalists and discursive institutionalists have returned to a more agency centred approach, which they originally criticised in the other new institutionalisms. Their idea was to bring institutions ‘back-in’, but ‘now run the risk of taking institutions ‘back out’.’ (Bell, 2011, p.2)

What is clear is that there is contention in the theory on the analysis of institutions about focus – what it is that can best help us to describe institutional change. Despite the calls for constructivist institutionalist approach to be incorporated into the other forms of new institutionalism, it is adopted in this investigation as it is seen to still have significant value in targeting the ideas of individuals active in institutions. This is due to the fact that although Bell (2011) has an important point about new institutionalism becoming too focused on individuals at the cost of not taking account of the broader structures, the importance of how elites perceive and understand the relationships between institutions and their impact on policy and regulation is vital to taking account of the role of consumer organisations. This is due to the fact that influence is difficult to measure objectively, as will be discuss in the methods chapter next, and that actors and organisations that are understood to be important in policy making and regulation are re-enforced in that position. Although actors’ perceptions, ideas and norms are not everything, the broader structures like ideology, organisational culture, and elements of path-dependence are also important factors, they are in the context of this investigation seen to be most important. This is why constructivist/discursive institutionalism is the most suitable theoretical frame for assessing these dimensions, as Schmidt says of discursive institutionalism: ‘Three elements--ideas, discourse, and institutions--all need to be considered in terms of the institutional context.’ (Schmidt, 2012, p.105)

What this investigation wants to better understand goes above and beyond more material concerns like access to resources, which typically denotes the extent of institutional leverage. It wants to address the important factors in understanding the more intricate questions of the role that particular organisations play in particular political context. In this case what is the role of consumer organisations in policy-making and regulation in a neoliberal context, assessed by taking account of individual agents’ motivations, ideas and arguments in a particular structural context. The agents are considered important, their discourses providing evidence through which the analysis of broader processes like institutionalisation, influence and intermediation can be achieved. At the same time the institutional and structural context is seen as important too – there is a relationship, or a feedback, between the agents and the structures that surround them.

### 3.10 Conclusion

One thing that becomes apparent in the analysis of the various constituents of the contemporary state is not only the complexity of the interdependence, but also of the interconnectedness of the phenomena (Hay, 2010). A discussion of consumer organisations can quickly become one about

regulation, and a discussion on regulation can quickly become one on institutional design and state structure. In investigating the role of consumer organisations it is both impossible and undesirable to ignore this complexity as it all matters in our understanding of contemporary policy making and regulation, and capitalism more broadly. How the rules of the game are developed, and who determines the rules, are fundamental questions in an understanding of contemporary policy making and regulation, and in this respect an analysis of consumer organisations can draw out the particular contours and details that elude the more general theory.

What this chapter has shown is that the three core bodies of theory, regulatory state theory, governance network theory and constructivist institutionalism together provide a framework for analysing consumer organisations as constituents in contemporary policy making and regulation. The theory on the regulatory state (principally Majone, 1994, 1997; Moran, 2002, 2003) presents a picture of a state changing in the face of developments in neoliberalism – De-regulation, Liberalisation, and Privatisation (DLP). It is a state which whilst employing regulatory agencies to administer particular industries and markets, also demands great inclusion of civil society organisations in order to inform regulation and policy. At the same time NGOs and civil society organisations have proliferated, giving rise to the argument that:

The period in which the neoliberal state has become hegemonic has also been the period in which the concept of civil society – often cast as an entity in opposition to state power – has become central to the formulation of oppositional politics. The Gramscian idea of the state as a unity of political and civil society gives way to the idea of civil society as a centre for opposition, if not an alternative, to the state. (Harvey, 2005, p.78)

Therefore the regulatory state theory presents us with a state whose principal concern is with ensuring the working of particular markets through regulation, where legitimacy is gained through discussion with civil society.

In more specific detail, and what the governance network theory approach helps with, is that the connections that have come to exist in how this regulatory state has developed can be understood as part of a broader governance network – where the various institutions; consumer organisations, NGOs, business, regulators and government departments interact within the gaze of the state but separate from it. These organisations operate at arm's length from the central government, but under the rules set out by it. In addition, governance network theory allows an investigation into the more nebulous aspects of these connections as it recognises both the informal and formal aspects of the connections and intermediations between actors, organisations and institutions.

This brought me to the third dimension in the theoretical framework, constructivist institutionalism, which recognises the importance of agents' ideas, arguments and perceptions in maintaining, and changing, particular institutional structures. It was argued that this particular frame was insightful as it took seriously the ways in which actors understand, and reproduce through their discourses, the institutions that they collectively make up.

Through this approach a comprehensive framework for taking account of consumer organisations as political bodies can be achieved. All of the dimensions discussed are of importance; the state, the networks, and the agents, and in trying to understand the role of consumer organisations, as a feature of contemporary politics, all of these dimensions need to be taken seriously: the meta-level aspects of the state, the meso-level aspects of the networks and intermediations, and the more micro-level aspects of the individuals and their ideas and perceptions.

This chapter has sought to build this investigation on a theoretically rigorous framework, it will now move to consider the methodological dimensions – how, using this theoretical foundation, will

the investigation be carried out?

The next chapter will outline and detail the important methodological aspects of the investigation, it will cover why a comparative study was chosen, the importance of interviews and will overview discourse analysis as a methodological tool. The methods chapter will then move into the empirical aspects of the investigation with an overview of the states, and then into the investigation of each country, the UK and Norway.

# 4. Research Methods

## 4.1 Introduction – Methodological Strategies and Epistemological Positions

This chapter will now set out the research methods of this investigation. It will look briefly at the epistemological dimensions, where the research locates itself in the corpus of political science methodology, and will then detail the specific research strategy of this thesis and the reasons why this strategy was chosen. This will involve what method was used in (1) the overall framing of the thesis; a comparative investigation of the UK and Norway, in (2) the collection of data; through interviews, and then (3) how the data was subsequently analysed; through discourse and argument analysis. The chapter will then set out the case selection, why the UK and Norway were chosen, and what particular policy areas were considered. The chapter will then finish by outlining the research questions and their justification in light of the methodological discussion; what the questions address in respect of the limitations that have been acknowledged. It will then conclude by considering how this type of interpretive policy analysis is a valuable contribution to understanding contemporary politics. The thesis will then move to the next chapter where the characteristics of the two different states under analysis, the UK and Norway, will be outlined, before moving on to the empirical and analysis chapters. This chapter will now situate this investigation in the corpus of political science as a discipline.

### 4.1.1 Situating the Thesis: Philosophy of Social Science

Debates around methodology are as acute in political science as they are in many disciplines, especially in the social sciences more broadly, with the concept of a ‘social science’ itself being a contested one (Hutchinson et al. 2008; Winch, 1990). By extension the term ‘political science’ is also a contested one – its basis as a ‘science’ challenged by those less interested in the more positivist/empiricist dimensions of the discipline. However, despite the debates around the dominance of positivism/empiricism in political science, which saw the publication of *Perestroika!: The Raucous Rebellion in Political Science* (Monroe, 2005) at its apex, it is by-and-large now held that so long as scholars are reflexive about the limitations of their chosen approach, are aware of the potential biases in research strategies, and are humble about their ability to reflect the complexity of the social world accurately (Hay, 2010, p.19), then we can progress the discipline in a variety of fashions. This chapter is written in this reflexive tradition, and fully acknowledges and engages the debates surrounding methodological practice in social science, whilst also describing in detail the particular research strategy of this investigation – the principal intention of this chapter. In this respect this chapter will now position this investigation in relation to the various research traditions in political analysis – quantitative, qualitative and interpretive (Yanow, 2003). Or, as Yanow also suggests, that we should move beyond the two part taxonomy of quantitative/qualitative, to recognise the three dimensions of political and social research: quantitative, positive-qualitative, and traditional qualitative (interpretivism) (Yanow, 2003, p.8).

Typically research in political analysis has been split into either quantitative methods, using principles and models drawn largely from economics that calculate the relationship between variables using statistics and often large data-sets, or qualitative methods, which utilise less numeric data like interviews and texts in order to make other claims about social and political reality. However, as King et al. suggest, both are derived from ‘the same underlying logic of inference’ (King et al., 1994, p.4), something which Yanow (2003) sees as different from the ‘interpretive’ approach which

is less positivist in its epistemology. In Yanow's mind there are three branches of investigation, and that interpretive research is not a sub-field of qualitative methods – due to the underlying logic of inference that is not shared, and the ontological and epistemological differences (Yanow, 2003, p.2 and 6). Additionally it should also be recognised that it is understood that 'all empirical scientists interpret their data' (Yanow, 2003, p.3), but that constructivist-interpretivists do so explicitly as the particular research questions that they address require them to do so. The research questions for this investigation can be found at the end of the introduction chapter (section 1.3).

Which research strategy is taken is argued to be dependent on the question at hand – particular questions pertaining to the empirical relationship between specific phenomena require different research tools. There is also the epistemological dimension, and epistemological assumptions are often smuggled in even to the duopoly of the quantitative/qualitative divide. That is to say that despite the research strategies, there are always underlying assumptions about truth claims – and these concern themselves with epistemology. Epistemology is not concerned with the nature of the world, like ontology, but with what we can hope to know about the world (Furlong and Marsh, 2010, p.184) – the limits to our knowledge about the world. Questions about epistemology are often shirked. This is done at our peril, as in order to reach the rather optimistic goals that Hay (2010) sets out, we at least need to be open about the fundamental assumptions about claims to truth that underpin scholarly research.

This thesis comes from a constructivist ontology, which means that the social and political phenomena under analysis are understood to be socially constructed – the individuals that make up the institutions and organisations analysed embody them through ideas, perceptions and practices. The institutions exist principally due to the individuals, and the ideas, desires and perceptions of those individuals, and it is these that we need to take account of in trying to better understand how these bodies function in contemporary politics. For example, this investigation is concerned with how individuals in the policy and regulation process understand the role that consumer organisations have, and to what extent they perceive themselves to have, or not have, influence. Therefore, in order to address consumer organisations as a contemporary political phenomena, and as a constituent of policy and regulatory networks, the questions that are asked are ones which we can make a reasonable attempt at trying to answer, as well as pertaining to what is crucial to understanding the policy process: understanding the values and arguments that individuals within these scenarios adopt. In this respect it is the ideas and arguments that are taken seriously, and therefore why discourse analysis will be utilised in analysing the interviews with political actors.

The epistemological position of this research is one of methodological interpretivism, and more specifically interpretive policy analysis. This is done very much in the tradition that Yanow (2000; 2003) sets out, a tradition that is:

...based on the presupposition that we live in a social world characterized by the possibility of multiple interpretations. In this world there is no "brute data" whose meaning is beyond dispute. Dispassionate, rigorous science is possible – but not the neutral, objective science stipulated by traditional analytic methods (as represented by the scientific method). As living requires sensemaking, and sensemaking entails interpretation, so too does policy analysis. (Yanow, 2000, p.5)

Although this thesis is not concerned with a particular policy, but with a policy context – the institutional and structural circumstance of policy and regulation with specific attention on the role of consumer organisations.

It is also the case that interpretivism in political science has seen a recent renaissance in the publication and success of Bevir and Rhodes's 'Interpreting British Governance' (2003), which

brought together the theoretical perspectives that saw a move from government to governance, with a methodological departure from more empiricist ‘Westminster Model’ perspectives, to more interpretive ones. Bevir and Rhodes (2004), in a symposium on interpretivism in political science, make this link between theory and method, between governance and interpretivism, and suggest that:

The governance narrative is a valuable corrective to the traditional Westminster model. It is an exercise in ‘edification’. The governance narrative offers the hope of finding ‘new, better, more interesting, more fruitful ways of speaking about’ British government (Rorty, 1980, p.360). It does so by decentring networks and exploring how their informal authority supplements and supplants the more formal authority of government. We use the notion of governance to develop a more diverse view of state authority in its relationship to civil society. (Bever and Rhodes, 2004, p.136)

Although this passage concerns the British government system specifically, there is no reason why this theoretical and methodological approach cannot be used to study other government systems in a comparative fashion. The principles are that the way in which political systems are analysed must take into account the developments in governance, and the importance of ideas, beliefs and values in trying to better understand contemporary politics. This thesis is concerned with doing this with regard to the role of consumer organisations, and their place in the policy and regulatory system, and looking at what this tells us about the character of the state in regard to neoliberal and social democratic ideology.

Therefore an interpretive research design requires a particular form of data collection, and a method of analysis. This research design intends to be able to bring ‘thick description’ to the meso-level of institutional analysis, in order to be able to explain in detail firstly how it is the case that these groups have come to be institutionalised, but also, when they have been institutionalised, understand the role that they play. What this thesis aims to bring is an interpretive approach to the study of the state-civil-society relations, and the intermediation between different institutions and organisations through looking at consumer organisations in the UK and Norway.

This section has sought to place this thesis in a philosophical and theoretical tradition which, like all approaches, has methodological implications – that by having a constructivist and interpretivist approach this has a direct impact on the methods of analysis that will be used. This chapter will now move to look at these methods by considering the overall framing, the case selection, the method of data collection, the method of analysis, the limitations of this approach, before moving on to some concluding remarks about the overall intentions of the research design.

## **4.2 Overall Framing – A Comparative Analysis**

Comparison is a vital part of scholarship or investigation. To compare one similar phenomenon to another, in different contexts, can tell us a great deal about each. The most simplistic example being ‘spot the difference’ puzzles – you only know there are particularities about each picture due to the comparison with the other. In this way when comparing political phenomena in different contexts it is also possible to highlight particularities and therefore gain a greater understanding of the phenomena. In this regard the comparative approach in political science is considered to be ‘one of the primary means for establishing social scientific generalizations.’ (Ragin et al., 1996, p.749) However this thesis is principally concerned with uncovering the dynamics of the inclusion of consumer organisations in different contexts, and not with concrete generalisations, but the

comparative method is still useful – even for constructivists. As Moses and Knutsen say:

...when constructivists employ comparisons, they do so in a way that is designed to preserve the qualities associated with thickly descriptive narratives. More to the point, constructivists regularly use comparisons to develop associations along two related fronts: in hermeneutic exchanges between the particular and the general and in their interrogations of simplistic dichotomies used to separate Them from Us.’ (Moses and Knutsen, 2007, p.222)

The comparative method can also be widely used to determine broader, cross-national, trends. This thesis is concerned more with comparison as a way to make characteristics of two particular political systems more acute, and therefore aid our in-depth understanding of contemporary state-civil society relations, and *not* to make broader generalisations about facts pertaining to these relationships. The intention, like Moses and Knutsen suggest, is to try to understand the role of consumer organisations in two different contexts in detail, and to try and show that the simplistic assumptions about how consumer organisations might function in two different ideological contexts are not the full picture – consumer organisations cannot be simply cast as either neoliberal apologists or as an example of a burgeoning state; it is more complicated than that. Comparison is here used to show difference and gain clarity.

In this respect the UK and Norway were chosen in order to assess two different liberal democratic states, with different histories, cultures and ideologies. Even though this investigation is done in a constructivist vein, and does not seek, like more naturalist perspectives, to provide generalised hypothesis or theories on consumer organisations as political phenomena, it is still important to compare polities which share some common features – both countries are capitalist liberal democracies, albeit different versions. Through comparing and contrasting the role of consumer organisations in the policy making and regulation of the two polities the particular features of each country can be compared and insights about both gained. Although general theories may not be reached – which state in a determinist way that ‘consumer organisations tend to behave like x’, but to try and create more loose taxonomies that may help us to better understand consumer organisations in different contexts; to try and take account of the political complexity and competing perspectives at the heart of policy making. This investigation sets out these taxonomies in the analysis chapter 8. However, what is of concern is to investigate the extent to which neoliberalism, as an ideology, plays a part in the narratives of the development and institutionalisation of consumer organisations in both countries, and therefore to try and better understand the characteristics of contemporary neoliberalism through assessing consumer organisations role in policy making and regulation.

The most notable explanation of the different ways the comparative method can be utilised is by J.S. Mill (1843), who distinguishes between comparisons ‘most similar’ and comparisons ‘most different’. He is also, as Moses and Knutsen (2007) observe, critical of the comparative method as a way to ‘uncover’ universal laws of politics or society. This thesis is more, as outlined, of a comparison between cases ‘most different’ – the UK and Norway are both liberal capitalist democracies but are otherwise, in theory, very different: ideology (market liberal/social democratic), parliamentary system (majoritarian/non-majoritarian), state (pluralist/neo-corporatist), interest groups (actively exclusive/actively inclusive), economy (liberal market/co-ordinated market) and relationship with the EU (member/non-member). This is in addition to other more determined differences like population size and language difference. The difference between the two polities is important as it always for the role of consumer organisations to be understood in two very different contexts and to try and describe the similarities and differences of consumer organisations.

This chapter will now move to consider the way in which evidence was collected, before moving on to the method of analysis (section 4.4).

### 4.3 Method of Data Collection – Elite Interviewing as an Interpretive Technique

The intention of this section is to briefly reflect on the interview as a technique for data collection and why it is of value to this research project.

Elite interviews are for interpretive political science, and much sociological research, one of the core practices in understanding ‘the world out there’. The social world is composed of individuals, and in political arenas they are often referred to as ‘elites’, and it is these individuals that have the knowledge about the processes, connections and events that take place in said arenas. One important aspect to point out, which reflects the researcher’s particular epistemology and the target of research, is the extent to which the interviewee is actually seen as part of the research. For post-structuralists the social make-up of the particular interviewee, and the interviewer, would be important, as their socialisation and the cultural norms of the elites are significant for their analysis due to institutions being socially constituted – localism (Alvesson, 2011). However, for other research the interviewee is more a conduit, or gate-keeper, of information about institutions and processes – that there is a ‘truth’ about consumer organisations out there and we just need to get access to it – neopositivism (Alvesson, 2011). What this thesis is concerned with is somewhere between these two positions, understood as romanticism (Alvesson, 2011), where ‘Through closeness and depth we can find the authentic and true, which are simply being expressed in our talk.’ (Alvesson, 2011, p.14) Here I am concerned with arguments – what are the arguments and perspectives about consumer organisations, and their place in policy making and regulation, do involved political actors have. It is through understanding the particular forms of discourse uttered by elite actors that can bring us a greater understanding of what the role of consumer organisations is. For example, when discussing the formal and informal relationships between a consumer organisations and regulatory and government officials, how individuals describe these relationships is important – their perception of the proximity of their organisation to the wheels of power is as important, if not more important, than knowing how many times they met with a particular individual, department or division. It is only through interviews that this information may be accessed.

The controversy surrounding interviews as a source of information relate both to the idea that eye-witness accounts are notoriously unreliable, and that the interview itself, which questions are asked and how, has a determining effect on what the interviewee says thus undermining the objective nature of knowledge collection. However, despite these potential problems ‘talking to people’, which is essentially what interviewing is, is the most obvious way to try and investigate political and social phenomena, especially when you are concerned, as I am here, with the largely socially constructed nature of a particular phenomenon. Taking account of resources or of measuring activity like consultation responses or press releases can also tell us something, but it will not tell us the role that consumer organisations have in the policy and regulatory process – this is something more complex and difficult to grasp, which, despite the issues, requires that interviews are conducted.

As said, there are traditionally, as Alvesson sets out (2011), three major approaches to interviewing: neo-positivism, romanticism, and localism. Alvesson’s main question is: ‘Whether the interview reveals the truth about some external reality or stable personal meaning/experience, or whether it reflects more the local dynamics and contingencies of the interview situation?’ (Alvesson, 2011, p.27) Alvesson is pretty critical of the interview as a method of investigation,



but mostly concerning its application – so long as interviews are used with due knowledge of the impact that the situation, interviewer and interviewee can have, the answers one can expect to get and the potential problems of interviewing. The claims about political ‘reality’ are limited to a particular set of questions – the ‘truth’ is in this respect conditional. The questions that this thesis is concerned with are by and large not ones that require me to make claims about a causal relationship between specific phenomena, but more to problematize a particular political phenomena, and at most suggest that broader ideologies maybe seen to be evidenced in the ways in which the individuals involved in organisations and institutions understand themselves. This thesis therefore has a more ‘romanticist’ approach to the interviewing – taking the interviewee as a way to access data about the particular institutional, organisational and policy context that they have experience of: ‘...in order to be able to explore the inner world (meanings, ideas, feelings, intentions) or experienced social reality of the interviewee.’ (Alvesson, 2011, p.14) What it aims to do is not to make generalisable justifications for consumer organisation involvement in policy making but to outline the complex and varied nature of competing perspectives towards consumer organisations, both normatively, and descriptively in terms of whether they are understood to be core or peripheral to the policy and regulatory process. Interviews of the actors involved in these processes are therefore the best way in which to understand these perceptions.

By taking this approach the scholarship essentially comes down to my ability, as a scholar, to interpret the interviews in a way in which is ‘reasonable’, and can be seen to provide evidence of particular social, political and cultural trends. It is this on which I hope this investigation is judged – on the ‘reasonable-ness’ of my assertions regarding the information gained from interviews and its contextualisation with both broader developments set out in the literature review, theory chapter and analysis chapter.

This thesis will use semi-structured interviews in order that the subject of investigation can be kept reasonably focused across interviewees, but also allowing for particular experiences and stories to be heard by not being too restrictive. In this respect two interview transcripts were used, one for individuals in consumer organisations and one for individuals working in other organisations: policy makers, ministry officials, regulatory officials and independent advisors. These can be found in appendix 2.1 and appendix 2.2 respectively.

### **4.3.1 Problem of Language**

Of course, especially when doing a comparative study in a context where English might not be peoples’ native, or working language, there may be issues with judging, or interpreting, discourse. In attempting to ‘uncover meaning’ in language, if individuals lack the sufficient skills to explain themselves. However, if the focus is on arguments and trying to gain an understanding of how the individuals, and thus the organisations which they represent, understand their position it is less important. This really comes down to how the interpretation is done. I am not trying to uncover deep meaning, but to see, through the arguments and perceptions of elites, the extent to which they understand the role of consumer organisations in a particular context. In so doing they will marshal various arguments about the relationship between the state and civil society, their responsibility to citizens, their place as an institution or body, and these will be both descriptive and normative. This is not reliant on their grasp of English language *per se* it is the deeper arguments that they are explaining that is of interest not the particular utterances that they speak. For example, if they use particular words or phrases I am not going to suggest that that is in itself evidence of the impact of a particular political ideology. More accurately I want to see how they position themselves and their organisation as a political entity more generally as part of the policy and regulatory system,

and assessing the arguments, thoughts and perceptions that they display. This is not ideal, as that would be the interviewer being able to fluently speak the language of the interviewee, but even in the case of two people speaking the same native language there are language issues – ‘perfect’ communication is never possible. However, if it is recognised that the utterances of interviewees are spoken in a language not native to them then the investigator should be reasonable in their assessments of the data, and look for arguments and discourse more generally, and not pick up on specific utterances as evidence alone of a broader claim.

With this in mind this chapter will now turn to the third dimension in the methodological framework – how the data is analysed.

#### **4.4 Analysing the Data – Discourse Analysis and the Argumentative Turn**

There are many ways to study public policy and the dynamics of political institutions. Some of the various options have been mentioned here, and they differ greatly, from Large-*N* cross-national surveys to in-depth ethnographic studies. This thesis, in keeping with constructivism and interpretivism, is however concerned principally with how agents in political contexts understand themselves and their organisations. From this we can gain a greater understanding of these political contexts. This is not to deny other factors, such as resources, but to focus on a particular dimension of the policy process. This way of analysing politics has a heritage, some of which has been discussed earlier in this chapter, and earlier in this thesis, but which will be expanded upon in this section. It is in this respect that political context should be acknowledged as being of vital importance to policy analysis, as it is the arguments and discourse which are situated in particular political contexts. It is these contexts, through a ‘thick description’ comparative account of consumer organisations, enabled by analysing the discourse and arguments presented by elite actors, which can help us better understand, and problematize, contemporary governance. More broadly political context is what this thesis seeks to better understand – not the decisions of policy makers themselves, but the broader context in which decisions are made. In this respect Tilly and Goodin say: ‘We pursue the hope that political processes depend on context in ways that are themselves susceptible to systematic exploration and elaboration. The hope applies both to description and to explanation.’ (Tilly and Goodin, 2006, p.6). For this thesis understanding politics is about understanding the context in which formal ‘politics’ (technocratic decision making) occurs – this is politics. This is here limited to the context of the regulatory state and the governance networks that operate in the policy making and regulatory environment. Within this the research is concerned with the relationships between institutions and how consumer organisations fit into this political context. In order to do this I need to investigate the wider perceptions and arguments of individuals involved in the processes and set them against the theories about broader political developments like the relationship between the state and civil society and the impact of neoliberalism as an ideology. In order to do this I undertake a discourse analysis which this chapter will now outline.

Discourse analysis has a long tradition but in principle concerns the analysis of language, in text and speech, in order that we can gain an understanding, and in some cases explain, the social and political world. Discourse analysis is in principle: ‘...the study of language at use in the world, not just to say things, but to do things.’ (Gee, 2011, p.ix) Within this there are a variety of approaches that come under the umbrella of discourse analysis, from more post-structural (PSDT) accounts that see all of social and political reality as embedded in frameworks of meaning (Howarth, 2000; Laclau, 1990), to the critical discourse analysts (CDA) for whom language is saturated by power relations and ideology (Fairclough, 1989; Wodak, 1989; Van Dijk, 1991, 1997), to more techni-

cal linguistic approaches that are concerned with how the language is structured grammatically. Each approach to discourse offers us different tools for analysing language, and privileges different factors in the analysis, but no one approach has any claim to being able to tell us all we need to know about the social and political world. Therefore the approach that one takes depends on what the research questions are, and therefore what the investigation prioritises. In trying to understand the role of consumer organisations in policy making and regulation, and the extent to which they provide a counter-balance to industry and agency pressures, I am concerned with unpacking the ideas and arguments, in the form of discourse, that elite actors practice, as it is this discourse which is seen as important in manifesting the institutions in which they are uttered. The agents, and their discourse, are both determined by and determining of the institutional structures around them – there is a feedback between ideas, material factors and the outcomes – both particular policy and regulatory decisions and the overall make up of institutions. In this respect the type of discourse analysis that will be used here is closer to CDA as it is concerned to: ‘...systemically explore the often opaque relationships of causality and determination between (a) discursive practices, events and texts, and (b) wider social and cultural structures relations and processes,’ (Fairclough, 1995, p.132). Fairclough continues to say that CDA is to: ‘...investigate how such practices, events and texts arise out of and are ideologically shaped by relations of power and struggles over power,’ (Fairclough, 1995, p.132). What CDA is aimed at doing is uncovering subjectivity that is constituted in language, and through analysing discourse we can discover how individuals constitute themselves both socially and politically, and that discourse can reveal broader ideological trends at work that manifest themselves in the arguments and perspectives put forward by political elites.

PSDT and CDA are essentially two perspectives on the role played by ideas, PSDT being concerned with only the relationship between ideas and outcomes, and with critical discourse analysts being concerned with the relationship between ideas and material factors, and their subsequent impact on outcomes (Hay, 2002, p.205-6). It is the latter to which constructivist institutionalists (or discursive institutionalists) are more closely aligned. Although though Schmidt, a predominant advocate of the discursive institutionalist approach, has recently been criticised for her ‘narrow concept of discourse’ (Panizza and Miorelli, 2012, p.7). This thesis is concerned with understanding institutions and their relationship to each other, and so taking an approach that acknowledges that there is a feedback between the ideational and material dimensions, and their subsequent impact on outcomes is crucial. In this respect a more CDA approach is taken, but one which privileges the role of arguments marshalled in political utterances in order to uncover the core motivations, perceptions and perspectives of agents embedded in particular political contexts<sup>15</sup>. In this way ideas are understood to be present in a multitude of forms as Schmidt suggests:

In the representation of ideas, any given discourse may serve to articulate not only different levels of ideas (policy, programmatic, and philosophical; see Hajer 2003) and different types of ideas (cognitive and normative) but also different forms of ideas—narratives, myths, frames, collective memories, stories, scripts, scenarios, images, and more. (Schmidt, 2008, p.309)

This thesis seeks to understand and analyse interview texts by looking to see how agents describe the political context they inhabit – as it is through these understandings, and discourses, that at an aggregate level, institutions are manifest. Therefore to take account of consumer organisations in

15 It is also the case that there is, traditionally, a normative dimension to CDA in that it ‘openly committed to political intervention and social change,’ (Machin and Mayr, 2012, p.4). The normative dimensions for this investigation are addressed in the conclusion chapter (9)

contemporary policy making and regulation I need to understand how political actors involved in policy making and regulation understand consumer organisations, and this is done through an analysis of their discourse. This is not to say that material factors are not important, like the resources that institutions and organisations have, but that I want to understand consumer organisations irrespective of their relative financial resources. It is all the other dimensions – the less easily ‘measured’ aspects like ideas, arguments and perceptions that this thesis is concerned with.

More specifically I am concerned with looking at arguments – what arguments in both defence and attack of political phenomena do individuals marshal, and what does this tell us about the ideas that characterise the institutional make-up? For example, Fairclough and Fairclough (2012), suggest an important place for argumentation in the analysis of discourse: “Political discourse analysis’ ...views political discourse as primarily a form of argumentation, and as involving more specifically *practical* argumentation, argumentation for or against particular ways of arguing, that grounds decision.’ (Fairclough and Fairclough, 2012, p.1) It is in this respect that this thesis analyses the discourse of political actors – to understand the arguments and perspectives they put forward in relation to consumer organisations and their inclusion in policy making and regulation. To take the perspectives of actors from various parts of the policy making and regulatory system and try to understand what role consumer organisations play, the extent to which they are institutionalised and whether or not they provide a counter-balance to industry pressure and are understood to have an impact on policy. Although I am not concerned with individual policy outcomes it is still important to take account of what Majone (1989) says about arguments and discourse: ‘We miss a great deal if we try to understand policy-making solely in terms of power, influence and bargaining, to the exclusion of debate and argument. Argumentation is the key process through which citizens and policy-makers arrive at moral judgments and policy choices.’ (Majone, 1989, p.2) Political actors have positions and perspectives, normative and descriptive, towards the inclusion of consumer organisations in the policy process, and it is the intention of this investigation to understand these, and to try and set them against the broader political back-drop of developments of neoliberalism.

In order to analyse the interviews an approach toward the analysis needs to be taken, and in this regard I have chosen to use discourse analysis. It will be loosely connected to the CDA approach, but will focus more on actors’ arguments and the underlying political positions toward the inclusion and institutionalisation of consumer organisations into the policy making and regulatory process. In this respect language is seen as constitutive of political perspectives and ideology, and through analysing the discourse of political actors in a variety of contexts a greater understanding of that political context can be gained, as Gee suggests:

...language is a key way we humans make and break our world, our institutions, and our relationships through how we deal with social goods. Thus, discourse analysis can illuminate problems and controversies in the world. It can illuminate issues about the distribution of social goods, who gets helped, and who gets harmed. (Gee, 2010, p.9-10)

Discourse analysis therefore provides a framework for interpreting text in order that political phenomena can be understood in a more in-depth manner, to appreciate the particularity of consumer organisations, but also to try and situate the institutionalisation of consumer organisations in a political context. One way in which neoliberalism can be evidenced in practice is in the constitution of the relationships between states, civil society, markets and corporations. Under

different ideologies different relationships are prioritised, and neoliberal ideology concerns making these relationships solely about the better functioning of markets. Consumer organisations play an important role in this context as they are able to represent individuals as consumers in policy and regulatory contexts that concern ensuring markets work better. This thesis seeks to focus on how elite actors involved in this context make arguments about, have perspectives on and formulate ideas on the role of consumer organisation today. Therefore discourse analysis can help us to better understand the extent to which individuals, and institutions, display neoliberal characteristics.

As was suggested in the previous chapter (3) in the section on constructivist institutionalism (3.4) the analysis of discourse and discursive practices in trying to understand institutions and institutional change has seen a recent resurgence. This was originally referred to as the ‘argumentative turn in policy analysis’ (Fischer and Forester (eds.), 1993), and has of late seen a number of scholars develop this approach to the study of institutions and policy making (Hay, 2006c; Schmidt, 2008, 2012; Hajer, 2003, 2009). This has culminated in the recent publication of *The Argumentative Turn Revisited: Public Policy as Communicative Practice* (Fischer and Gottweis (eds.), 2012), that, as the title suggests, looks at the ways in which the focus on arguments and discourse has enabled a greater understanding of the policy process and political institutions more generally. One of the most important dimensions of this ‘argumentative turn’ in theory and method is the position that: ‘... argumentative policy enquiry challenges the belief that policy analysis can be a value-free, technical project.’ (Fischer and Gottweis, 2012, p.2) This is vitally important for two reasons: (1) that it lays bare the notion that policy practice and policy analysis are connected, the connection between theory and practice – in post-structuralist and constructivists perspectives this rings true as theory has a determining impact on the world that it theorises – it does not sit outside of it. But also (2) that in choosing a method through which to study the role of consumer organisations as part of the policy process one is chosen which takes account of the *politics* that underpin ‘depoliticised’ contexts – the politics is evidenced in the discourse of actors. This is therefore not to supply ‘the answer’ to policy makers but to problematize and critically question the contexts in which policy making happens, and discourse analysis allows this to be done in depth.

This section has outlined the principal method of analysis that this investigation will conduct on the interview data – discourse analysis. It will use discourse analysis as a tool to analyse the arguments, perceptions and ideas of elite actors in regard to consumer organisations in the policy process. This is done in order to examine and illuminate the both the ideological currents that are manifest in individuals speech but also see the complexity of political arguments made by elite actors with regard to consumer organisations and their institutionalisation. To understand consumer organisations role in the policy process we need to understand what role they are understood to have by the individuals that populate the institutions, bodies and policy processes that are of interest, and this can be achieved through using discourse analysis.

## 4.5 Case Selection – Countries and Policy Areas

In conducting a comparative study, in a constructivist and interpretivist approach, ‘cases are not selected to try and uncover the hidden and universal patterns of the social world,’ (Moses and Knutsen, 2007, p.233). What is of interest, through using a ‘cases most different’ approach, is to compare and contrast two particular political contexts in order that each can be seen more starkly. In the process of investigation and analysis the comparative dimension is important as although generalisable laws are not the intention it is still the case that to investigate two contexts would provide more information than investigating just one. Although Moses and Knutsen go

on to say that ‘issues of sampling and case selection are simply not methodologically relevant or interesting,’(Moses and Knutsen, 2007, p.234), it is here taken to be an important dimension, not because of the applicability for making claims about generalised laws, but in order that the role of consumer organisations can be analysed in two different contexts and therefore to see how they differ.

The reason that the UK and Norway were chosen was due to access to elite actors, and because both countries have similar, but in some respects essentially different, characteristics. Both are capitalist liberal democracies, but with the UK being neoliberal, and Norway being more social democratic – this ideological dimension is important as it forms the dependent variable. To what extent do consumer organisations role differ in different ideological contexts, and does this impact on both their institutionalisation and whether they form a counter-balance to industry and agency pressure? The countries are also similar in that they have both gone through a process of neo-liberalisation with the privatisation of various industries and the creation of markets where there previously was none – utilities and telecommunications sectors being two important areas. In this respect the various policy areas that were looked at were ones which where the ‘consumer interest’ was explicitly taken most seriously – in the UK in the case of Ofcom. Ofcom, and the media, was chosen in the UK as Ofcom is the only regulator to have both the citizens and consumers interest in its principal duty of operation as set out in section 1.3.1 of the Communications Act 2003<sup>16</sup>. They are also the most recently set-up regulator and have actively made moves to include consumer organisations, and consumer representation, into their functioning in an explicit way. Ofcom was therefore taken as a case example of how consumer organisations have been institutionalised in the UK. However, there are many other policy areas that revealed themselves prior to and during the interviews with policy makers and consumer organisations: e.g. product placement, energy, consumer rights, food-labelling, smart meters. All of these policy areas were considered but as consumer organisations’ campaign focus changes all the time it was difficult to anticipate what would be the most important. It was therefore left fairly open as to which policy areas would be discussed, apart from looking at Ofcom in the UK – other non-sectoral consumer organisations have a range of priorities and it was their general role and institutionalisation that I wanted to investigate, in addition to seeing the extent to which they understood themselves to impact various policy. It was therefore important to leave this open. As a result I was able to see both how consumer organisations were institutionalised in one context in the UK, and how they had been institutionalised differently in Norway, through less close contact with regulators and more contact with government departments, and to see how their policy priorities were reached and acted upon. A variety of consumer organisations were chosen to interview, and these included the principle organisations in each country, Which? and Consumer Focus in the UK, and Forbrukerrådet and Forbrukerombudet in Norway, in addition to other sectoral and research organisations. The openness with which policy areas were dealt with was to investigate not specific policy processes but a more general sense of these organisations role more broadly.

## 4.6 Limits to this Approach

Although the particular research design chosen, a comparative interpretive investigation using discourse analysis, is deemed to be the most suitable way to assess both how organisations have been institutionalised, and the extent of their influence, as has been argued throughout, it is still the case that this type of research design will fall short in some respects. It is beneficial for research-

16 This can be seen here: <http://www.legislation.gov.uk/ukpga/2003/21/section/3>

ers to reflect on these shortcomings in order that they can make sure that the problems are minimised throughout the research process. The most commonly attributed problem with interpretive research is that the results are ‘in the eye of the beholder’ – there is little that is ‘scientific’ about the few observations the scholar makes, and the subsequent inference that they make in the analysis. Although this criticism would of course be valid if the investigation were to be trying to claim general laws about political reality that would aid future prediction. However, what this research intends to do is to attempt to better describe the contexts in which consumer organisations have become a feature, and to illuminate an otherwise under researched aspect of contemporary political life. In doing this there can be a range of procedures taken, and through an interpretive investigation using discourse analysis knowledge about the ways in which consumer organisations are understood to have a role in the policy and regulation process by political actors involved in them is gained. An in-depth ‘thick description’ account of political contexts is a valuable exercise.

Furthermore, for some social scientists making generalisations is vital to the very process of science as an intellectual endeavour. It is also stated that having only a few cases undermines the potential significance in that it reveals less, and therefore has less force as research, as Gerring says: ‘...there is no guarantee that a few cases, chosen randomly, will provide leverage into the research question of interest.’ (Gerring, 2008, p.645) Both these critiques of the small- $N$  case approach should be recognised, but it is still the case that in-depth studies can provide us with significantly useful data, analysis and conclusions that larger- $N$  studies could not. It is here that this procedure has its advantages - different scales give different results and in the spirit of methodological pluralism this is only positive for social science.

The other significant issue is concerned with *selection bias*. Is it not the case that in this particular research design the cases have been selected on the basis that they will elucidate the problem presented. This is however also an issue with epistemology, as the level of understanding about a particular phenomenon is attributable to the scale of analysis but to the accuracy of the analysis in terms of the question asked. In this respect this research project aims at gaining a better understanding a particular phenomenon rather than comprehensively explaining its existence *in toto*.

Even though these two significant shortcomings should be recognised as such, as Moses and Knutsen (2007, p.109) suggest, it does not make the approach taken invalid as a scholarly endeavour. As has been stated above, it is vital when conducting research in whatever fashion that rigour and consistency is key.

For this investigation the scholarship is in the interpretation, the ‘reasonableness’ of the inferences made of the interview data in the discourse analysis, and the drawing together of various theories in order to best understand the role of consumer organisations in contemporary politics. Through this procedure, as is shown in the analysis chapter 8, both a normative typology (fig.7) was made to show the perspectives towards consumer organisations, and hence the politics that underpin regulation and policy making, and also a description of the extent to which consumer organisations are understood to be either peripheral or core to policy and regulatory processes (fig.5 and fig.6). Together these descriptions are used to show that there are commonalities faced by consumer organisations despite the differences in context. Therefore although not generalising about consumer organisations in a determined fashion, through an in-depth analysis, frameworks can be drawn up in order that a better understanding of them can be gained.

What this investigation does not provide is measurable, determined and generalisable explanations of the role of consumer organisations, this is a significant limit to some. But hopefully this chapter has sought to successfully argue that there is still significant value in trying to better describe political phenomena.

So although there are limitations to this approach, in that there is much left to interpretation, this is not so damaging as to undermine the central goal of this investigation – greater understanding of consumer organisations, and the policy and regulatory processes more generally.

## 4.7 Conclusion

This chapter has outlined the various methodological dimensions of this investigation. This is vital in order for the scope and limitations of the intended analysis to be clear, and also to show how theory and methodology are connected. This is both so that I remain modest about the potential of political analysis, to avoid hubris, but also to make clear that despite this great understanding about a particular feature of contemporary democratic politics can be gained which has otherwise not been examined. This chapter has covered five dimensions; (1) the overall philosophic perspective of constructivism which sees political phenomena as largely socially constructed, (2) the broader framing of the investigation as a comparison between the role of consumer organisations in the UK and Norway, (3) the method of data collection through elite interviews, (4) subsequently how these interviews were analysed through looking at discourse and argument, and (5) the limitation to this approach. In this way these elements create a rigorous, yet flexible, framework for which to investigate consumer organisations as a feature of the contemporary policy and regulatory processes. This investigation is systematic and rigorous through, as Yanow (2003), quoting Bevir, says “philosophical rigor” – a rigor of logic and argumentation – rather than merely a procedural “rigor” (sic.) (Yanow, 2003, p.7).

As has been shown through-out there are a number of authors whose work this investigation draws upon, and is influenced by, and it is broadly in the area of critical policy studies. Hajer’s (2003) idea that policy-making is not the *result* of politics but constitutive of politics, and it is the nature of this constitution that this thesis is concerned with unpacking. Also Majone’s (1989) assertion that in order to understand the policy process, and how some policies are adopted and others not, we need to understand arguments and discourse marshalled by the participants, is also useful here – not in particular policy setting but in understanding the institutionalisation of a particular set of interests – what arguments are marshalled in the defence of their position, what discourse is displayed in their justification and the perceptions of their activities? This is not to mention the fact that the inclusion of consumer organisations into policy discussions is part of a move to increase deliberation in processes of governance – showing the connection between normative and theoretical arguments. These are just two perspectives towards the study of political phenomena that this thesis draws upon – a tradition which has, as said before, been cast as the ‘argumentative turn in policy analysis’ (Fischer and Forester (eds.), 1993), and which has been recently re-assessed (Fischer and Gottweis (eds.), 2012) in light of other studies with a new collection of authors (for example Hay, Schmidt and Howarth).

In this respect this investigation is an interpretive account of governance, which looks at a particular feature of contemporary governance; organisations that are located somewhere between the state, the market and civil society, and pertain to be an influence on policy that, in theory, provides a counter-balance to producer, industry and regulator pressure, on behalf of the consumer. In so doing it uncovers some of the political dimensions of processes of governance – which are argued to have been depoliticised, and become technocratic processes that find ‘solutions’ to policy problems. This thesis sets itself against these perspectives in problematizing processes of governance, including the emergence of the regulatory state, and showing that, as processes, they are ideologically encumbered.



This thesis will now, having considered the literature around consumer organisations and states (chapter 2), and the theoretical and methodological underpinning of the investigation (chapter 3 and 4), move to look at a brief over view of the case political systems – the UK and Norway (chapter 5). This is done in order to expand upon some of the elements mentioned in the comparative sections of this chapter (sections 4.2 and 4.5), and to make clear the distinctions and similarities between the UK and Norway as political systems, both synchronically and diachronically. The thesis will then move to consider the empirical cases, starting with the UK (chapter 6) and moving on to Norway (chapter 7), before the analysis chapter (chapter 8) where the evidence presented in the two empirical chapters will be analysed together.

# 5. Overview of Cases: The Political Systems of the UK and Norway

## 5.1 Introduction

In order to make sense of the way in which consumer organisations have the capacity to act, we need to think of them in their context. As such this chapter will provide an overview of the political systems in the UK and Norway, and this will be structured thematically, looking at (1) the polity, (2) regulation, (3) welfare, and (4) ideology. This investigation, as stated in the methodology chapter, is a comparison of most different cases. This is done in order to disaggregate the particularities of each case. The core focus of this chapter is to gain an overview of the different political systems in order to contextualise the evidence in the following chapter – to give a national context to the policy context. The particularities of the political systems, and the literature on the differences, be that between the focus of the state, the institutional design, or just that there are different driving ideologies, can help in providing an important foundation on which to analyse consumer organisations. What must be remembered is that the political systems cannot be described as one ‘thing’ or another with complete conviction; these are theories about the political systems in question, and they are theories about different dimensions of the systems analysed. It is in this respect that various theories regarding these different dimensions have been selected for reasons of both considered accuracy, but also that they focus on what this research considers to be the more salient aspects in trying to understand consumer organisations in contemporary policy making. These theories include how the UK and Norway, as states, are understood in terms of interest groups (pluralist/neocorporatist), their primary function (regulatory/welfare), the political economy (liberal market economy/co-ordinated market economy) and ideology (neoliberal/social democrat). There are, of course, elements of the state’s structure and history which are established facts, like, for example, when utilities markets were privatised, and these will also be outlined. The purpose of this chapter is in this respect to provide a political context to the policy context of consumer organisation institutionalisation.

As stated, the dimensions to be covered will be (1) the more institutionalised structure of the state as a functioning system and how it interacts with civil society and interest groups (section 5.3), (2) how regulation has come to impact upon the structure of the state (section 5.4), (3) the extent to which welfare provision is a characteristic of the political system (section 5.5), and (4) the overarching ideological paradigm (section 5.6). In all four dimensions the UK and Norway, as understood in the literature, are *most* different. As was previously explained in the methodology chapter, studying cases ‘most different’ is a strategy aimed at the disaggregation of the constituent parts. In order to best highlight, and to analyse, the various aspects of a phenomenon, such as the state of consumer organisations in each respective country, one country’s characteristics must be seen alongside a dissimilar case in order that the particularities maybe shown most starkly. All four of the dimensions of political systems overviewed here (state-civil society, regulation, welfare, and ideology) may tell us about the particularity of consumer organisations in the respective countries. But

in comparing how these bodies of literature take account of consumer organisations, we can gain a much greater understanding of what the role of consumer organisations are in contemporary policy making. It is also important to note that the four dimensions examined here are not entirely distinct. There is overlap as the four dimensions are clearly linked. The polity, the state, the capitalism and the ideology are clearly interdependent features of political systems, one impacts upon the others and vice-versa. However, it is clear that there are distinctions between the more concrete structures of the state, and the more abstract concepts concerning the particular ideology, and in this way this chapter aims to delineate between dimensions.

## 5.2 Understanding Political Systems: UK and Norway

The intention of this section is to overview the UK and Norway as political systems. It will cover the various dimensions important to the analysis of consumer organisations, and will detail how the UK, as a political entity, differs from Norway. Norway is of course different in many ways to the UK; geographically, economically, sociologically and culturally. Politically it is also different, but it still remains that both countries are two different types of capitalist democracy, and it is this that binds this enquiry into the role of consumer organisations. This section will outline, as with the UK above, the key distinguishing features of the Norwegian political system. As will be shown typically understood characterisations of Norwegian politics is becoming out-dated in the face of global neoliberalism, but that the changes that are occurring are done in a particularly Norwegian fashion (Østerud, 2005, p.705). Norway is noted for being a resource rich, sparsely populated democracy on the edge of Europe which consistently comes top in various polls concerning the general well-being of the populace (Happiness index, Peace index, equality index etc.). It is often alluded to as an example of how countries *should* be run, in respect of many of the positive indicators including importantly gender equality and income inequality: 'It [Norway] has a society with striking egalitarianism, a strong public sector, and a culture of cooperative institutions which merges private with public interests.' (Østerud, 2005, p.705) However, the regulation of the economy and the extent to which consumer organisations are part of the policy process also need to come under scrutiny in order to assess the extent to which they play an active role.

It will be argued in this chapter that the theories regarding the polity, the principal function of the state, the political economy and the ideology, although helpful, do not assess the subtleties of consumer organisation involvement as a part of the state and a constituent in the policy process. Therefore in analysing the role of consumer organisations in contemporary policy making we can also gain a greater understanding of some of the subtleties of contemporary capitalist democracies. One of the purposes of doing an interpretive investigation, of the role of consumer organisations in policy making and regulation, is to gain a more in-depth 'thick description' account of the institutionalisation of particular interests, and the intermediation between the state and civil society. In this respect this chapter will help to provide a back-drop to the empirical research and analysis which looks in greater detail at consumer organisations specifically.

## 5.3 Theories of the State and Interest Groups

Theories of the state idealise the ways in which states, and the various institutions and ideologies which constitute them, function. In a critical analysis it is essential to take these assumptions to task, but also in order to contextualise the empirical analysis. This section will outline some of the core features of contemporary liberal capitalist democracies; starting with the broader theories of

the state. It will then situate the UK and Norway within this debate, and consider how consumer organisations are taken into account.

There have been a variety of theoretical foci for the study of British Politics, as Gamble (1990) outlined in his review essay. These start with the original Westminster Model, which ‘...is taken as meaning that the Prime Minister and their Cabinet, backed by a majority in Westminster and a devoted but politically neutral civil service is able to rule as it wished throughout the area of its authority, the United Kingdom.’ (Duggett, 2009, p.1) But progress through a variety of twists and turns, including a focus on the New Right and Public Management theory, to the more contemporary analysis of governance networks which this research is principally concerned. Here I am concerned however, with how the British polity deals with interest groups and whether this takes account of consumer organisations sufficiently. As shown in the literature review (chapter 2), little is understood of the relatively privileged place that consumer organisations hold in policy forums, with respect to other civil society organisations.

The more dominant liberal theories paint a picture of the British state as fitting to a more pluralist conception. In this it is suggested that the three domains of power, the executive, the legislation and the judiciary, work together to address complex policy issues with democratic mandate. This theory of pluralism is one which underpins studies of British politics (Marsh, 2002, p.14), and is a theory that characterises the system as one where the freedom of association enables groups to form around collective interests, be that community-led or corporate, and where the government is a neutral arbiter amongst these competing interests. It is also a normatively held belief amongst political scientists in that: ‘Pluralism has become common sense in Anglo-American political thought and there is, it seems, a palpable sense in which ‘we are all pluralists now’ (Wennan, 2008, p.158). The debate is, as Dryzek and Dunleavy suggest, merely about the extent to which this is the case empirically:

...some believe the real number of groupings that matter is small, others that it is large. Some point to profound inequality across groups (with business corporations dominant), others see rough equality in access and influence. Some stress essentially cooperative relations among groups and between groups and government officials; some stress conflictual relationships both within the state and across the boundary between state and civil society. Some believe that the ultimate locus of collective decisions can be found in the formal institutions of the state, others that it has devolved into more informal networks. (Dryzek and Dunleavy, 2009, p.131)

In respect of the UK, the debate is therefore about the extent of ‘pluralism’ rather than whether or not the UK is a pluralist democracy; it is a debate about degree rather than kind. This has been developed into ‘neo-pluralist’ thinking (Dahl, 1961), which is a reformulation of pluralist thinking that takes account of the power of business interest in the policy process.

What is important to outline here is that contemporary thinking about British politics asserts that despite the developments taking power away from central government (Europeanisation, governance etc.), the state is still seen as the arbiter amongst a variety of groups and competing interests. What this research aims to assess is if this is the case with consumer organisations? Are they merely an interest among many, or do they hold a special position? And does their position indicate a greater or lesser degree of importance to the policy process – are they central or peripheral to the process?

Norway, on the other hand, is typically presented as an ideal case of a neo-corporatist state with regard to its relationship with interest groups (Crepaz, 1992; Katzenstein, 1985; Lehmbbruch 1982, 1984; Schmidt, 1982; Schmitter 1982). Norway is generally understood to have a neocorporatist

structure to its polity. Unlike the more pluralist polities that arbitrate amongst competing groups it is the executive where the power lies and groups are all seen as outsiders. Neocorporatist polities, on the other hand, have institutional structures in which decisions are taken, often concerning labour rights and wage bargaining, where the various parties (employers, employees and the government) discuss and come to arrangements in a more deliberative manner, whilst still recognising the authority of the executive (Streeck and Kenworthy, 2005). The Scandinavian countries are often said to typify this type of structure. This is compounded by the fact that 70% of Norwegians are members of an interest organisation (norway.org, n.d.), and as a result these organisations are able to exert significant pressure on the government: ‘Close contacts between the standing parliamentary committees, ministries and interest groups mean that Norwegian policies are oriented towards segments such as the industrial segment, the agricultural segment or the educational segment.’ (norway.org, n.d.)

There has also been some interesting research on the relationship between political parties and interest groups, focusing on the Norwegian system (Allern, 2010). Allern suggests that there are some strong links between interest organisations and parties, but that these are wide ranging depending on the party in question. Allern also mostly focuses on producer groups (both labour and industry interests). She finds that, as might be expected, the parties to the left have stronger association with labour groups, and the parties to the right with business groups, but that these ties may have weakened (Allern, 2010). This indicates that links between organisations and political parties exists outside of government, but that it also compounds the idea that in neocorporatist systems groups remain an important, if not integral, part of the political system.

However, corporatism in Norway is argued to be on decline (Østerud, 2005, p.715) making way for more professionalised lobbying activity like in the typically pluralist polities. This development excludes the fact that organised interest groups and the state still come together to negotiate wages and other aspects of economic conduct, but the number of corporative institutions is being radically reduced, and the old corporative structure is being made irrelevant as public enterprises are transformed into market-oriented businesses. (Østerud, 2005, p.715) This is particularly interesting with regard to consumer organisations, as it would suggest that as neo-liberal policies develop they become more relevant as individuals are cast more in terms of consumers.

## 5.4 Regulation and the State

As alluded to earlier, the state as a focus of study has come in and out of favour both as a focus of international analysis, and as domestically important (Schmitt, 2009). However as Schmitt argues in order to really understand political life, and more specifically the particularities of capitalist states and institutional change, we need to understand the role of the state. The state in this respect forms the collection of institutions that govern. The state here is understood as the structural apparatus that provided the fora for the playing out of the pluralism outlined above, and what this investigation concerns is how the institutions are structured, and what determines them (e.g. ideas). This section is important as it is in the form and function of the capitalist state that this research wants to locate itself. In looking at the role of consumer organisations in contemporary policy making, it is intended that we can better understand some of the particularities of the contemporary capitalist state – specifically how consumer interests have been institutionalised and what this tells us about the development of neoliberalism in practice.

However, it still needs to be outlined how the British state is conceived, be that as ‘a Neo-liberal state’ (Plant, 2010), ‘Shumpeterian Workfare Postnational Regime’ (Jessop, 2002), a competition

state, or as a 'Regulatory State' (Moran, 2007). Here Moran's and Jessop's theories on the British state are outlined, as together they give a detailed overview of the key elements of what this research is concerned with. Ultimately what role do consumer organisations play as part of the structure of the state, taking into consideration how the state is changing in terms of its structure?

Moran's analysis of the British state as a regulatory state is particularly useful in that regulation and the regulatory bodies are a fundamental part of the contemporary structure of the state, and therefore demand significant attention. His argument is that the structures of the British state, set out in the 'club government' of the Victorian era, have continued through to today despite many calls to the contrary about the retreat of the state (Moran, 2007).

In addition Jessop's focus is concerned with describing, not necessarily the more strategic dimensions of the state, but how the state, as a meeting point of ideologies and policy, has developed, and is continuing to develop. He suggests that we have moved from a post-war 'Keynesian Welfare National State' (KWNS), which was concerned with full employment and provision of infrastructure to support mass production and consumption (Keynesian), collective bargaining and state help generalise norms of mass consumption and the expansion in welfare rights (Welfare), and the relative primacy of national economic and social policy (National), and that the state was there to compensate for market failures in a 'mixed economy' (State). (Jessop, 2002, p.59) This has moved through being a 'Schumpeterian competition state' which dealt with the crisis of KWNS seen in the 1970s through enabling a greater flexibility in the labour market and the liberalisation and deregulation of economies, to a 'Shumpeterian Workfare Postnational Regime'. This he sees as the dominant form of capitalist state which focuses on innovation and competitiveness (Schumpeterian), the subordination of social policy to an expanded notion of economic policy, a downward pressure on 'social wage' and an attack on welfare rights (Workfare), the role of the nation state is important but relative to international scale (Postnational), and the increased role of self-organising governance to correct market and state failures, state gains greater role in exercise of meta-governance (Regime). (Jessop, 2002, p.252) Jessop provides an historical account of the development of the state in a neoliberal context. He also suggests that capitalist states adopt one of four strategies to promote or adjust to global neoliberalism: *Neoliberalism*, *Neocorporatism*, *Neostatism* or *Neocommunitarianism*. (Jessop, 2002, p.62) The UK, although predominantly neoliberal in its focus on liberalisation, deregulation and privatisation, also shows elements of *Neostatism*, in the focus on regulated competition, and *Neocorporatism*, in the expansion and importance placed on 'stakeholders' in drawing up and implementing regulation. What Jessop is doing is setting out the various conditions and characteristics of contemporary capitalist states, and this is important in relation to seeing where consumer organisation fit as political entities.

What is argued here is that they, Moran and Jessop, both describe important elements of the British state. The focus of the state on regulation and the move to giving more power to regulators can be seen as a distinct, and even characteristic, development of neo-liberal states attempting to deal with the complexity of contemporary capitalism. The UK becomes an interesting case in this respect as it is seen as an 'innovator' when it comes to the development of its state with regard to the regulation of the economy.

The UK is argued to have become a regulatory state in large part due to the increasing use of regulators to facilitate the governance of the economy. They are often given statutory duties to regulate on behalf of citizens and consumers, as is the case with Ofcom. It is also suggested that they help in the administration of regulation as they are 'depoliticised', in the sense that they are separate from the political battles in Westminster. However, this is argued to be a very narrow understanding of what is political, as this research will discuss in the analysis chapter (chapter 8).

Regulatory agencies are setup in order to uphold legislation on behalf of the executive, either that of public goods or to ensure that markets run efficiently. There are 58 different regulators in the UK, covering a wide range of duties and responsibilities from upholding standards in advertising, to ensuring best practice in various professions, to ensuring that markets work in the interests of consumers.

What is of distinct interest to this research is how regulators have developed and the extent to which they have engaged consumer organisations in the development and upholding of regulation. Some regulators have special consumer forums in which consumer organisations are invited to participate in a dialogue with regulatory officials and civil servants. The parent ministries are also often involved in these procedures.

## 5.5 Welfare and the State

As with all of these different features, they are of degree rather than kind. Although Norway is often termed a ‘welfare state’, as the UK is termed a ‘regulatory state’, it does not mean that the UK does not have a ‘welfare state’, and that Norway does not have regulatory characteristics. These theories of the state suggest that these particular forms are the dominant character of the particular state in question.

The various positive indicators attributed to Norway, have to a great degree, been the result of the importance placed upon the welfare state as a fundamental part of Norwegian life. Although to an extent seeing similar pressures on it from developments in neo-liberalism it is still a considerable strength. The state in Norway, albeit it a capitalist one, is very much characterised by the strength of welfare provisions. This is in large part due to the significant wealth accumulated as a result of the careful management of the proceeds of the North Sea oil reserves. This is also not to say that the UK does not have a welfare state, which it does, but that the state is not *defined* by its provision of welfare, as is more the case in Norway.

However, the state in Norway has a significant history in terms of both its egalitarianism and the importance placed on welfare provision, examples being both the abolition of noble titles in the 19<sup>th</sup> century, and the strong ties between the state and the centre-left since the early 20<sup>th</sup> century. The labour movement has always been a powerful force in Norwegian politics, and the Labour party has held both minority and majority governments for much of the 20<sup>th</sup> century. It is still the case that the majority of elites support the present model of welfare provision, even if they are less egalitarian than the majority of the population (Gulbradnsen and Englestad, 2005).

What has become known as the ‘Nordic Model’, or the ‘Scandinavian Democratic Model’, concerns both the corporatisation of various constituencies, but also the significance placed on the provision of welfare through a progressive tax system. This particular model was said to really offer ‘capitalism with a human face’: ‘...a redistributive welfare state that eliminated poverty and that was based on a privately owned, market economy.’ (Einhorn and Logue, 2003, p.ix) There are also two elements which distinguish the Norwegian welfare state from others: ‘They are generally universalistic, in the sense that they cover all citizens qualifying for support, and they are fairly generous. The first distinguishes them from the German tradition, the second from the British.’ (Heidar, 2001, p.118)

## 5.6 Ideology and the State

Clearly there are a variety of political ideologies that exist in the UK today. For the most part these

are manifest in the different political parties, but also in the activities of various groups outside of Westminster. This investigation is not concerned with this. What does concern us is the particular hegemony; the overarching ideology that underpins much of the political, social and cultural life. In much research ideology is often seen as merely an endogenous factor that is easily counted out as being part of a trend, or paradigm, or that it is connected to the ruling party of the day. However, here I will draw upon the literature that sees ideology as something manifest in the everyday practices of individuals, both at an individual level but also at a policy level. This comes from a typical neo-Marxist tradition, specifically Gramscian, in the way that governing ideology is seen as a vital part of how political structures and institutions both function and develop. But also importantly *how* they dominate. This is not to blindly say that this is *always* the case, but that by and large there are hegemonic orthodoxies which determine both the boundaries of debate and also institutional priorities: ‘...rather than just treating specific institutions and apparatuses as technical instruments of government, Gramsci was concerned with their social bases and stressed how their functions and effects are shaped by their links to the economic system and civil society.’ (Jessop, 2000, p.5)

In this respect the UK exhibits many neo-liberal characteristics, both in terms of policy change and concrete developments. As Gamble (2006) has accurately suggested, neo-liberalism has two faces; both that encouraging various forms of DLP (deregulation, liberalisation and privatization) and letting the market operate with as few impediments as possible, but also it labels various state interventions concerning the regulation of markets, corporation social responsibility and good governance: ‘Neo-liberalism, in common with many other ideologies, is made up of contradictory ideas and principles, which are used quite freely to construct a range of different discourses (Freedman 1996).’ (Gamble, 2006, p.22) It is clear, as has been suggested that the UK, in Europe at least, is at the forefront when it comes to neo-liberal reforms (Christensen, 2005, p.736)

As set out in the section previously, the ideological backbone of Norwegian politics is very much egalitarian and social democratic: ‘Egalitarianism has been a strong force in the normative fabric of Norwegian society. The state has been closely tied to centre-left forces for more than 100 years, first to the farmer (earlier peasant freehold) movement, then national movements and the labour movement.’ (Østerud, 2005, p.707) This egalitarianism is also evidenced in the importance placed on the welfare state.

But as has also been suggested the welfare state, and the more social democratic nature of the Norwegian state, might well be under threat from both a global neo-liberal paradigm which places significant power in the hands of multi-national corporations, as well as in the finance houses of Frankfurt, New York and London (Einhorn and Logue, 2003, p.x). Even though it is still the case that both the welfare state, and the connections to unions, sees significant support even from elites (Gulbradsen and Englestad, 2005). Additionally consumer organisations are argued to have been a product of the social democratic movements of the post-war years (Hilton, 2009). This can be seen in the fact that numerous consumer organisations were set up in the early 1950s, including most of the organisations from both the UK and Norway.

## 5.7 Conclusion

One thing that is clear from an overview of the literature describing the political systems I am interested in is that there is little to no mention of consumer organisations. This, I argue, is a failing as it is clear that in understanding the place and role of consumer organisations some of the questions that spring from an overview of political systems may well be able to be addressed. The



dynamic of capitalist democracy is changing in both the UK and in Norway, and the formulation of the state, the type of polity, the focus of the economy and the underpinning ideology is significant in this. How consumer organisations have come to play a role in both systems, in their differing ways, and how they are changing will therefore be able to help us better understand some of the intricacies of this dynamic. Consumer organisations form a locus between the state, the market and civil society and can therefore potentially act at a litmus test to the on-going developments in both countries.

What is clear from the overview is that the UK and Norway are seen, in politically at least, as distinct opposites (not to mention various geographical, historical and sociological differences). This table sets out these dimensions:

	<b>UK</b>	<b>Norway</b>
<b>Polity</b>	Pluralist	Neo-corporatist
<b>State</b>	Regulatory	Welfare
<b>Political Economy</b>	Liberal Market Economy (LME)	Co-ordinated Market Economy (CME)
<b>Ideology</b>	Neoliberal	Social Democrat

Fig.1 Table of comparative dimensions between UK and Norway.

# 6. Empirical Chapter 1: Consumer Organisations in UK Regulation and Policy Making

## 6.1. Introduction

This chapter investigates consumer organisations in the UK through interviews with elites involved in consumer organisations, and in policy making and regulation. It specifically concerns itself with the two main consumer organisations, Which? and Consumer Focus, and with Ofcom, the media regulator. This is done in order to address the research question regarding the institutionalisation of consumer organisations, as Ofcom has been active in the institutionalisation of consumer interests into its activities, but also to investigate the role that consumer organisations play in contemporary policy making and regulation.

The chapter is split into five main sections that follow the themes analysed in the interviews which directly correspond to the research questions: what role do consumer organisations play in policy making and regulation, do they provide a counter-balance to industry and agency pressure, and what impact might they have on policy? In addressing these questions the chapter considers the social and political context (section 6.2 and 6.3), the characteristics of organisations (section 6.4), the institutionalisation of organisations (section 6.6), the intermediation of organisations (6.7), product placement as a policy issue (section 6.8), and then concluding with some provisional analysis and an overview of the chapter (section 6.9).

The chapter will first consider a broader overview of the political and social context; what has occurred in the last decade of domestic and global politics that may have influenced the place of consumer organisations in politics. The chapter will then consider trends like neoliberalism that have had a determining impact on the way politics is conducted (Harvey, 2005; Lee and McBride, 2007; Plehwe, Walpen and Neunhöffer, 2006; Pretchel, 2007; Plant, 2010; Steger and Roy, 2010; Crouch, 2011). It will also address the trends in governance that demand governments both delegate responsibility to regulators (Majone, 1997; Moran, 2003), as set out in the literature review (chapter 2) and theory chapter (chapter 3), whilst at the same time demanding more inclusion from civil society (Powell, 2005; Enjolras and Sivesand, 2009; Davies, 2011). This is done in order to both locate the analysis in a political context in which neoliberalism is a dominant force, but also to make clear the connections between broader trends in neoliberalism and the way that institutions are structured with regard to the state, civil society and governance networks. This also connects the empirical work to the literature review (chapter 2), and the literature on states, civil society and liberalism, and the issues raised in the theory chapter (chapter 3) with regard to the regulatory state, governance networks and institutionalism.

First, the two case countries will be considered separately, the UK and then Norway. This will be followed by a comparative analysis chapter (chapter 8) in which what has been outlined in the empirical chapters (chapter 6 and chapter 7) will be critically assessed. What should be made explicit from the start is that, as also shown in this previous chapter on political systems (chapter 5), the UK and Norway are, in numerous respects, very different, yet both seem to share a commitment to the inclusion of consumer organisations in policy making and regulation, even despite the

various changes occurring in the UK<sup>17</sup>. Both political systems do this in remarkably different ways, but which are underpinned by similar values concerning the inclusion of consumer perspectives in policy making and regulation. The UK has implemented structural reforms, in the communications sector especially, that enabled consumer organisations to play a core role. While in Norway the consumer organisations have had a more stable position, they are relatively peripheral to the broader policy and regulatory processes. What will be shown here is how specifically these two political systems differ in the way in which consumer organisations, and by extension consumer representation, play a role in the policy and regulatory system. Consumer organisations have grown to become more than just social movements, to having a seemingly permanent place at the policy making table. The relationship with regulators and central government, however, is very much determined by both ideology and the values of individuals involved. On balance it is found that consumer organisations play a peripheral role in the regulatory and policy making process, despite the significant importance placed on them by Ofcom in particular in the UK context, and the relatively secure position they hold in Norway in policy making more generally. They are hindered in providing an effective counterbalance to industry pressure through both lack of resources and that the ‘consumer perspective’ is often taken as one voice, whereas industry is many. However, regulators, government departments and consumer organisations have come to have close ties due to a variety of contextual reasons, most crucially the increasing importance of markets in the provision of goods and services in parallel with the demand to be more consultative for both practical and principled reasons.

The investigation will then move to look at the other case country, Norway, and will investigate the consumer organisations there with regard to the role they play in policy making and regulation (chapter 7), which will be followed by an analysis chapter (chapter 8). At the end of the two empirical chapters (chapters 6 and chapter 7) it should be clear what consumer organisations are exactly, how they fit into the policy making environment in both countries, and what the most important issues regarding their role as political actors are. This will then lead me to assess the extent to which they can be seen as a counterweight to producer and agency interests in the analysis chapter (chapter 8), where evidence from both the interviews and the policy developments are assessed in terms of whether or not consumer organisations made significant gains, and whether or not they were core, or peripheral to the process. From this the more normative concerns about consumer organisations role can all be addressed; what are the arguments around them having power at all? This chapter will now continue with an overview of some important consumer organisations in the United Kingdom which will provide some political context to their place in the system.

## **6.2. Government: New Labour to Coalition (1997-2012)**

In this section I provide a political background to some of the governmental changes that have occurred since 1997. The intention is to give a context to the developments in both ideology and policy making. This, albeit brief, overview will help to set the scene for some of the developments that have occurred with regard to regulation, regulators and consumer organisations. It will then move on to talk more specifically about ideology and the role this has played in UK politics, regulation and government over the last decade. This will be done to make clear the importance that ideology plays in determining the various structures and institutions of government. Neoliberalism as a doctrine has played a significant part in how governance in the UK is orchestrated; it therefore

17 As will be addressed below there has been a significant rupture in the consumer advocacy landscape recently, with an Act passed by government allowing them to abolish, merge and amend a variety of public bodies, and a consultation process that has resulted in the abolition of one of the core constituents of the consumer advocacy landscape, Consumer Focus.

requires understanding more specifically how neoliberal ideas and discourse construct policy making and regulation, and also consumer organisations and civil society representation.

The New Labour government, which lasted from 1997 until 2010, has had an indelible impact on the architecture and functioning of the UK political system. This is especially the case with how policy and regulation is made, and with how civil society groups and organisations are engaged. It is also argued that the welfare state has seen a dramatic transformation, with a reorientation of the state towards the provision of services through market, and quasi-market, competition (Jessop, 2002; Dryzek and Dunleavy, 2009). The British state is also argued to be characterised by ‘hyper-innovation’ (Moran, 2003): ‘Through liberalisation and privatisation Britain led the way in redefining the boundaries between the public and the private’ (Moran, 2003, p.2). However, since the Thatcher governments in the 1980s there has been a radical repositioning of what the state is responsible for, which has required other civil society organisations to take up the slack (Powell, 2007; Harvey, 2005). It is argued here that consumer organisations have been very much a part of this. From the research I have done it is possible to see a general increase throughout the recent Labour government of the inclusion, and support for consumer organisations, with a number of interviews suggesting that the relationship between consumer organisations and authorities had improved significantly. This is also shown in the interviews and questionnaires outside of the UK in both Norway and Brussels. This helps inform the argument in this thesis that the engagement with consumer organisations is greatly dependant on both the ruling ideology but also on the values of agents involved. The core mandate for some regulators is to uphold the interest of consumers, and consumer organisations are especially important as they provide a direct consumer perspective as well as appreciating that regulators are there to police markets. Consumer organisations in effect therefore police the police, they watch the watchmen.

However, as will be addressed in the discussion of the normative dimensions, this could be seen to be problematic due to the possible tendency of organisations constrained by a neoliberal paradigm – they can only represent people so far, and can be seen to be ‘capitalist apologists’<sup>18</sup>. In addition to the fact that consumer organisations can also be seen as ‘shadow regulators’, and that the issue of ‘*Quis custodiet ipsos custodes?*’ arises (who regulates the regulator?). However, in the UK the two most important consumer organisations to consider for policy making and regulation are Consumer Focus and Which?. These are referred to here as ‘generalists’, having a broader set of interests than the sector specific organisations.

During the Labour years, it is therefore fair to say, that both regulators, and consumer organisations were strengthened, whilst at the same time markets were de-regulated and liberalised. This is most clearly apparent in the establishment of Ofcom whose principal mission statement is: ‘Ofcom exists to further the interest of citizen-consumers through a regulatory regime which, where appropriate, encourages competition.’ (quoted in Lunt and Livingstone, 2012, p.43) This is typical of a social democratic ideology that embraced neoliberalism; the market was seen as the best way to secure the public interest, but there should be substantial powers available if this did not happen. It is also argued by Lunt and Livingstone, that the new regulator embraced the language and discourse of New Labour, preferring the citizen-consumer identity over the more ambiguous ‘audience’ label used by the BBC (Lunt and Livingstone, 2012, p.43).

Consumer Focus, the principal non-departmental public body with responsibility for representing consumers, is soon to be abolished with some responsibilities to be merged into Citizens

18 As once referred to in peronal communication with Senior Economist at Eon.

Advice, enabled through the new Public Bodies Act 2011<sup>19</sup>. The plans for the changes were set out in the response to the 2011 BIS consultation ‘Empowering and Protecting Consumers’<sup>20</sup> which sought to review and reform the consumer advocacy landscape, including both consumer organisations and institutions, as it stated that: ‘The current landscape of bodies responsible for these is inefficient and confusing, leaving consumers uncertain who to turn to for help and advice when things go wrong.’ (BIS, 2012, p.1) What is of significant interest here is that publicly-funded consumer advocacy will be transferred to Citizens Advice, and that there would be a regulated industries unit (RIU) setup to represent consumers in the regulated sectors (BIS, 2012, p.3). Consumer Focus had been given both statutory powers to conduct investigations into businesses that it thought to be behaving against public interest<sup>21</sup>, in addition to being a ‘super-complainant’. On the other hand Which?, due to its independent status, has been able to bypass this process of reform.

During the various Labour governments since 1997 various regulators were set up both by bringing together previously separate regulators (Ofcom) and as new entities entirely (Food Standards Agency). But New Labour also looked ‘to capitalise on the deregulatory tendencies of the previous neoliberal Conservative government while modernising governance and asserting revised social democratic objectives alongside the management of markets.’ (Lunt and Livingstone, 2012, p.35) The general change over the last decade, has been to adopt participatory practices into governance. To the extent that some have even suggested that there is a participatory norm (Saurugger, 2009). In this respect what New Labour were doing with Ofcom, fitted into the ‘third way’ (Giddens, 1998) philosophy perfectly. It acknowledged the importance of the market, but also acknowledged the vital nature of regulation to steer the market. The inclusion of consumer organisations plays an important part of this story, as they become both a technocratic tool, and a democratic ideal, as will be shown later in the analysis chapter (chapter 8) and the conclusion (chapter 9). Consumer organisations, in this respect, provide both information to get ‘better regulation’, but also appeal to a ‘participatory norm’. These tensions were not, and are not, necessarily easily brought together though: ‘Ofcom was an instantiation of these principles and as such represented an uneasy compromise between those who supported free markets and those who valued democratic control over economies through government intervention.’ (Lunt and Livingstone, 2012, p.35) So what has been witnessed over the last decade is a slow increase in the importance of consumer organisations and consumer representation, to a sudden decline in their institutional importance with the change in government. The specific nature of both the increasing importance, in terms of the institutional design and intermediations, and the more recent decline, will now be addressed.

### 6.3 Ideology and the British State

In assessing the ideational and normative dimensions of public administration and policy making it is crucial to take account of ideology with respect of both countries under investigation. In a constructivist institutionalist study, ideology and ideas are assumed to play a distinct role in how policy, regulation and institutions both function and change (Hay, 2006a). Therefore here I will draw out some of the most salient aspects relating to the UK. Specifically, that despite the incorporation of

19 This Act has enabled giving considerable power to government to abolish, merge and alter a variety of public bodies.

20 This document sets out the intentions of government in light of a consultation of Sept. 2011.

21 Their duties and responsibilities are set out in The Consumers, Estate Agents and Redress (CEAR) Act 2007 through which the organisation was formed.

consumer interests into the regulatory and policy process, consumer organisations are understood to be peripheral actors. It is also evidenced that issues matter, the extent to which consumer organisations are seen as core to the process is dependent upon the appropriateness of the issue at hand in addition to the values of those involved. Which? is in a considerably more favourable position due to its independence, and although generally well respected still suffers from the fact that it can be seen to serve its members who are generally the better-off middle classes, as stated by an interviewee from Which? (JH, Interview, 2011)<sup>22</sup>, and suggested by Hilton (2009, p.51) with regard to member-based consumer organisations more broadly. However, this is seen to be a weak accusation empirically as they work on a range of issues and debates that impact all consumers, and seem to do so in a way that appeals to the general public interest. This is shown in their conscientious effort to have broad appeal by addressing issues such as energy which affects all citizens.

What is interesting in what has happened in the last decade in the UK, is that despite having a social democratic party in government, there were numerous concessions made towards aligning policy with more neoliberal tenets. This is epitomised in the explicit ‘third way’ agenda that attempted to marry the benefits of free market capitalism with a progressive social agenda. In this respect ‘the consumer’ became a poster-child identity in the form of the hyphenated identity ‘the citizen-consumer’ (Clarke et al., 2007). The citizen-consumer: ‘...provided a framing populist discourse that articulated the ‘consumer interest’ against the power and interests of ‘producers’, (Clarke et al., 2007, p.143). Here free individuals could police markets where there was a regulatory framework that ensured the rules of the game were set in the interests of consumers, and, what is argued here, where consumer organisations were utilised to make a connection between individuals and the state in this respect. This was an ideological commitment, albeit an uneasy marriage:

New Labour’s neo-liberalism is an uncomfortable and strained construction rather than an essential political character. New Labour initially worked to distinguish itself from the vulgar marketisation of the preceding Conservative governments, insisting on the importance of the ‘social’ and the ‘public’. (Clarke et al., 2007, p.146)

This said, one of the focuses here is that of Ofcom, set up in 2003, in ‘the interests of citizens and consumers’, but with a deregulatory agenda (Lunt and Livingstone, 2012). These tensions between the political representation of consumers in policy making and regulation, and their place as merely economic identities, is core to this research. Ideologically many who followed the New Labour project were committed to the ‘third way’ idea, that the benefits of markets could be utilised in the interests of citizens and consumers. Consumers in this regard were seen as the people on the ground for whom regulators would act on behalf of. Ideology in this respect is important, as it frames how individuals understand concepts and the world around them (Gramsci, 1971). Neoliberalism, in theory, sees the free market as the most effective form of organisation, which guarantees increased freedom for individuals, both positively in terms of the choice of products and services available economically, and negatively from inefficient, and elitist, government intervention. What consumer organisations therefore provide is a perfect form of representation that appeals to dimensions of neoliberalism, in that they cast individuals as consumers. As will be shown in the next chapter on Norway (chapter 7), there are similar tensions with regard to consumer representations’ relationship to the state and civil society, witnessed there, albeit shifted more towards a more social democratic ideology.

However, as has been suggested, that the UK, in Europe at least, has been one of the pioneers

22 See Appendix 1.1 (p.159) for a list of interviewees and interview dates. Interviewee initials used in main text.

when it comes to neo-liberal reforms (Christensen, 2005, p.736; Harvey, 2005). This is witnessed in both the general deregulation that occurred during the 1980s and the privatisations that occurred at the end of the 80s. Since then there has been an increase in the use of marketisation, from private finance initiatives, public-private initiative and a broader use of New Public Management schemes (Moran, 2003; Dryzek and Dunleavy, 2009), and delegated governance (Flinders, 2006).

What needs to be made clear here, is that the identification of people as consumers exists in a context that is value-laden. Neoliberal ideology, and the current ideological paradigm, posits the market as the best way to secure efficiency and the best outcomes, and regulation is used as a tool to ensure that the public interest is upheld. It is in this respect that neoliberalism constructs consumers, and consumer organisations, as functioning inside of markets, not outside of markets where the potential agency lies.

This chapter will now move to consider the empirical evidence on the various organisations and institutions that represent consumers in UK policy making and regulation. This is done in order to show the role consumer organisations have in regulatory and policy making processes, and to outline the structures and institutional design which determine the extent of their inclusion and activity.

## **6.4 Organisations:**

### **6.4.1 Consumer Organisations**

This section will now assess the important consumer advocacy organisations in the UK. These are split into two types; ‘generalists’ that concern themselves with a variety of sectors and policy issues, and ‘sectoral’ organisations whom concern themselves with very specific policy and regulatory domains. It is important to make this distinction, as this thesis is primarily concerned with the generalists and their role, as the specialist sectoral organisations can be seen in a similar light to single interest pressure groups. What is interesting about consumer organisations, is those organisations which claim to represent consumers as a whole constituency. It is this relationship between individuals, consumer bodies, and regulators and government that is of interest, as it is these groups who have more of an ‘insider’ role in the policy process than single interest organisations. It is also the case that the term ‘consumer organisation’ can be used as a bracket term for any organisations representing different constituents of ‘consumers’. These include charities, like Age Concern and the Royal National Institute of Blind People (RNIB), and pressure groups like Voice of the Listener and Viewer (VLV) and International Broadcasting Association (IBA) in media issues, among many others.

Although this may seem an obvious point, it is important to say that what are termed ‘consumer organisations’, are different to what determine themselves as ‘consumer organisations’. It seems to be the case that regulators and policy makers, in the current paradigm, determine anything representing individuals in forums and consultations which deal with regulation as ‘consumers’; they are the ‘end users’ and are one of many ‘stakeholders’. It could well be argued that this is of course the case as soon as an individual is evolved ‘in a market’ then they become ‘a consumer’, regardless of whether or not there are social or political dimensions to the decision. This research is primarily interested in those organisations which explicitly see themselves as ‘consumer organisations’. This was outlined at the start, but is repeated here to make clear that there is a difference between organisations – there is a heterogeneity in organisations that might not be clear when looking at a block of ‘consumer interest’, in the same way that there are a multiplicity of identifying features

for individuals; young, old, rich, poor, man, woman, able-bodied, disabled etc. The question of the extent to which these other organisations, who do not explicitly identify with being consumer organisations but are charities, citizen organisations or pressure groups, have become ‘consumer organisations’, is an important one but which cannot be addressed here.

This section will now consider two of the most important consumer organisations in the UK with regard to regulation and policy making over the past decade; Which? and Consumer Focus. In line with the definition set out in chapter 2 (p.22) these two organisations conform to the idea of a ‘generalist’ consumer organisation, and Consumer Focus is the only one situated in the structures of the state as an NDPB. In addition Which? is the most high profile independent generalist consumer organisation in the UK. It will then look at the variety of other organisations bracketed under the term ‘consumer organisations’ by the regulatory structure, but who would not necessarily identify with that label in their day-to-day activities.

#### **6.4.2 Consumer Focus**

Consumer Focus is a non-departmental public body, created under the Labour government through the merging of the National Consumer Council, Postwatch, Energywatch and the regional consumer councils in 2008 as part of the Consumers, Estate Agents, and Redress (CEAR) Act 2007. It was set up as the ‘consumer champion’, and was tasked with promoting the interest of consumers across the economy through both broad campaigning, lobbying of business and government to ensure consumers are always taken into consideration, and utilising their statutory powers (Consumer Focus, n.d.). The intention was to have a far stronger consumer representation body, as suggested by Lord Whittey, the Chair at the time: ‘Bringing consumer advocacy work into one statutory body will guarantee consumers a powerful voice.’ (Mayo and Whittey, 2007) What would have the weight were the statutory powers. These included the ability to conduct investigations into consumer complaints, with the ability to force businesses to hand over information, but they were, along with Which?, also designated as a ‘supercomplainant’ by the government. These powers were given to a range of consumer bodies that were able to bring a complaint to the Office of Fair Trading that would be fast-tracked. These complaints, under section 11 of the Enterprise Act 2002, enables consumer bodies to make: ‘...a complaint to the OFT [or other sectoral regulator] that any feature, or combination of features, of a market in the United Kingdom for goods and services is or appears to be significantly harming the interests of consumers.’ (Enterprise Act, 2002, p.5) In this respect Consumer Focus had two mechanisms with which it could pursue investigations into markets, both the statutory powers and investigation powers, but also their position as a super-complainant.

Consumer Focus has responsibilities with regard to specific sectors, like gas, electricity and post<sup>23</sup>, and also has a general advocacy function. There are various campaigns that Consumer Focus concentrates on, like consumer rights, financial services, digital communication, and public services, but they also contribute to consultations on a wider range of policy and regulation that concern consumer issues. This includes their regulator reports on salient consumer issues, which are the result of some significant research. Recent topics include: Smart meters (Aug, 2011), Understanding Localism (March, 2012) and Trading Standards (June, 2011) (Consumer Focus, n.d.3).

Consumer Focus is what Rose (1981) would refer to as an ‘quasi-public consumer agency model’, in that they are a ‘...special agency which are, at least in part, charged with consumer protection watch-dog functions, thereby serving as an explicit instrument for the representation of

23 See fig. 2 below.



consumer interest.’ (Rose, 1981, p.22)

What is important to note about Consumer Focus is their relative independence, access to resources, and that they are somewhat ‘on the inside,’ (RH, Interview, 2011). Their place as part of ‘arms-length government’ gives them access to particular networks which are unavailable to more peripheral organisations. In this respect they could well be seen as ‘gatekeepers’, in that they share many of the concerns of more independent consumer organisations, but have access to other parts of government like ministries, regulators and agencies. In the words of one director Consumer Focus is the ‘best of both worlds’, as they ‘...do not sit with in direct control of government like a regulator would be... [and] have statutory powers,’ (RH, Interview, 2011) Furthermore: ‘...we do have a latitude and a freedom to express whatever views we want to express that is not either necessarily in line with what the regulator is saying, or what the government, or relevant government department, is saying on a particular issue.’ (RH, Interview, 2011)

This corroborates what Rose (1981) says of these types of organisation, that their removal from direct political control can: ‘...exercise a fair degree of autonomy under the terms of their mandate.’ (Rose, 1981, p.22) This is seen as a positive development, as it overcomes some of the problems with resources that beset collective action organisations, yet does not unduly impact on the relative independence necessary for an effective body. This situation, in which you have government funded lobbying of government, has however recently come under some criticism, and these organisations have been termed ‘sock puppets’ (Snowdon, 2012). Although this criticism is primarily focused at charities and NGOs, the activities of NDPBs, like Consumer Focus, could be seen in a similar light. However, Consumer Focus is directly answerable to parliament and has to report to government with its yearly financial reports (RH, Interview, 2011). Here we can see that the idea of ‘a fair degree of autonomy’ is ambiguous, in that although the organisation has freedoms to pursue areas of interest, it is ultimately the government that hold the purse strings. This has been made most apparent in the BIS consultation on the consumer landscape (Sept, 2011), the subsequent response (Apr, 2012), and the Public Utilities Act 2012, which has, in addition to a wide range of restructuring of various ‘quangos’, resulted in the closure of Consumer Focus, and the merging of its responsibilities with Citizens Advice as of early 2013. This transition, and the closure of Consumer Focus in 2012, will be discussed more in the analysis chapter (chapter 8), with regard to how consumer representation, and its institutionalisation, is changing in the UK.

However, what can be appreciated is that Consumer Focus acts much like any other consumer organisation, despite its relative proximity to the state. It responds to a wide range of consultations (348 between 2008-2012) (Consumer Focus, n.d.2), publishes many reports on a variety of topics (95 between 2009-2012) (Consumer Focus, n.d.3), it is an active member of BEUC, the European umbrella consumer organisation, being on the board for a number of sectoral units, and is active in both its contact with consumers, and its lobbying role. What is particularly interesting about Consumer Focus is the extent of their statutory powers, as set out by Roger Hammond, Director of Post and Regulation at Consumer Focus:

We have duties and responsibilities, but we have certain powers that enable us to investigate any market as we see fit beyond our statutory roles around energy and post. We have in the CEAR Act, our section 24 powers [that] are extremely strong, which enable us to be able to gather evidence from any business, any market participant, provided it is in pursuance of any of our functions.<sup>24</sup> (RH, Interview, 2011)

24 This can also be found in the ‘What We Do’ manual, which can be found here: <http://www.consumerfocus.org.uk/files/2009/06/CF-What-we-do.pdf>

In many respects Consumer Focus is very much like other independent consumer organisations, but it is these statutory powers, and their relative proximity to policy makers and regulators (they share an office building with the OFT for example), that set them apart. The ability to be both a supercomplainant, and to conduct their own investigations on behalf of consumers, is significant. Their proximity is also important as they become a connection between other consumer organisations and the policy makers. In this respect Consumer Focus is in some way a corporatised interest, which will be seen when Norway is addressed in the next chapter. However, where in Norway responsibilities for lobbying, research, investigation and compliance are tasked to different organisations, in the UK it is Consumer Focus that is given all these. Of course other organisations are also engaged in these functions, but not with the same responsibility that Consumer Focus has. This will be challenged in the 'New Consumer Landscape' that will see the closure and subsequent merging of Consumer Focus with Citizens Advice. What will be put in place is a Regulated Industries Unit (RIU), an idea proposed by Consumer Focus to ensure that the significant knowledge that has been built up around the regulated industries is not lost, and that the unit can benefit from sharing ideas and issues that occur across sectors. This was originally set out in the BIS consultation response (BIS, 2012, p.9), and has been further outlined by Consumer Focus themselves (Consumer Focus, 2012). However, from all of the interviews conducted for this investigation, it could be argued that there is significant danger that the ad hoc connections and relationships that have built up through the processes of governance will be lost, despite the RIU keeping some of this expertise together. The 'bonfire of the quangos' becomes a burning of bridges.

### **6.4.3 Which?: The Consumer Association**

Which? is an independent consumer organisation, which neither receives funding from government nor industry. It is funded through its own business and membership subscriptions. Its financial, and therefore political, independence has given the organisations good standing nationally and internationally (IT, Interview, 2011). 'It's a not for profit commercial business which is also a charity, so we fund ourselves solely through subscriptions and our products,' (JH, Interview, 2011). Their principal services are a selection of comparison magazines in which consumers can see products and services tested against each other. This type of product testing became popular across Europe in the 1950s (Hilton, 2009), and Winward (1991) describes this model of 'organised consumer' as an 'ideal type' as they exhibit five crucial characteristics:

- Funded wholly or partly through membership
- Revenues gained from sale of magazines that take no advertising.
- Comparative testing is a central tenet.
- Non-profit making, and use surplus' for advocacy work, both lobbying and information.
- Acting as general representatives of consumers in policy making and regulation, in giving evidence to parliamentary enquires and specialist forums, and through initiating legislation.

(Winward, 1991, p.70-71)

What is crucial to the success of Which? as an organisation, in that it has survived for so long, and has grown, whilst also contributing to policy debates, is its ability to be self-funded and not reliant on either government or industry. As John Holmes, Senior Economist at Which?, says: 'We are independent and not for profit...We don't take any money from government, we don't take any money from business, apart from taking a fee for Which? best buy stickers,' (JH, Interview, 2011). This, they believe, gives it both financial independence, but also crucially, political independence. The political independence also has two dimensions; that it does not need to answer to anybody, is

not at risk from being closed down (as in the case of Consumer Focus), and can claim to represent actual members rather than the more nebulous community that other organisations represent. As John Holmes says: ‘...because we have this independent revenue we are not subject to being blown off course or otherwise influenced. We don’t need to worry about the government deciding to take our funding away, or abolishing us. We have been here since 1958...700, 000 members is useful but we tend to do advocacy work on behalf of *all* consumers,’ (JH, Interview, 2011). This does not necessarily disqualify organisations that do not have a membership, but it certainly helps secure Which? weight when dealing with regulators and policy makers. As has been shown recently with regard to Consumer Focus, and their abolition, they are hindered by the fact that the government hold the purse strings.

Which? also has a reputation internationally, which was brought up in interviews both in Norway and in Brussels. Which? themselves suggest this, as they often have visits from other European organisations enquiring particularly about their business model. This is possible to understand logically, as they are not reliant on anybody in terms of resources, so long as they ensure there is some market for the various products they produce, like the magazine, they are then able to carry out their advocacy function. As one advocacy officer at Which? said:

We are the biggest member of BEUC. We’ve had several consumer organisations not just in Europe, but internationally, who have come and spent a day here and are really keen to hear about our testing and the magazine, and our campaigning. We have quite a strong reputation just because we have been around for so long, and we are so involved in lots of different things, I think other consumer organisations are interest in our model. (AS, Interview, 2011)

As said this is corroborated by some of the interviews in Norway and Brussels that brought up Which? as an example of an ‘ideal’ consumer organisation. In Rose’s (1981) ideal-type models of consumer representation, Which? would be regarded as an ‘Independent Consumer Association Model’. They are explicitly political, rather than merely economic, in that they have: ‘...a primary devotion to the consumer protection cause.’ (Rose, 1981, p.22) This is shown in what the interviewee from Which? said that the organisation’s mission was: ‘To make consumers as powerful as the organisations that they deal with day to day,’ (JH, Interview, 2011) So Which? as an organisation is characterised by its independence, in addition to its business model, and a strong focus on consumer advocacy. It is an explicitly ‘generalist’ consumer organisation but is separate from the more corporatist models like in Norway, and the quasi-public consumer agency model like Consumer Focus, by its fiscal independence.

#### **6.4.4 Others: Sectoral and Specific**

As can be seen from the table below (fig.2), there are a variety of sectoral advocacy groups working across various industries in the UK. These include Consumer Focus who work in a number of sectors, and the Communications Consumer Panel (CCP), which is specific to communications and works alongside Ofcom the media regulator. The CCP will be looked at in greater detail below when we look at how regulators have tried to adapt to consumer representation. What is interesting to note is that these organisations listed in the table below all exist in the various utilities industries that were once nationalised, and are funded through a combination of industry levies and public funds. They are organisations put in place to ensure a consumer’s voice is heard in policy making and regulation, in the various industries that do not experience the full benefits of a fully functioning market, where consumers have a wide choice, plenty of information and the ability to access different goods and services. In this respect there is an acknowledgement that some

Body	Sector(s) in which the body undertakes advocacy	Annual cost (£'000)	No. of staff	Funded by
<b>Consumer Focus</b>	Electricity, Gas	5,774	174 (total staff, including general advocacy)	Electricity and gas licensees
	Postal Services (plus general advocacy)	3,124		Postal services licensees
<b>Consumer Council for Water</b>	Water in England and Wales  (includes dealing with consumer complaints and telephone enquiries)	5,480	77	Water and sewerage licensees
<b>Waterwatch Scotland</b>	Water in Scotland	723 (2009/10)	9 (2009/10)	Customer levy
<b>Passenger Focus</b>	Rail (GB) plus coach, bus and tram (England)  (includes dealing with consumer complaints)	4,700	62 (2009/10)	Department for Transport
<b>Legal Services Consumer Panel</b>	Legal services in England and Wales	73	2	Legal Services Board
<b>Communications Consumer Panel</b>	Communications in GB	303	1	Authorised companies in the sector

Fig.2 Table of Sectoral Consumer Representatives from BIS consultation: 'Empowering and Protecting Consumers' (BIS, 2011, p.40)

regulated industries require a 'consumer champion' to remind both the relevant regulator, and the industry more generally that there is a powerful voice for consumers that exists over and above the aggregated voice of individual consumers. Due to the clear collective actions problems associated with nebulous constituencies like consumers, as mentioned in previous chapters, problem industries and sectors require a strong, and reinforced, explicit consumer presence in the policy and regulation system. In the very need to have such organisations shows that it thought that regulators themselves need regulating. This is the classic issue of 'Quis Custodiet Ipsos Custodes?', or 'who regulates the regulators?', which these consumer organisations could be seen to face.

PUAF is one organisation that should be mentioned here that acts in the interest of consumers in the regulated industries mentioned in the table above, but is also more of a 'generalist'. The Public Utilities Access Forum (PUAF), set up as a consumer advocate in 1989 as the major privatisations of the previously nationalised industries were taking place. In their 'Consumer Charter' they state: 'PUAF has a particular concern for consumers who are on a low income, face discrimination, have particular needs or are excluded from power. PUAF believes that everyone requires a basic level of provision to ensure an adequate standard of living.' (PUAF, 2004)<sup>25</sup> They are specifically concerned with the extent to which consumers are represented, and have power over the decisions which will impact on them in the regulation of the various industries. As an organisation they are particularly concerned with 'affordability'. This is much more of a concern with 'access', rather than 'choice'. Choice for PUAF is of secondary importance to individuals' ability to access essential goods and services, like many of the utilities. PUAF is however, a broader alliance of organisations, which pay a membership to PUAF. It is both a talking shop for concerned organisa-

25 The PUAF Consumer Charter can be found here: <http://www.puaf.org.uk/docs/news/PUAF%20consumer%20charter.pdf>

tions, in addition to being able to develop policy that favours those on low incomes, or who are in some way disadvantaged.

As Young (2001) has suggested, all of these groups, Consumer Focus (previously the National Consumer Council), Which? (AKA Consumers Association), and PUAFA, had a much stronger role after privatisation. In effect they became a second order regulator, policing the regulator and ensuring that, in as many circumstances as possible the consumer interest was at the heart of the policy or regulatory proposal.

Charities like RNIB, W4B and Age Concern, are also considered under the rubric of consumer organisations, as they represent a variety of constituents as consumers. It is important to note that they are included in the various forums, but they are not explicitly and solely consumer organisations like Consumer Focus, and Which?, which are the important organisations for discussion here. There is however a further question as to how the variety of civil society organisations have come to be understood as ‘consumer organisations’? It may well be the case that some of the arguments developed in this thesis, that see individuals as consumers, makes the process of regulation and policy making easier as complex public interest concerns are subordinated to concerns over choice. In so doing it means that the representative dimension requires consumer advocates rather than other forms of representation that concern the broader public interest, despite the attention shown to some dimensions of being a citizen. However this goes back to the discussion between consumers and citizens that was had in the literature review (section 2.9), in which the tensions between individuals’ construction, or identification, between a consumer and a citizen was shown to underpin some of the more philosophical issues at the heart of the debates around regulation (For further discussion see Bevir and Trentmann, 2007).

## 6.5 Regulators and Consumers in the UK

As has been discussed in the previous chapter (chapter 3) on the regulatory state, regulators have come to play a significant role in modern democratic polities. They ensure that industries and sectors which have both a significant impact on people’s lives, particularly various utilities, but which are also not as easy to enter or exit for both consumer and producers. The regulators are there in order to protect the interests of consumers, and to ensure particular standards are upheld, like environmental standards and quality of goods and service. There is a great deal of research about regulators and regulation from a host of disciplines, summarized well in Baldwin et al. (2012). They refer to consumer organisations as PIGS (Public Interest Groups), a term which brings together any group or organisation intent on advocacy and lobbying on behalf of ‘end-users’ – not the government, and not the regulator, and not the industry. Regulators come in a variety of guises; from the merely informational to the more involved policing of markets. Regulators are there to carry out the various policies and regulations set by governments, but which are intended to be relatively free from day-to-day politics of Westminster (Baldwin et al., 2012, p.376). The intention is therefore to have industries and sectors where the rules of the game are fairly stable and not subject to fluctuation, something that is of benefit to both consumer and producers. Baldwin et al. (2012) suggest that regulation can be seen in three different, but often overlapping, senses: as a specific set of demands, as deliberate state influence, or as all forms of social or economic influence. These are three degrees of regulation, which regulators and agencies are put in place to administer.

What this section intends to show is that regulators, although having the consumer interest at the heart of their operations still require an external consumer advocate to ensure that these prin-

ciples are adhered to. One particular regulator, Ofcom, has been chosen in this regard, principally due to the fact that unlike other regulators it has the consumer interest enshrined in its statute. If it is the case that even a regulator with such strict rules put on it requires this, then it would follow that it would also be the case for those regulators which do not have such strict, and explicit, requirements to consumers, even if it is understood implicitly by actors involved. What will be looked at here is the institutional design of Ofcom with regard to consumer representation, and the inclusion of consumer organisations into regulation and policy making.

This section will first outline some of the characteristics of Ofcom, it will then explain in detail some of the forums and sites of intermediation that are part of the institutional design with regard to consumer representation and interest. It will show how consumer organisations are engaged by the regulator, and how the regulator has attempted to ensure that there is an active dialogue with civil society in the form of ‘consumer organisations’. This will help to show how, in addition to individual consumer organisations like Which? and Consumer Focus, regulators are also engaged in consumer representation. This was outlined in Rose’s (1981) taxonomy of consumer representation that was set out in the literature review (section 2.7), which refers to the *Political-bureaucratic elite model* – where existing regulatory bodies have concerns about consumer welfare, some specialist ‘individuals, offices, or departments’ will concentrate on representing consumer interests. The point here is to show how regulatory agencies are connected to consumer organisations in how the institutions are designed to include consumer organisations, like Which? and Consumer Focus, as part of their core functions in their representation of consumers.

## 6.6 Ofcom, Consumers and Citizens

Ofcom is a special case as a regulator in terms of consumer representation and this is why it is being considered here in some detail. It also highlights the intentions of New Labour with regard to the de-regulation of markets, but with consumers in mind. Ofcom was also closely observed across Europe as an agency which ‘represented a prominent instance of the new regulatory authorities to be established in all members states’ (Lunt and Livingstone, 2012, p.33), in light of changes going ahead under the Audio Visual Media Services Directive 1997, and the convergence of media markets. The old separate regulators were thought to be ill suited an age of converged media technologies (Lunt and Livingstone, 2012).

As Lunt and Livingstone (2012) also note the creation of Ofcom was viewed with scepticism by neo-liberals who thought that these bodies would be unrepresentative and as a result would be largely unaccountable. Social democrats on the other hand saw these bodies as a way of intervening into the market in a way that would ameliorate problems associated with deregulation (Lunt and Livingstone, 2012, p.3). Despite the fact that regulation in general, and the regulatory state specifically, is done for the benefit of consumers, Ofcom has a statutory obligation to serve the interests of citizens and consumers (Comms Act 2003, s.3(9), p.3). Part of the setting up of Ofcom involved a particular institutional design concerned with achieving the core mission of acting in the interests of consumers and citizens. This section will now look at the three core bodies that were put in place to ensure that consumer interests were always at the heart of what Ofcom did; the Communications Consumer Panel (CCP), the Consumer Forum for Communications (CFC), and the Communications Expert Groups (CEG). This is done in order to take account of the ways in which Ofcom institutionalised consumer interests and the connections to consumer organisations. This directly relates to the second research question regarding institutionalisation, but also the main research question concerning consumer organisations role in policy making and regula-

tion (research questions can be found in section 1.3).

### **6.6.1 Communications Consumer Panel, Forum and Expert Groups**

Most regulators have some facility for organisations to meet on an institutional and formal basis every so often. These can be termed ‘Consumer Expert Groups’, but sometimes have other names such as; ‘consumer advisory committee’, ‘consumer expert panel’, and ‘consumer forum’ for example. There are differences in how these forums are populated, their responsibilities and ultimately the extent of their authority. The communications sector in the UK has both a Communications Consumer Panel and a Consumer Expert Group, who are affiliated with Ofcom, albeit independent, and the Consumer Forum for Communications, all groups have different members and different responsibilities, but overlap to some degree (CB, Interview, 2012). The first two are independent of Ofcom and act as agents together, and the Forum is a more informal meeting house hosted by Ofcom. This section will now look at these in turn in order to understand the differences in how they are populated and how they act. This will give us an insight into the regulation of a sector that in the UK is beset by public interests concerns, and rapid technological development, whilst taking into account the importance placed upon the media for a functioning democracy. The broader intention is to understand how the media industry is regulated, and the extent to which the public, as either consumers or citizens, are represented in this regulation, against that of industry. Gaining an understanding of the place and role of consumer representation in this respect is of fundamental concern to understanding the tensions between markets and democracy.

### **6.6.2 The Communications Consumer Panel**

The Communications Consumer Panel (CCP) was established by the 2003 Communications Act at the same time as the establishment of Ofcom, as part of the ‘better regulation’ agenda. Through research, and with evidence, they are tasked as a policy advisory committee specifically concerning the communications markets, and are principally concerned with the protection and promotion of consumer interests. It is made up of a range of individuals from advocacy, academia, industry, the trade union movement, regulation and the third sector; this currently totals at six individuals (2012). Due to Ofcom having a statutory obligation to consumers and citizens, as written in their constitution, they have been active in trying to ensure that there are processes with which intermediation between consumers, their representatives, and the regulators and policy makers can take place. The previous chair of the panel, who is now the chairman of Ofcom, Collette Bowe, says of the panel’s relationship with Ofcom:

There was no resistance to what we were trying to do coming from inside Ofcom. Ofcom is a regulator whose primary statutory duty is the protection of consumers and citizens...Ofcom works under a very modern statute, and therefore consumers and citizens have primacy. So there was no question of us having to set ourselves up in *opposition* to Ofcom. We construed our role as being more that of, that well-worn concept of, a ‘critical friend’. And I translated that into we thought our job was to tap Ofcom on the shoulder, with reasonable frequency, and say ‘you’re missing something’.  
(CB, Interview, 2012)

This suggests that Ofcom was from the outset explicitly concerned with the need to be reflective, and the need to have external advice specifically concerning consumer issues. The very fact that these safeguards, or processes, were put in place and enacted from the very inception of the regulator is, I think, telling. It suggests that, without them the regulator might do otherwise, there by potentially going against the remit of the statute. This is something that the literature on regulatory

capture is familiar with: that regulator soon becomes ‘captured’ by industry, or by ‘compact, organized interests’, at the expense of ‘a diffuse group’ (Balwin et al, 2012, p.44), much like consumers.

This by no means translates into concrete and instrumental influence on the part of consumer organisations, but does show a concerted effort, that is more than just lip-service to an idea of inclusivity and deliberation within the process of regulation. Lunt and Livingstone (2012), support this saying that:

...we have observed Ofcom’s work in generating independent, publicly available research, encouraging public debate on communications policy, enhancing public deliberation through consultation and supporting the work of civil society bodies to represent public opinion on media and communications matters alongside enhanced stakeholder relations with industry bodies. (Lunt and Livingstone, 2012, p.185)

However, is this born out in their actions? Do they drive forward regulation and policy that directly responds to these concerns, and these processes? The case studies of Lunt and Livingstone (2012) show that Ofcom generally prefers to give: ‘greater prominence to the market over social and cultural issues, grounds for concern over the effectiveness of public engagement and consultation, especially as regards civil society bodies and the wider public...’ (Lunt and Livingstone, 2012, p.185) It will be shown in the case study here, that in the legislation on product placement, despite the significant opposition from public interest groups, and consumer organisations specifically, it was legalised, albeit with some concession to issues around children and unhealthy foods.

However, the implementation of measures like the various consumer bodies follows from the idea that the creation of Ofcom, and the Communications Act 2003 more generally, characterised New Labour’s approach to new forms of regulation, that was ‘historic’ in its reform and a consolidation of the communications regulation (Doyle and Vick, 2005, p.75). The importance of consultation and public engagement was part of this ‘changing nature of regulation’, which ‘increasingly means that institutional spaces for talk – in other words, for an evidence-based, consultative, multi-stakeholder engagement in the discursive framing and negotiation of policy – can be decisive in the process of policy making and its consequences.’ (Lunt and Livingstone, 2012, p.33) This evidences much of the literature discussed in the theory chapter around governance and the regulatory state, which at the same time as responsibilities are being devolved to regulators and agencies, there is also a participatory norm that demands an inclusion of a range of voices. It also corroborates one of the main arguments of this thesis; that consumer organisations have provided a ‘perfect form’ of representation which enable the public to have a voice in regulatory forums but which does not ‘rock the boat’ away from a primarily market-led prescription of organisation. This is typical of some of the intricacies of neoliberalism in practice, where state intervention is to enable the proper functioning of markets, but kept to a bare minimum. Thereby not getting involved in more complex public interest concerns, and inoculating consumers from being conceived in political terms. Consumer organisations in this respect play a particular role, they enable ‘better regulation’<sup>26</sup> to be implemented but do not challenge prevailing orthodoxies regarding the power of the market. Through a light touch, generally de-regulatory framework, consumer bodies play some part in ensuring consumer interests are best served. But as could well be argued, they are ‘making the best of a bad situation’, in that the context might be one which does not favour consumers, or citizens, necessarily. The argument from the advocates of minimal regulation would be

26 The concept of ‘better regulation’ is associated with government bodies such as the UK’s Better Regulation Task Force that was set up to ‘use ‘more imaginative’ thinking about regulation and have stressed the need to adopt minimalist or self-regulatory controls in the first instance.’ (Baldwin et al., 2012, p.8)



that in principle the markets will work in the best interest of consumers, and that consumer organisations are only there to ensure the consumer interest is taken into account, and to support them in the worst cases.

However, the panel (CCP) was tasked with being a body within Ofcom, but independent from it, that would specifically and diligently research and lobby on behalf of consumers. The CCP is a particularly unique body, as it has a very healthy budget in order that it can carry out rigorous research, and that it is more ‘on the inside’ than independent consumer organisations. In this respect they serve as a ‘go-to’ for far less well-resourced consumer organisations who want to get perspectives through to Ofcom (CB, Interview, 2012). They are also referred to unofficially as ‘the great and the good’ (CB, Interview, 2012), in that they do not necessarily have any particular background in consumer issues, but they are experts in a variety of relevant fields. The Panel is therefore very much the technocratic side of the consumer representation in Ofcom, unlike the Forum which is more representative.

In addition, the Panel has a memorandum of understanding with both Ofcom, and with Consumer Focus. This sets out each party’s responsibilities, and intends to strengthen their relationship at the same time as ensuring that they do not duplicate work (CM, Interview, 2011; CB, Interview, 2012). This shows a distinct connection with other organisations of different types, which together form important governance networks.

### **6.6.3 Consumer Forum for Communications (CFC)**

The Consumer Forum for Communications (CFC) is an informal forum for consumer representatives hosted by Ofcom. The purpose is for both interactions between members, in that they can share ideas and experiences, but also importantly to ‘help decision-makers to be as well informed as possible about consumers’ preferences and priorities.’ (Ofcom, n.d.) There are currently 38 members, ranging from charities (Age UK), to non-departmental public bodies (Consumer Focus) to consumer advocates like PUAf, to consumer organisations like Which?, and to sector specific consumer/citizen organisations like Voice of the Listener and Viewer (VLV). It is interesting in that there is such a wide range of organisations represented in the forum, which could be argued to display considerable plurality of consumer representation in the UK. The forum has a chair, whose job it is to best represent the interests of the group as a whole. Her understanding of the core mission of the CFC is:

To help the members to understand the issues in communications policy as they affect their own specific constituencies and to formulate their views and to influence those policies. It’s a forum for helping its members; to help them by exchanging views and exchanging information with one another and, most of all, being a convenient grouping for others to come and share information with them. That’s its strength; that as a group we can attract speakers whom we wouldn’t be able to attract just as one or two of us. (CM, Interview, 2011)

In this respect the CFC becomes an informal talking shop for consumer organisations, which doubles up as another avenue for organisations to interact with decision-makers. It works alongside the Panel to advise and criticise Ofcom’s activity, but with explicit encouragement to do so. One of the key problems in consumer advocacy, and advocacy in general, is access to resources, in the form of both money and time. This is one reason why Ofcom hosts such a forum, and actively encourages it, that otherwise there might not be such a meeting due to both the lack of resources and the diverse interests of the members. As Claire Milne outlines:

It's [consumer advocacy] extremely part-time for almost everybody doing it. Our resources are made up of little bits of time of a large number of people....Origins of the forum are in the voluntary sector. It was originally set up as an association among consumer organisations more than 10 years ago. At that time it had a proper written constitution, and there were criteria saying who could and could not be a member. (CM, Interview, 2011)

The members of the forum are decided upon between the Chair and Ofcom, so long as the individual or representative is a bona fide consumer advocate, then there is little problem in becoming a member, although over the last decade there has not been a great amount of fluidity in the members of the Forum. The power that the Forum has is gained from its representation of a variety of consumer interest, from both the general consumer, to vulnerable consumers. It is this which gives it its weight with policy makers and regulators. As Claire Milne, the chair of the Forum, says:

Government departments and regulators are only interested in talking to me as the chair of the forum as I represent the members, not as an independent consultant. If it was a network or umbrella group the chair would be expected to be neutral. (CM, Interview, 2011)

This is interesting for two reasons. Firstly it shows that mere expertise is not enough, which casts doubt on the ideas of just epistemic communities. It is about more than just technocratic information and about being inclusive too. But secondly it runs against some of the comments around the fact that the consolidation of consumer interests into one voice hinders consumer pressure against the multitude of industry stakeholders. This is therefore a crucial dimension; are consumer organisations hindered by their co-option into regulatory forums, or is it in their interest? This is the dilemma that faces the process of regulation, and with consumer representation within it.

One of the most important aspects of the forum is to provide a space for organisations and representatives which takes account of the resource concerns of many smaller groups. As the Director of the Content, Consumer and External Affairs unit outlines, it is not enough to just put out formal consultations and wait for a response, as this can end up with 'unintentional bias', with better resourced groups, like industry being able to 'out consult' other interests (CP, Interview, 2011). This is the fundamental point behind Ofcom's various consumer bodies; the panel, the forum, the expert group and the policy unit, to ensure that they adhere to their statutory obligations to 'act in the interests of citizens and consumers'. In this respect consumer organisations, in all their different forms, are of crucial, and therefore *core*, importance to the regulatory process.

#### **6.6.4 The Consumer Expert Group (CEG)**

The Consumer Expert Group (CEG) is made up of individuals from some of the groups represented in the forum (CFC). The CEG exists as something between both the panel and the forum. It is smaller than the forum in its membership, and they are not necessarily representatives of an organisation, both similar characteristics to the Panel (CCP). However, they are independent from Ofcom, whereas the panel is 'semi-independent'. In many respects this group represents a half-way house between the panel and the forum, as it might be able to be more reactive than the forum, but with more of a representative perspective. It was set up in order to provide a direct advisory body to the relevant minister in DCMS (RC, Interview, 2011).

## **6.7 Intermediation: Contact, Connections and Consultations**

In this section the intermediation between organisations, regulators and policy makers will be assessed. It is split into four further sections: contact, consultations, connections and change. These are four themes that are connected themselves, but which are important to address individually. The nature of contact between organisations and policy makers is fundamental to understanding the relationships between them. Whether or not these networks are enacted through only formal meetings, or whether they exist in informal networks, and the extent of these, tells us details about the nature of the role consumer organisations play. Consultations are a core part of contemporary governance, and a way in which regulators and policymakers can both glean information from epistemic communities and also appeal to a notional democratic ideal. In this respect they form an important part of how consumer organisations engage regulators and policy makers. This then moves on to talk about connections, which brings together both contacts and consultations to talk about the connections between consumer organisations and regulators and policy makers more generally. This takes into account the various institutional arrangements and actors that are involved. The last sections concern the changes that have occurred over the last decade or so. This is an important aspect that I put to all interviewees to see whether there was any significant change over this time period in how consumer organisations were engaged with; it was nearly unanimous in that consumer organisations had become more involved and that the relationships between organisations and regulators and policy makers had improved.

This is an important section as it seeks to address one of the principal questions of this thesis, whether consumer organisations provide a counter-balance to industry and agency pressure, though determining the extent of intermediation between the organisations and the authorities as distinct from their contact with industry.

### **6.7.1 Contact and Connections**

Contact between policy makers, regulators and staff in consumer organisations is of crucial importance to appreciating the networks that exist in regulation. There are four aspects to this contact that will be considered here: frequency, formality, instigation and issue. These are the four themes that came up in the interviews from both prompting through questions but also often independently. It is also the case that these are the different elements of contact that are important to get an understanding of the relative importance of consumer organisations; how often do they contact, is it institutionalised and formal or not, who generally instigates the contact (consumer organisations or policy makers and regulators), and what is discussed: general position on policy, technical advice, consultation response, or direct campaign lobbying. One of the most important aspects to make clear from the start is that informal ad hoc relationships were greatly valued by all those who were interviewed. Even though the formal settings were an important way of institutionalising contact between consumer organisations, regulators and policy makers, and which made something regular.

In terms of frequency, in the case of Ofcom and DCMS, there is a formal, quarterly meeting with the Consumer Forum. This is the mainstay of the institutionalised discussion between consumer organisations, the regulator and policy makers. Since 2008 the primary responsibility for the Forum has been with the Consumer Affairs Unit. What is crucial is that it is Ofcom that hosts a forum that is intended to spark debate and discussion amongst consumer organisations, in addition to it being a forum where consumer organisations can inform policy makers. It is explicitly assumed that discussion will continue elsewhere, and that personal connections and networks will continue outside of the more institutionalised dimensions. As explained on the Ofcom website

(Ofcom, n.d.). It is also the case that members of the CCP are present at the forum, in order to keep the connections between the forum, the panel and Ofcom generally in place.

However, in addition to all of the formal dimensions, it was personal, and sometimes daily, contacts between staff of organisations and regulators and policy makers that were most important. All of the interviews with both consumer organisations, and regulators and departments made it apparent that ad hoc and informal meetings, discussions and emails were the primary way in which intermediation was conducted. It was of course suggested that ‘if you had the ear of the relevant minister’ (RC, Interview, 2011) this would be of considerable bonus, but that it was largely luck that put you in a position were, the ‘policy stars aligned’.

With regard to what is a relatively outsider, and specialist consumer organisation, Voice of the Listener and Viewer (VLV), they value the networks that individuals build up with civil servants in various positions more than the formal connections. It is also the case that personal relationships play an important role in consumer organisations intermediation with officials, as Robert Clarke suggested of VLV:

There is no doubt that having someone at the top like Joceyln (Hay), who had fantastic relationships with a whole raft of key players, was invaluable. Underneath her, people like myself and other board members, are developing their own networks in their specialist areas. It’s not so much the old-boy network, but in who you know, getting their confidence and maintaining a relationship of trust and understanding. (RC, Interview, 2011)

In this respect it is the ad hoc contact becomes valuable to both the consumer organisations, and to officials. The organisations can, through constant contact, hope to ensure that a consumer perspective is taken into account in the formation of policy and regulation. In addition it was felt by both officials, and by consumer organisations, that consumer organisations were valued as an information source, and as an ‘ear to the ground’ (JH, Interview, 2011). In this respect the aggregate of consumer organisations, and those working within them, provided an epistemic community to the policy makers and regulators. The community of consumer representatives together would provide vital information about what the salient issues were with regard to consumer in the regulated industries and beyond. This was generally seen to be the case both with civil servants, in departments and regulators, and for ministers. Although it was pointed out that ministers are of less value to consumer organisations, as points of contact, as they change so often. In this respect the relative stability of the civil servants in the various regulators and departments enable long term relationships and connections to be sustained, which seems to be the *most* important contacts and connections for consumer organisations, and the state generally, but that if luck was on their side the right minister in the right place was invaluable. As one spokesman said: ‘The sad thing here is that because the politicians keep changing they’re of less value. But that is not to say that at crucial moments the right politician, in the right place is going to be invaluable to us, but you can’t bank on it.’ (RC, Interview, 2011) This is interesting as it suggests that although both regulators and departments are constantly looking for information on particular policy they are working on, and consumer organisations can provide that to them, the various projects can hinge on the perspectives and priorities of a minister. This generally only applies to policy at a departmental level, but can still impact on general regulatory tracts at a regulator level. This is shown below with regard to product placement, which even though the broader regulator agenda is implemented by Ofcom when it comes to the granular policy details there can be changes at ministerial level which dramatically alter the course of policy. In this case going from a ban on product placement, to liberalising the regulations in line with the European agenda.

However, for the most part it seemed to be the case that the presence of consumer organisation in the regulatory and policy environment meant a subtle embedding of the consumer interest in the general approach. Most of the individuals interviewed thought this to be the case, even though there maybe times where that had specific impact on a regulation or policy development, it was this immeasurable ‘embedding’ that they that to be the most important dimension of their work. The regulators and policy makers also suggested that this was the case. As a spokesman for one organisation, VLV, put it:

It’s [impact] subtle. Sometimes there can be occasions where we can see we put that in or something was missing which we’d suggested be taken out. There is concrete evidence of impact. I’m told, as I wasn’t there, that the citizen/consumer remit of Ofcom was strengthened thanks to consumer [organisation] input into the 2003 Communications Act. (RC, Interview, 2011)

This brings together the three dimensions of potential influence; the subtle embedding, the concrete input on a particular policy or regulation (positive), or the removal or stopping of a particular policy or regulation (negative). Even though the second two dimensions are important, they are relatively random, relying on a host of conditions to be on the side of the organisation. What is the *most* important is the subtle embedding, through constant contact with civil servants through informal networks. It seems logical too, that in an environment which establishes that the consumer interest is paramount, witnessed in the implementation of the consumer interest into the statute of the newest regulator, there is an ideology that promotes the consumer interest as *the* public interest. In this circumstance, where regulators and policy makers are tasked with gathering evidence and creating ‘better regulation’ through engaging with stakeholders, it is consumer advocates that ensure that the consumer interest is kept at the forefront. In this way many consumer organisations and policy makers and regulators share norms about both the market, the place of regulation and the importance of consumers. An epistemic community, like Haas (1989; 1992) suggests, is created. This could also be spun as being “captured by the consumer interest”, as if it were the opposite, where industry and business shared norms of the free-market, for example, it would be termed so. But the difference here is that the regulators have a statutory duty to *consumers* and citizens, *not* industry, and Parliament is meant to represent citizens, not industry. The concern is both the extent to which these organisations have an influence, regarding the consumer interest, over and above the producer interest, and if this interest is, normatively, a good or a bad thing for individuals; is it really in *their* interests?

This next section will look at a specific site of intermediation, consultations. They are used by most institutions, in most Western democracies, in order to get information from civil society and the public sphere more widely. It is a process of research in order to ensure that the proposed policy and regulation maximises utility for the stakeholders involved, in theory. They are interesting in that they enable a constant dialogue between officials and the various stakeholders in civil society, but also that they enable both a democratic mandate to be reached through some sort of dialogue, but also an efficiency mandate to be gained through gaining up-to-date information on specialist sectors.

### **6.7.2 Consultations**

Consultations have become a core part of contemporary policy making in both the UK and Norway, and are considered a vital part of the regulatory and policy making process by all those interviewed. However, there has been some scepticism with regard to consultations at the EU level at least, that they fail to really provide the technical detail that the policy makers really want. This

shows that there is a considerable technocratic dimension to the consultative and participatory culture, and the process is not an end in itself. This is one tension that concerns us; is the inclusion of consumer representatives a concern with the principle of more porous governance processes, or a technical concern for better regulation? The director of the Conent, Consumer and External Affairs Group at Ofcom, a relatively recent department, said that these aspects were not necessarily incompatible, and in fact were both of great importance: ‘The right answer is the right answer objectively in terms of consumer outcomes, but also the right answer in so far as its been arrived at through a fair process...the process being fair is important to getting the answer correct but it is also important in and of itself.’ (CP, Interview, 2011)

Consultations can also be understood both in very narrow terms, of the specific consultations that are sent out and require direct reply by a particular date, but can also be seen in a wider sense as a constant process of engagement (CP, Interview, 2011). In this respect regulators and departments act very differently some with more of a regulatory culture than others. Ofcom, it appears, has an extremely engaged and active consultative culture, in which they really feel that outside perspectives are fundamental to their work. In addition is the fact that there is a multifaceted way of drawing upon the views and perspectives of civil society, which is bound to the regulator through institutional design. It seems to be the case that Ofcom are acutely aware of the problems that beset regulation in terms of both how it is constructed, and problems that various constituencies may face in its implementation. This is well put by Claudio Pollack the director of the Conent, Consumer and External Affairs Group at Ofcom:

As a regulator it is absolutely pivotal for us to engage with interest groups, it is absolutely vital that we seek out interest groups rather than wait for them to come to us, because in developing policy it is important that we hear the full range of informed views and perspectives and there is a very big risk of unintentional bias if you just have one model of consultation in which you publish documents and wait for people to come to you. (CP, Interview, 2011)

In an overview it is clear that Ofcom, despite its deregulatory agenda, places a significant importance on the role of consumer representation in the process of policy making – or says that it does. The fact that Ofcom are obliged by statute to act on behalf of consumers and citizens is fundamental to how the institution has been shaped. This includes the creation of the Consumer Policy Unit which is tasked with assessing and investigating dimensions of regulation that will impact on consumers as a routine and daily operation. From what we can see Ofcom is a special case amongst regulators in this respect. They have the three different bodies, both independent and semi-independent, and both of an epistemic quality (CCP and CEG) and a more representative quality (the Forum).

It is also the case that not only do Ofcom constantly review their principle activity, the act of regulating, but are also constantly reviewing, and reflecting upon, their engagement practices too. In this respect consumer organisations are a core part of the process of regulating as all the various aspects of consultation and engagement; the panel, the forum, formal consultations, and the consumer policy unit itself, work together to bring all the various dimensions of consumer representation together.

However, the institutional design, which the various bodies and policy units are a manifestation of, do not in themselves mean that consumer interests necessarily make it into legislation and regulation, but do show that there is a concerted effort to ensure that consumer perspectives are, at the very least, on the agenda. It is telling that Colette Bowe sees the role of the CCP as a ‘friend who can tap Ofcom on the shoulder to remind them of their remit,’ (CB, Interview, 2012) as this

suggests that there is a constant risk of ‘mission drift’ away from the consumer interest. This suggests that the consumer interest, and by extension consumer organisations, could be seen to be both peripheral in that regulatory missions tend to gravitate away from consumer interests towards either producer or agency interests (not to say that these are not necessarily aligned), to be pulled back into line by consumer representatives. Or that they are core, in that regulatory decisions despite meandering away from their core interests of consumers, will always return to the fundamental tenet; that they are chiefly concerned with consumer issues as set out in statute. So it is possible to view this from two perspectives: that consumer interests are (1) peripheral and therefore rely on consumer representatives to ensure they are taken into account and follow statutory duty, or that (2) consumer interests are core and consumer representatives embellish and strengthen this. This will be assessed in greater detail in the analysis chapter below (chapter 8).

Now a particular policy issue, product placement legislation, chosen as it highlights the tension between producers and consumer well, will be examined in relation to consumer interests. This is done in order to see the extent to which consumer or producer interests are taken into account in a particular policy setting, but also to explore the way in which the policy making occurs with, or without, regard to consumer organisations. This helps us to better answer the research questions as it puts the efforts of consumer organisations into a specific policy context.

## **6.8 Policy Issue: Product Placement**

An example of a policy and regulation issue, where there are typical producer vs. consumer interests issues at stake, is the debate around product placement advertising on domestically produced television in the UK. It is a classic example of deregulation which favours the interests of producers, as both the broadcasters have an additional revenue stream and advertisers have increasing coverage. For consumers there is the issue of the extent of commercialisation of culture more broadly, but specifically that advertisers become involved in the actual production of programming in order to advertise products. This includes the inclusion of commercial messages in scripts, to the nearly total control over productions by those companies investing in the potential advertising. Commercial Hollywood films, where there is no regulation around product placement, are seen as ways in which to facilitate the promotion of secondary products.

### **6.8.1 TWFD and AVMSD**

Most European nations have had some form of broadcasting legislation for many decades. These have required there to be a clear and distinct separation between advertising and the rest of programmed material. In the UK this was initially set out in the Television Act 1954. In 1989 the Television Without Frontiers Directive (TWFD) was implemented at an EU level with one simple goal in mind: for there to be a single market in television broadcasting (HL Paper 27, 2006-07). The intention was, like much EU legislation, to harmonise media markets to enable firms to compete across borders.

Due to the rapid pace of technological change in telecommunications specifically, which has brought about significant developments in the media with online content reaching increasingly higher levels of audience penetration as traditional media forms, the TWFD needed to be updated in light of this. This is where the Audio Visual Media Services Directive (AVMSD) came in. Outlined below is a timeline of the key events regarding product placement legislation in the UK.

## 6.8.2 Product Placement Legislation: Timeline of Key Events (1989-2011) (UK)

1989 – TWFD adopted

1997 – TWFD – Updated

2003 – AVMSD Consultation 1

2005 – AVMSD Consultation 2

2005 – Ofcom Consultation on Product Placements (19<sup>th</sup> Dec 2005 - 13<sup>th</sup> March 2006)

2006 – Ofcom Consultation Responses on Product Placement (18<sup>th</sup> Oct 2006)

2007 – AVMSD – Revision of TWFD – (to be implemented by Nation States by 2009)

2008 – DCMS consultation on AVMSD (July – August 2008)

2009 – DCMS consultation Responses on AVMSD (March 2009) – No conclusion on PP.

2009 – ‘Ban on PP remains’ – Secretary of State (DCMS) Andy Burnham (March 2009)

2009 – ‘Ban to be reconsidered’ – Secretary of State (DCMS) Ben Bradshaw (Sept 2009)

2009 – Letter to Bradshaw from Coalition against PP (Sept 2009)

2009 – DCMS consultation on PP (9<sup>th</sup> Nov - 8<sup>th</sup> Jan 2010)

2010 – Ministerial Statement (Bradshaw) (9<sup>th</sup> Feb)

2010 – DCMS consultation Responses on PP (March)

2011 – Product Placement allowed on UK television (28<sup>th</sup> Feb)

The most interesting aspect of this time-line, and why it is being included here, is the point between the change in ministers. This was seemingly crucial to the eventual adoption of the more liberalised legislation coming from the EU in the form of AVMSD. Despite all of the consultative process, going back to 1989, Andy Burnham, the then Culture Secretary, had decided in 2009 that the ban on product placement would remain. However, not soon after the minister changed to Ben Bradshaw, the decision to continue the ban was reversed and product placement was to be allowed. This is what was suggested by the spokesman for VLV, that a minister can make the difference, explicitly citing the case of product placement as an example (RC, Interview, 2011). So despite structures being important, and as argued in this thesis to be broadly determining, in this case it was the individual that seemed to make the difference. However, it could well be argued that Andy Burnham was swimming against the de-regulatory tide, and that the broader structures were against him, and that it therefore took someone with less conviction about the particular case of product placement to change the policy. In this respect the relationship between structure and agency, as not oppositional concepts but part of an intricate feedback, can be shown.

Despite the fact that product placement was allowed, however, there were some marginal gains



made by consumer organisations. Even though they were unhappy about the relaxation of the ban in general, there were still specific demands made on the regulation. This mostly revolved around vulnerable consumers, children specifically, and the advertising of high fat foods, also known as junk food. Although product placement was to be allowed, there would be strict regulation against the placement of these products, and there would be sensitivity towards vulnerable consumers (DCMS, 2010, p.4). The fact that there was a position change, but which had conditions, shows one example of how the consumer interest can be included despite an overall policy programme that largely benefits the producer interest. The position of consumer organisations is well put by the Children's Food Campaign spokesperson, Jackie Schneider:

It is good news that the massive pressure from health, consumer and children's groups has forced Ben Bradshaw to drop plans to allow the product placement of junk food...[However] We are very uncomfortable that plans to allow some product placement will still go ahead. This creates the possibility that a future government could still allow placement of junk food through the back. The political parties should be warned that any attempt to reintroduce product placement of junk food in the future will be met by the same massive level of opposition that won this argument. (sustainweb, 2010)

### **6.8.3 Product Placement – Consumer vs. Producers**

The discussion, debates and arguments around product placement legislation acutely exposes some of the tensions that this research is concerned with; the primary tension being the cleavage between consumers and producers. The relaxing of legislation on product placement in Europe, that began with the Television Without Frontiers Directive in 1989, which was updated to take account of various technological changes to the Audio Visual Media Services Directive in 2007, was part of a broader attempt at the harmonisation of broadcasting legislation across Europe. It is a particularly telling example which concerns both the need for advertisers and producers to find new revenue streams in the face of a continuously fracturing audience, against the clear public interest concerns around the over-commercialisation of domestic production. It should be noted that product placement has been allowed on European television screens, but only if the program shown was made outside of Europe. This particular case therefore pits consumer against producers in an acute fashion, which, through analysis can show us the extent to which the consumer interest is taken into account in the face of various changes in markets.

## **6.9 Conclusion**

This chapter has given an insight into the place that consumer organisation have, and the role that they play in UK policy making and regulation. It has looked at a specific case, media regulation and Ofcom, to see how consumer organisations interact with the state, and to see what both the priorities of the organisations themselves are, but also to see what the priorities of the policy makers and regulators are with regard to consumers.

It has been found out that consumer organisation may well have a significant place in policy making and regulation in the UK, despite the fact that the concrete influence they might have on specific policy might be fairly random. It is suggested though that even though there is a general shared norm, both amongst officials, civil servant and advocates, but also institutionally as in Ofcom's statute, toward the inclusion and importance of consumer interests, it is still the case that

consumer organisations are necessary. What this suggests is that, on a case-by-case basis, the consumer interest can either be seen as (1) peripheral and therefore rely on consumer representatives to ensure they are taken into account and follow statutory duty, or that (2) consumer interests are core and consumer representatives embellish and strengthen this.

Consumer interests, over the past decade, have become an important feature of the regulatory landscape, as shown in the connections established both formally and informally. There is explicit implementation of formal contact, through both forums and consultation, for the consumer interest to be lobbied in the institutional design. However, the extent to which this is an active connection, rather than a passive connection, often depends on the policy areas and those involved – the issue. Overall though, it can be said that consumer organisations are generally seen as more ‘insiders’ than ‘outsiders’. This is argued to have been largely due to a combination of (1) the ‘better regulation’ agenda, (2) the need for regulators and policy makers to engage with civil society for principled and practical reasons, and (3) the broader neoliberal ideology that posits the market, which by extension identifies people as consumers, as the most efficient form of organisation.

The thesis will now move onto look at consumer organisations in Norway, specific attention being paid to what is referred to as the ‘consumer family’, the four main bodies that represent consumers: Forbrukerombudet (the consumer ombudsman), Forbrukerrådet (the consumer council) and SIFO (the consumer research council), and the Department for Consumer Affairs. It will detail these organisations and institutions and will argue that although in ideologically different contexts, consumer organisations face similar problems with regard to business lobbying and being regarded as generally peripheral to the regulatory and policy making process.

# 7. Empirical Chapter 2: Consumer Organisations in Policy Making and Regulation in Norway

## 7.1 Introduction: 'Norway doesn't have any consumer organisations' (IT, Interview, 2011)

This chapter explores and analyses the role of consumer organisations in Norway. The comparison between the UK and Norway is useful as it can show us how consumer representation functions in similar contexts, in that both countries are liberal democracies, but contexts which are in many respects very different. Most importantly, it enables me to compare consumer organisations, and consumer representation, which have different ideological and governmental underpinnings. In this respect it is possible to assess the extent to which differing structures produce different institutional dynamics. The specific focus in this chapter is on the relationship between the organisations, the regulators and government department. This importantly includes the extent to which consumer organisations are seen as either core or peripheral to the regulatory and policy process, and a method to analyse the role they have in the processes of governance. Crucially the questions that I want to address are: does a different ideological setting mean that consumer organisations have different roles? And does the different setting and context impact the extent to which they are a core, or peripheral, part of the regulatory process? And what are the particularities of the UK or Norwegian institutional setup that accommodate consumer organisations being part of the process? Can these structures be seen to either encourage the inclusion of consumer representatives, or to marginalise them? The intention, as stated previously, is to gain an in-depth understanding of the regulatory culture around consumer representation, and the place that consumer organisations, in their different manifestations, hold within that. This is achieved through an analysis of participants' understanding of their place within the system. This is the best way in which we can gain an understanding of actors' perceptions of the processes, which in turn can tell us the extent to which consumer organisations are seen as core or peripheral to the regulatory process, and the extent to which they are understood to provide a counter-balance to industry and agency pressures.

The aim of this chapter is to get an in-depth understanding of the structures, connections and positions of consumer organisations in Norwegian politics, and to see whether or not consumer organisations really matter to the Norwegian state. What is crucial is to find out whether or not the institutional setup is favourable to consumer organisations in terms of them being an integral part of the policy process, and whether this might have changed over time. The central findings are: (1) consumer organisations are seen in a favourable light by policy makers, (2) their presence in the policy process is seen as positive, by regulatory and government officials, in terms of providing consumers with a voice, and (3) that consumer organisations have an institutionally privileged position in a typically corporatist way, *yet* feel they have little impact on policy and regulation. 'They tell us what consumers are thinking,' (OC, Interview, 2011) as one senior policymaker put it.

As would be reasonably expected consumer organisations in Norway provide a link between government officials and the public concerning regulation, but do not seem to ensure that policy and regulation are implemented with much concern for consumers. It is evidenced that they face

similar pressures that UK consumer organisations face, both in terms of being outweighed by the business lobby but also the Europeanisation of much policy and regulation forces them to act more at a European level than domestically than before.

This chapter is structured in a similar way to the previous chapter on the UK (chapter 6), but differs slightly due to the fact that the consumer organisations, and the important institutions in Norway with regard to consumers, are different. The chapter is split into five main sections: it will first give a background and overview of consumer organisations in Norway (section 7.2), it will then look at the broad political context in relation to ideology and the state (section 7.3), it will then look at the characteristics of the main consumer organisations (section 7.4), then it will consider the main government institutions with regard to consumer organisations (section 7.5), before concluding with an overview of the core issues in Norway with regard to consumer organisations, mainly that despite their institutionalisation they seem to be relatively peripheral to the processes (section 7.6). The thesis will then move onto to the analysis chapter (chapter 8) where the insights from both empirical chapters (chapter 6 and 7) will be brought together, before moving onto the conclusion (chapter 9).

## 7.2 Overview of Consumer Organisations in Norway

As will be shown Norway has a tripartite consumer ‘family’ (EJ, Interview, 2011) comprised of a research body (SIFO), an ombudsman (Forbrukerombudet) and a consumer council (Forbrukerrådet). They each have a particular role in how consumer interests are represented, and all have reasonably close ties with the government generally, and their parent ministry (Ministry for Children, Equality and Social Inclusion) and the Department of Consumer Affairs (DCA) specifically. The DCA then represents the consumer interest in broader policy making and attempts to lobby other ministries, and the EU commission, in consumers’ favour. These ties and connections will be looked at in greater detail below through an analysis of discussions with officials from all organisations in the ‘consumer family’, officials from the Department of Consumer Affairs, and an official from the Ministry of Culture. This will enable a deeper understanding of the connections between the various institutions, in order that the key research questions can be addressed: what role do consumer organisations play in Norwegian policy making and regulation? Do they provide a counter-balanced to industry and agency pressure? And in what respect are consumer organisations understood to impact upon policy and regulation?

The Consumer Ombudsman is specifically tasked with upholding the Marketing Control Act 2009, and ensuring that goods and services are not misrepresented to consumers. They have taken on a number of high profile cases, in particular one against Apple (Forbrukerombudet, 2008), and another against Facebook (Forbrukerombudet, 2012), both done in partnership with the Consumer Council (Forbrukerrådet), and in the Facebook case other Scandinavian consumer organisations. In this respect they can be seen as being at the vanguard of consumer redress, in that they ensure business compliance with the Marketing Act, although they are at times also proactive in policy advice. The ombudsman has regular meetings with the Director General of Consumer Affairs in order to gauge and address current issues and concerns (GN, Interview, 2011). However the relationship between the Department and the consumer organisations seems to be stronger than between the Department and other ministries (GN, BF, TN, Interviews, 2011). This could well be explained by the epistemic community that arises around consumer issues and advocates generally – they all share similar ideas on the consumer interest.

SIFO is a testing and academic research institute concerned with various aspects around con-

sumption and consumers (SIFO, n.d.). They have been testing products since the 1950s. They are regularly called upon to give independent advice on policy, and are well respected by both the Norwegian policy makers and EU officials. However, there is still some doubt among staff about the actual impact of their work and advocacy in the policy process, which tallies with the other members of the ‘consumer family’ (UK, AN, EJ, Interviews, 2011). They are also involved in advising roles in Brussels, with both the commission and with BEUC (AN, Interview, 2011). They are funded in part by government but also by business, and the EU, through various projects (AN, Interview, 2011).

The Consumer Council is the most typical form of consumer organisation in Norway, in the sense that they are explicitly an interest group not a research council or an ombudsman. They are still government funded, although there are some attempts to reduce this and get them to be more self-sufficient (GN, Interview, 2011) They are in some respects an ‘agency’ but who regard themselves as an independent interest organisation. This is very similar to Consumer Focus in the UK, which is regarded as a non-departmental government body. The council is by far the most overtly *political* arm of the family, as the ombudsman’s activism has supposedly been reduced through government appointment (TN, Interview, 2011) and SIFO is not that proactive in terms of its consumer representation. The three groups used to all be based in the same building, but now only the council and the ombudsman share the same building. This means that their ties are closer than to SIFO, but they are still all well connected. They all have good connections to the DCA, and both the Council and SIFO seem to have close ties to BEUC in Brussels.

The issue of Europe was very apparent in the interviews, in that most of the interviewees see campaigning and lobbying to be more effective at the European level than at the Norwegian level despite the supposedly close relationship that they seem to have, and the open system in Oslo (GN, TN, AD, UK, BF, Interviews, 2011). This is even to the extent that the DCA considers it to be more effective to lobby Brussels than some of the other ministries in the Oslo (BF, Interview, 2011). Most of the regulation that is of concern, like the Consumer Rights Directorate or legislation on Digital Rights, is happening in Brussels, and therefore lobbying needs to be targeted there. It is too late to have an impact once it gets to Oslo.

The subtitle ‘Norway does not have any consumer organisations’ was the words of one interviewee who has done considerable research on the Norwegian consumer movement (Theien, 2006a, 2006b) . In her eyes the key institutions that exist in Norway are not typical ‘consumer organisations’, in the sense that they are not bodies of consumers but arms-length advocacy organisations; they are essentially part of the state.

This is, in comparison to the UK, interesting as it shows a particular perspective towards corporatised representation that challenges its representational legitimacy, something that will be discussed further in the next chapter (chapter 8). However, for this research the ‘consumer family’ organisations still represent consumers as their core mission, and are therefore analysed here on the basis of their place in governance networks. They are the relevant subject matter for this thesis, even though they may be democratically questionable, this will however be considered as part of the analysis chapter later (chapter 8). What we can see in Norway is an epistemic community concerned with consumers, both in terms of redress through the Ombudsman, and in terms of designing and implementing policy and regulation with the consumer interest in mind through the ‘consumer family’. But, their presence is by and large understood to be peripherally important even though they are part of the institutional design.

Norway has a long tradition of social democracy, which has meant that this ‘consumer family’ has been seen as an important part of overall policy. However, as understood from the interviews,

their relative standing in the policy process varies from case-to-case, as competition and choice are often seen as preferable to intervention. This relationship has not changed to much degree, and the impact of neoliberalism seems to be slight overall. However, it is still possible to witness a general shift towards governance that appeals to individuals as consumers over citizens, and a preference for economic regulation over social policy, even in Norway (UK, Interview, 2011). The idea of consumer choice is a pervasive one, and providing there is competition and choice then other more socially orientated goals are not of interest, a particularly neoliberal development.

In this respect the chapter will now move to look at Norway in terms of the ideological context. In understanding how a particular set of interests, that of consumers, is represented in governance processes requires that we take account of the ideological context of a political system (both in the UK and in Norway). One aspect this thesis highlights is the extent to which the dominant ideology of a particular context impacts upon the role of consumer organisations. In this respect these questions are salient: Is there a significant difference in the institutional design between systems, in consumer organisations connections with government and regulators, and in the extent to which they are seen as either core or peripheral to the regulatory or policy process? And can these differences, or similarities be attributed to the ideological context? With this in mind the next section will outline the ideological conditions in Norway.

### 7.3 Ideology and the State in Norway

Norway, much like the other Scandinavian countries, is known to have a social democratic heritage. This has resulted in a 'deep structure of social democratic norms' (Østerud, 2005), and also a type of democratic capitalist system that is 'tempered by small-scale enterprises and strong norms of popular legitimation (Sejersted, 1993; 2000).' (Østerud, 2005, p.707). What this research highlights is that this is of fundamental importance when considering the role of consumer organisations in the process of policy making. The intervention into markets on behalf of individuals as consumers, and their representation by organisations, is therefore an interesting way to take account of the extent of this heritage, and the relationship between individuals, the state and markets in this particular ideological context. This is done through tracing processes and understanding perceptions in an interpretive research design. The major difference between Norway and the UK, apart from population and market size, is that of ideology. It is therefore interesting to see that despite the differences in principle guiding ideology, similar concerns are felt by consumer organisations. Whether this is a result of an overarching neoliberalisation of governance practices, or whether it is merely endemic to consumer organisations in capitalist democracies will be addressed in the next chapter (chapter 8).

One of the intentions of this research is to critically assess the role of consumer organisations in two different contexts and to analyse the democratic integrity of processes of network governance. My research suggests that ideology is an important factor in comparing the extent of consumer organisations role, and their relative stability over time, in both the UK and Norway. In Norway we see that although reasonably stable in terms of their funding and activities, the extent of the consumer organisations impact seems to be increasingly less. The organisations in the UK, and seen in the previous chapter (chapter 6), despite undergoing significant changes, including the outright closure of one organisation (Consumer Focus), have found that their perspectives *are* taken into account, albeit inconsistently. In Norway the history of consumer organisations has been one of social democratic norms, which has meant an institutionalisation of consumer representation in the form of the organisations we still see there today. A key point in this thesis is that ideology is a

crucial difference in the way that institutional structures have historically developed.

It is also crucial to note the importance of successive Labour governments on the consumer landscape in Norway. Theien suggests: ‘...the form of socialism espoused by the Scandinavian Labour parties paved the way for a comparatively strong state involvement in consumer affairs.’ (2006, p.137) This is important as the development of forms of governance within an ideological frame is argued to impact on the extent to which consumer organisations matter to policy making and regulation. This is in theory as well as in practice. It is the case that Norway displays a more social democratic heritage than the UK, and one way this can be seen in the extent to which the consumer interest has been incorporated into the structures of governance in Norway. Although, as will be addressed in the analysis chapter (chapter 8) and the conclusion (chapter 9), this does not necessarily mean that there is adequate representation of consumers, in the sense that consumer interests are central to regulation or policy making, or that consumers are necessarily in a better off position than in governance structures which do not incorporate consumer organisations to such a degree. The extent to which consumer organisations are either seen as core or peripheral is still of concern in understanding their role in the regulatory and policy making process.

This is the essential point of the comparison between the UK and Norway for this thesis; do the differences in the ways in which institutions are designed and governance structured have a significant impact on the ways in which consumer organisations matter to policy making and regulation? Is it necessarily the case that a social democratic regime will have stronger consumer representation than a neoliberal one? In large part the answer is no; that in many ways the more neoliberal regime can be advantageous for consumers, but that maybe over time the social democratic state may end up being more favourable.

Additionally Theien also makes the interesting point that consumption in the Scandinavian countries was encouraged to be viewed as a public matter, not a private one (Theien, 2006, p.137). This has ideological dimensions and developed alongside plans for ‘collectivist forms of consumption, most visibly in plans drafted in both Sweden and Norway for collective laundries, refrigerators and even common meals within housing estates in the 1950s, inspired by British ‘community centre’ ideas.’ (Theien, 2006, p.137) So in this respect it can be seen that the UK and Norway, although being underpinned by a particular ideological perspective, are not hermetically sealed units that do not learn from the others policy programmes. As was the case in the 1950s, like Theien describes, is still the case today, with the Consumer Ombudsman having visited the OFT on several occasions over the past decade (GN, Interview, 2011). The point is that the ideological contexts can become guiding principles, but are not deterministic. There are also international epistemic communities dedicated to consumer protection issues, and also may share a particular world view, this will be further explored in the next chapter<sup>27</sup>.

This chapter will now move to look at the three important consumer organisations in Norway. It will first look in detail at the three parts of the ‘consumer family’ and will then consider the important government institutions relevant to consumer protection and representation. Overall this will give an extensive picture of how consumer organisations are positioned within the state and the extent of their interactions in the processes of regulation and policy making. This will be followed by the analysis chapter (chapter 8) where the information from both countries will be compared and contrasted.

27 The large umbrella organisations Consumers International, and BEUC, bring together various national consumer rights movements. These organisations, although not necessarily having legitimacy at a national level, enable consumer organisations to share experiences and to learn from each other.

## 7.4 Consumer Organisations in Norway

Consumer Organisations in Norway are limited. There are a few sectoral specific organisations like the Norwegian Automobile Federation (NAF), and a wide variety of organisations that are concerned with consumer issues. These are largely a second order concern as their primary interest is in a broader area like the environment, or health. In this respect there are few explicitly *consumer* organisations, like Which? and Consumer Focus in the UK. This thesis is concerned with the organisations that are explicitly and primarily concerned with consumer issues as a principal objective, and not as a second order objective. With this in mind it is possible to see that in Norway consumer representation is focused on three organisations, and one ministry, this will be the core focus of this chapter – The Consumer Ombudsman (Forbrukerombudet), The Consumer Council (Forbrukerrådet), The Consumer Research Council (SIFO), and the Ministry for Children, Equality and Social Inclusion and its Department for Consumer Affairs.

As might be expected in Norway the structure of the system is of a corporatist nature in that the interest of consumers, and their representation through organisations, is funded and organised as arms of the state – it is wholly co-opted. This has advantages, but also significant problems which will be addressed in the next chapter. The co-option of consumer interests in the ‘consumer family’, in theory, feeds directly into the ministry responsible for consumer affairs, which then informs broader policy making across the government. There are of course other operations that the three consumer organisations do, as they all have different functions, and it is also the case that what happens in theory is not what necessarily happens in practice. So this chapter will outline first the three members of what has been called the ‘consumer family’ and will explain their institutional status, their primary objectives and how they are structured. This will be done in order to see the relationship between the consumer organisations themselves and between the consumer organisations and the regulators and policymakers in both the Government and Authorities (Regulators). It will then be possible to see what the role of consumer organisations are in the Norwegian context, and whether or not the social democratic ideology, and institutional design has a bearing on how they are perceived and their position in terms of being core or peripheral to the process. The key aspects that will be focused on are: what are the main responsibilities of the various organisations and institutions; what connections the consumer organisations have with each other, with policy makers and regulators, and internationally (EU and other countries); how are consumer organisations perceived in the policy process, and what specific policy issues have been addressed. The section starts by looking at Forbrukerombudet, the Consumer Ombudsman.

### 7.4.1 Forbrukerombudet – The Norwegian Consumer Ombudsman

In terms of organisations remit and function the role of the ombudsman is fairly straight forward. They are a public authority which acts as an enforcement body on behalf of Norwegian consumers. Their mission is to work to provide a more convenient and safer environment for consumers in Norway<sup>28</sup>. The Ombudsman’s responsibilities are set out in the Marketing Control Act 2009, in sections 34 to 39 (Marketing Control Act 2009). Their primary responsibility is to ensure that the act is complied with by businesses operating in Norway. However, within this is scope for a degree of advocacy on behalf of consumers that goes outside of merely strict compliance and enforcement. Through their experience those at the ombudsman gain an understanding of the consumer landscape and the issues that face consumers, which might be a different perspective from that

28 The safety of consumers has, as has been said before, been of primary concern for consumer organisations around the world in that they are often principally concerned with the quality of products and services and ensuring that businesses do not endanger consumers through malpractice.



of the other parts of the consumer family. Having an enforcement agency of this kind was also encouraged at EU level in the Unfair Commercial Practices Directive 2005:

The consumer ombudsman model is also recognised more and more in European countries, because some years ago there came an EU regulation saying every country should have a consumer ombudsman to take care of the marketing control act, the rules coming from the Unfair Commercial Practices Directive. You have to have a body like us to deal with this act. (GN, Interview, 2011)

This is interesting as countries in Europe are being encouraged to ensure that there is a regulator dealing with unfair commercial practices explicitly. This suggests that the regulatory state does in fact include the institutionalisation of bodies specifically designed to mitigate against some of the more nefarious business practices that a wholly free market might encounter and support consumers.

The Ombudsman is also in this respect in touch with other domestic enforcement agencies (regulators) but also internationally other ombudsman, (like the OFT in the UK for example). It is also the case that from the typology set out by Rose (1981) the Norwegian Consumer ombudsman fits into the *Quasi-public consumer agency model*. Like Consumer Focus, and in many respects the OFT, these are arms of the government specifically charged with taking care of the consumer interest over and above merely having some individuals or offices with the responsibility. In this respect there are many parallels with the UK. As the OFT and Consumer Focus, like the Ombudsman and the Consumer Council in Norway, share an office building and have different responsibilities regarding consumer protection. The OFT enforces consumer protection law, like the Ombudsman, and Consumer Focus campaigns on behalf on consumers, much like the Council in Norway.

The OFT and the Norwegian consumer ombudsman have shared many perspectives and concerns over the past decade, including meeting with the OFT on various occasions (Interview, GN, 2011). In this respect there seems to be international co-operation between enforcement bodies and regulatory agencies, in addition to that of consumer organisations, in order to share experiences and deal with common problems. This cooperation occurs across polities and markets despite often considerable differences in both size and structure. This cooperation is interesting as it suggests that consumer organisations, and their role in the political process, face similar challenges with regard to de-regulation and the ‘rolling back of the state’, despite the differences in government, political system and market. It also could well be down to the processes of neoliberalisation, and how consumer organisations are trying to adapt to a policy and regulatory paradigm in which, like Hilton suggests, ‘choice’ is privileged over ‘access’ (Hilton, 2009). This is why it is important to assess the boundaries of consumer organisations’ role in policymaking and regulation and assess the extent to which they are seen as core or peripheral, as this is a way of detailing the parameters of the system and assessing the common ground evidenced between polities.

In terms of the Ombudsman’s work, they are officially responsible for ensuring that Norwegian businesses comply with the Marketing Control Act 2009, whilst simultaneously ensuring as greater protection of consumers as possible. As said, this does also leave room for other activity. This is outlined by the Ombudsman herself:

We have this act that gives us our role, we can't go beyond that act, but of course this act is very vague. It is very much like the British one, as it comes from an EU directive. It contains very vague words like; misleading, unfair etc. Legal terms that are very vague and we have to fill it with something. This is a form of consumer representation as we argue for what is misleading, or what is unfair. (GN, Interview, 2011)

It seems to be an accepted practice that although officially they are only tasked with upholding the Act, their responsibilities are far broader. The activities of those involved in consumer protection comes in many guises, from ensuring compliance in a domestic market, to lobbying the EU and the Norwegian government, to informing consumer and citizens directly. However, in Norway there is also a specific Department for Consumer Affairs in the Ministry for Children, Equality and Social Inclusion. This is the parent department and ministry for the 'consumer family', which oversees their activities. This department will be looked at in more detail below. Although in the UK there is a parent ministry to the OFT and Consumer Focus, BIS, the Department for Business, Innovation and Skills, does both hold the purse strings, and have ultimate say, they are less close to the organisations than in Norway. For example, the Ombudsman (the head of the organisation) formally meets with the Director for Consumer Affairs on a monthly basis, in addition to the two or three consultations that they will respond to from various ministries (GN, Interview, 2011). Here they discuss the current issues facing consumers, and by and large seem to have the same interests at heart.

However, the specific issues that the Ombudsman as an organisation decides to focus on, on a yearly basis, is determined internally but with input from individual consumers: 'We don't consult them (consumers) to ask 'do you agree with this?' we just try to understand what they mean, and what is best for them [from complaints].' (GN, Interview, 2011) When consumers complain to the Ombudsman about a particular practice that they are facing in a market it is recorded. Then when the yearly assessment is done the latest problems facing consumers are taken as the benchmark from which the new priorities are decided upon:

They [Heads of Sectors] decide on a yearly basis what they will focus on for the coming year. They look to see what markets might be problematic. This is flexible to an extent. Each head of sector gets together, who have also been on the phones to consumers complaining, and they then decide on what to focus. We take into account all the complaints of the past year. (GN, Interview, 2011)

This suggests a significant input from consumers themselves, considerably more so than in the UK. Which therefore questions the extent to which more corporatist consumer organisations, like in Norway, are necessarily less representative of consumer perspectives than more explicitly member-based organisations like Which? in the UK. This dimension will be looked at further in the next chapter.

In addition, and more broadly, the Norwegian government has historically taken consumer issues seriously, as evidenced in the setting up of organisations in the 1950s, and in the more recent Marketing Control Act 2009. This has led to the implementation of the structure of consumer representation seen in the 'consumer family' that is in place today. However, that is not to say that this is not without its problems. It seems to be the case that the Norwegian system is faced with very similar issues to the UK, in that they are often relatively peripheral in the policy process compared to other interests, and that the 'consumer interest' is taken as one voice, against the often many voices of the business lobby. However this might be felt less acutely in Norway possibly due to the broader social democratic ideology, whereas in a more neoliberal system there might be a

tendency to rely more on the market and less on regulation.

The Ombudsman as an enforcement agency, also cooperates with other enforcement bodies in Norway, including many of the regulators. They have a general consumer approach which supplements the more specific foci of the other agencies:

We have a very general approach, a consumer approach, in all markets. So it is very important for us to have good cooperation specific enforcement bodies on specific areas where consumers are [having issues]. So to have a good cooperation with the enforcement body in finance, electricity, anything. The areas which have most other enforcement bodies don't have economic value for most consumers. (GN, Interview, 2011)

The point here is that other enforcement bodies do not have a principal objective of ensuring consumer interest. They have different priorities as set out in their statutes. For example the functioning of a particular market, or good competition. So the ombudsman's role is to ensure that in these discussions the consumer concerns are taken into account – and are as much as possible the principal concern.

In addition they have an advocacy role, over and above the compliance role, which is important but one which they have to be shrewd about. It is clear that through their years of operation the organisation has built up considerable knowledge in a variety of sectors pertaining to consumer interests, but that as an organisation it is still part of the political landscape and must be tactical when it comes to its activity. In this respect in order to ensure the consumer voice is represented, and ultimately included in final policy and regulation, the Ombudsman is very careful about when and in what capacity they promote the consumer interest. As the Ombudsman herself says:

We have to choose our fights...in some cases we would be satisfied to have the general consumer view taken into account, but in some areas it is very important for us to get specific legislation changed. I think that if we succeed in getting this general understanding that consumer problems [are] also important for the market, it is easier for us when it comes to the important [specific] things that need to change. So it's [about] building up confidence, not always shouting from the barricades for consumer rights but also that we know there are two sides. (GN, Interview, 2011)

It is possible to see that the value for consumers, and therefore often the role of the organisation, is to ensure that the consumer perspective is always present. This greatly reflects what was witnessed in the UK situation, and what was outlined to be of significant concern, that in some circumstances the consumer interest is core and in others it is peripheral, and in each circumstance the role of consumer organisations shifts. When the consumer interest is core to the process their role is to ensure it continues to be, and when the consumer interest is peripheral consumer organisations' role is to ensure that, as best as can be, the process takes into account the consumer interest. This will be discussed in greater detail in the next chapter when comparing what has been evidenced in the UK and in Norway.

However, the difficulty comes in the extent to which other interests are also involved in each process. When the consumer interest is core, then consumer organisations' priority is keeping the regulation on track and attempting to work in other interests without compromising the core objective. But when it is peripheral consumer organisations' role becomes more concerned with trying to get even minor consumer provisions taken into account, as other interests dominate the process leaving behind the consumer interest. This then becomes more of a 'banner waving' role.

So in a similar way to the UK, as seen in the previous chapter (chapter 6), the role of the

Ombudsman is often to remind policymakers of the importance of the consumer interest in the process. This is especially the case when markets, and regulatory structures become more liberalised:

When something important happens to the regulation of a market we also see that consumer problems arise at least for a while, and then it's important to have a consumer organisation coming in to try to find a balance. And also maybe to give input to policymakers to say that "you forgot something in this legislation we also need this and that to make it right again"...often it is too late for them [consumers] to know about the problems. They need someone to help them to use their consumer power; information and minimum of legislation that someone enforces and then on top of that they can use their consumer power. (GN, Interview, 2011)

In this respect, the role of consumer organisations in both countries is somewhat similar. They form a connection between the policymakers and individual citizens and consumers. Information about problems experienced in the market, in how the market is regulated, is fed to the policymakers through the consumer organisations who collate the salient issues from consumers. They are then consulted by policymakers, who often come to them (GN, Interview, 2011), for input on the policy and regulatory process when there is a clear consumer issue at stake. So with the Ombudsman, in addition to their enforcement role, they are also part of the epistemic community around consumer issues. Policy makers call upon them for their perspectives, both general and specific: 'Some of our opinions [on policy and regulation] would be very general, but some would be very specific if we have certain qualifications in a particular area. But most often it is general.' (GN, Interview, 2011) It is the areas of specific sectoral competency which become of interest as to the extent to which consumer organisations can fill the gap between being a general representative of the rather nebulous and broad 'consumer interest', and being able to give targeted and specific advice on particular policy and regulation proposals. What is interesting is that often the call from policymakers is that they want high level, in depth 'evidenced based' policy proposals, where it seems that the ombudsman at least is more often called upon for the more general 'consumer perspective'.

This moves us onto to seeing one of the problems that the ombudsman, and consumer organisations and the consumer lobby have in Norway, which was also mentioned in the UK case. The most significant being that the consumer lobby in general faces significant opposition from the business lobby. This is most put most starkly by the ombudsman: 'If you have two or three organisations representing consumers in Norway, then you maybe have ten or twenty others representing the business side.' (GN, Interview, 2011) The problem for consumer organisations often seems to come from the 'consumer voice' being bundled together – there is one consumer perspective. Whereas the business community has the opportunity to lobby and consult both as individual businesses of all shapes and sizes, in addition to the business federations being able to lobby as well. There is also the issue of resources, in that often businesses are able to utilise rather substantial PR budgets in the process of lobbying, where other public representatives might not be able to. From the ombudsman's perspective this has had a significant impact on consumer organisations activity in the last decade or so.

What we see is that it's becoming more and more difficult over the years to be the consumer voice in these processes [regulation and policy making] because there are more and more legal awareness in businesses, and they are much more organised and much more [often] represented by lawyers and they know that to lobby the ministry or government is very important for them. So I would say that

it is more difficult for us to be heard with a consumer voice now than for instance 15 years ago...I try to represent 'my' consumers and find it more difficult now than 15 years ago. (GN, Interview, 2011)

The balance between consumer representation, through consumer organisations, and business representation is one that has changed. In some respects consumer organisations are seen to have become more involved in the regulatory and policy processes and in other respects they are seen to have become less involved. This issue was addressed in the last chapter on the UK, and will be looked at in greater detail in the next chapter as it is one of the common features of this research; that consumer organisations are at times seen as peripheral and at times seen as core to the policy and regulatory process. In which circumstances which is which, and why this might be the case, will be considered in the next chapter.

What seems to be the case in looking at the role of consumer organisations in regulation and policy making is that there are no general rules. Even if it was the case that resources had increased, or that consultation responses had increased, this tells us little about the extent to which the organisations, and by extension consumer representation are taken in to account in the construction and implementation of policy and regulation. This does not mean that nothing is known though. What this research shows is that we can gain an understanding of institutional contexts in which consumer organisations operate, which also tells us a great deal about how interests are arranged in the regulatory environment. It seems to be the case that in the UK and Norway there are similar problems that consumer organisations, and consumer representation more broadly faces, and this comes down to the extent to which they are core or peripheral to the process. What is clear, through the continued support of the consumer family, is that there are concerns that consumers need to be represented by a publicly funded body, even though it might be the case that these bodies have less impact. The rationale behind this is made clear by the Ombudsman: 'Consumers are a considerable part of the market. If you don't have satisfied consumers you don't have a good market. So it's very important that consumers are taken care of in legislation so they also can feel safe in the markets where they act.' (GN, Interview, 2011)

So for Forbrukerombudet, the Norwegian consumer ombudsman, it is possible to see that although they have good connections with both the government, enforcement agencies, and other consumer organisations, they find it increasingly difficult to get the consumer perspective across. This seems to be down to three factors, (1) that of the increasing professionalisation of the business lobby and (2) the increasingly acceptance of lobbying more generally as a practice in Norwegian politics. But also (3) of the increasing amount of legislation conducted at an EU level, where even the parent ministry has to lobby Brussels in order to ensure its perspectives are heard (BN, Interview, 2011):

One of the facts is that more and more acts result from EU directives and in that respect there is not that much we can say when it comes into Norwegian law. So one of the tendencies is that we have to act earlier in the process, when the proposal is in Brussels. We have a very wide possibility to go directly to the commission. We don't have to go through our ministry. We can go directly there. In some cases they have been so important that we have spent a lot of time trying to influence the commission directly...The new proposed directive on consumer protection for instance, that will have a great impact on consumer protection in Europe...We go to the commission and the European parliament directly. (GN, Interview, 2011)

This gives a further reason as to why consumer representation, when individual consumers have less power to act collectively, is so important; That organisations with significant expertise can try

to act on behalf of individuals at both domestic and EU level. This has also meant that whilst at the same time as organisations needing to be involved in more political spheres, they also need to communicate with individual consumers. This has meant that the media have also become increasingly become a valuable tool in how the Ombudsman communicates with Norwegian citizens, in order to inform them of their activities but also to create some sort of consultative process between the authority and consumers (GN, TN, Interviews, 2011). It seems that the media, in Norway, play an important role in informing and engaging consumers in consumer activism:

The Consumer Council is the main consumer policy organisation. But on television, the two main television channels, they have their own consumer programs, and I would say that if you ask a random consumer on the street ‘who is taking care of consumer rights in Norway?’ then he would mention one of the two television programs. (Interview, GN, 2011)

The role that these television programs play, although not a focus of this study that concerns the policymaking sphere, is important as it forms a connection with individuals and becomes part of the public sphere where consumer activism is concerned. The consumer organisations in Norway thus utilise the media in order to gain an audience for their campaigns but also to form a relationship with the people that they represent. The feedback between individuals and the organisations is encouraged by exposure through mainstream media channels:

When we are out with a television, radio or newspaper we are interviewed about a problem. This will lead to more telephone calls and emails into our office the next day because people are then aware that we are dealing with it. It is not direct consulting with consumers but because we have been exposed people will come back to us with information. (Interview, GN, 2011)

The issue of the extent to which the media is utilised as a part of the consumer advocacy strategy is not however the focus of this study, but is an important consideration in terms of how individual consumers voices become part of the policy making and regulation process. (However the details of this particular phenomenon would require further study which is beyond the remit of this thesis.) This section has sought to outline the characteristics of the Norwegian Consumer Ombudsman and show what their responsibilities are, and what their role is in Norwegian politics.

This chapter will now move to consider another important part of consumer advocacy in Norway, the Consumer Council. This organisation is arguably the closest to what is generally understood to be a consumer organisation in terms of what is being analysed here. The Ombudsman although an organisation explicitly representing the interests of consumers is officially not a lobby organisation, where the Council is.

#### **7.4.2 Forbrukerrådet – The Consumer Council**

This section will outline and detail the main characteristics of Norway’s only dedicated consumer interest organisation, Forbrukerrådet. It will look at the ways in which it campaigns, how it interacts with policymakers and how it interacts with the other members of the ‘consumer family’. This chapter will then move to look at the consumer research council SIFO, and then onto look at the Department of Consumer Affairs. The Consumer Council is the principal interest organisation in Norway. We therefore need to analyse the Council’s place in Norwegian governance in order to understand the role consumer organisations have, and the extent to which they both counter-balance industry pressures and impact on policy and regulation.

The Norwegian Consumer Council, Forbrukerrådet, is the only consumer ‘interest organisation’

in Norway, despite the fact that one commentator (IT, Interview, 2011) suggested that there are *no* real consumer organisations due to the fact that the council is a public body rather than a member-based organisation. However, in terms of what this thesis is concerned with, the Consumer Council fulfils the requirements of being a consumer organisation despite the fact that they are not a grassroots organisation, or a member-based organisation, as they are an advocacy organisation. They are specifically a lobbying and campaigning organisation in the sense that they are explicitly politically motivated, unlike the Consumer Ombudsman who has a stricter set of responsibilities around the Marketing Act. Although it is financed by the government it is politically independent from its parent ministry which is established by Royal Decree. ‘We are 100% funded by the government, but at the same time 100% independent from government.’ (TN, Interview, 2011) It was founded in 1953 in order to ensure that the consumer’s voice was present in public debate and in government decisions. Its principal mission is to: ‘...give [the] power and possibility for consumers to make good choices.’ (TN, Interview, 2011) In this respect they concern themselves with working on behalf of consumers to campaign and lobby for regulations and controls in markets that are not providing consumers with optimal circumstances to have ‘power and possibility’. The organisations try to realise this through a combination of lobbying officials, responding to consultations and informing the public through campaigns and their comparison website. In this respect they emulate the common pattern of approaches seen by consumer organisations, that there are three core concerns: information, redress and regulation.

The organisation differs from the Consumer Ombudsman in numerous ways; they are completely independent in terms of what they can campaign on, and what they can make policies on, as the Ombudsman, as mentioned, is constrained by their constitution and the Act that they are part of: ‘We [Consumer Council] have a right and obligation to make policies...they [the Ombudsman] are bound by the legal act, they are bound in what they can and cannot say.’ (TN, 2011, 2min) This greater freedom enables the Consumer Council to act more widely for the consumer interest, searching out new areas of concern, and actively lobbying on their behalf. Whereas the Ombudsman’s activity is focused on when an organisation has contravened the Act, the Consumer Council’s work concerns a greater array of issues pertaining to the three core areas: information, redress and regulation. However, there is a concern in the Consumer Council that they are seen to be far too similar to the Consumer Ombudsman, which again chimes with the perception that the ‘consumer interest’ is a single interest upheld by a single body, a problem when dealing with the multitude of business and producer organisations: ‘We are seen as very similar to the Consumer Ombudsman, it is partly because we are in the same building, it’s not helping us. In Norway you have Forbrukerrådet and Forbrukerombudet, and they are calling us sometimes Forbrukerombudet...We have an issue in trying to define ourselves.’ (TN, Interview, 2011) This is interesting as it comes back to how consumer organisations are perceived, and the extent to which they are seen as both core or peripheral to the process, and how they are perceived ideologically. In the analysis chapter (chapter 8) I use a three-fold typology to describe this process in more detail, with consumer organisations being framed as either a ‘toxic agent’, a ‘perfect form’, or as a ‘fly-in-the-ointment’ regarding their involvement in the policy process. As said, this will be addressed in greater detail in the next chapter (chapter 8), but what is important to point out here is that, like in the UK, Norwegian consumer organisations face similar concerns. They are both subject to institutional and ideological pressures, and the communities and cultures that build up around regulation are not neutral but determined by both the institutional structures and ideological positions. It is this culture of governance, with regards to the role of consumer organisations, which this thesis analyses.

There are three core departments in Forbrukerrådet: Service, Policy and Portals (TN, Interview, 2011), and six major sectors: Housing, Vehicles, Finance, Tourism, Energy, Telecoms (Forbrukerrådet, 2012). The three departments are split into the Service sector, which directly helps consumers when they call, the Policy team that deal with campaigning and lobbying issues, and the Portal which is the main website full of information for consumers including tenancy agreement contract for renters and some price comparison features.

What is most important to consider here is the Policy team, as it is the connections with the government, and the activity of the campaigners, which is most interesting in analysing consumer organisations role, how they are perceived and the role of institutional structures in the process. The other dimensions, like the information provision and redress channels, are also vital parts of consumer advocacy, which were also seen to be crucial in the UK but which do not in themselves tell us a great deal about the place of the organisations in the structures of governance. Information and redress are key dimensions to the consumer advocacy movement, which even critical scholars like Harvey (2005) have said have been considerable victories against the neoliberal state. But what this thesis is focused on is the place of consumer organisations in the regulatory and policy process over-and-above these dimensions. Information and redress issues are seen as a given. We will gain an understanding of the place of consumer organisations from analysing the external work on policy and regulation, the relationships build up with regulators and authorities, and the broader ideological context.

In a similar way to the Ombudsman, the Council have regular meetings with Directors of the Authorities and with government officials. This is where they decide upon issues and problems they are going to cover, and where they discuss progress of previous issues taken up. One senior policy advisor, and head of sector, suggests that they have good connections with a variety of institutions in Norway:

We have very good connections with the Authority on different levels. Two times a year we have Director meetings, the top bosses of the Consumer Council and the Post and Telecommunications Authority have meetings two times a year, where we sit down for three or four hours and discuss our topics, and what we are working on. These are the formal meetings we have, they are every six months. Then we meet each other on different occasions because we are working on the same topics, from different sides, but we are [both] working on telecommunications. I have my job and they have their jobs. (TN, Interview, 2011)

This is interesting as it suggests, much like other consumer organisations in the UK and Norway, that the connections between departments, regulators, and organisations are by and large good. They meet regularly, share similar goals around consumer protection and rights, and they take seriously the different roles that each institution both informally, and in their statutory duties. However, this being said, it is still the case that organisations often feel peripheral when it comes to the actual impacts on policy, which has been evidenced in numerous interviews in both the UK and Norway. It is clear that there are common issues that consumer organisations face – like the more professionalised business lobbying, and that the consumer perspective is taken as one voice. This discontinuity makes for interesting analysis which will be considered in more depth in the next chapter, but it is enough to say here that the structures put in place ensure only a minimum level of consumer interest representation in the regulatory state. This could well come down to the differing ideological perspectives towards consumer organisations, and the place of the market and regulation more generally. The extent of consumer organisations' involvement, and the extent of consumer interests being taken into account in major policy and regulatory decisions, are experi-



enced differently by different individuals due to the general expectations of the extent which these organisations *should* have an impact on decision making.

However, in order to combat the concerns around lack of impact when standing alone, the Council utilise the connections it has to the Ombudsman and to the Authorities; working together is better than working apart, even though it is acknowledged that the different organisations and institutions have different responsibilities:

We often use the Ombudsman and the Authorities to push our things forward. Like our complaint on Facebook we sent it to the Data Inspectorate, we have a complaint on Playstation 3 on the terms and conditions and we sent it to the Consumer Ombudsman. So we use them a lot to try to figure out how we are going to move the big industries...so we use them and talk to them a lot. They are usually our friends but sometimes they have to step back and be regulators. There are differences in the legal framework for the different ombudsman, authorities and inspectorate, for instance the Competition Authority they have in their paragraph number one they have to 'regard consumers', the telecommunications (ECOMM) Act does not have that, they are talking about 'users'...which by definition includes businesses. (TN, Interview, 2011)

The differences in how individuals, or citizens, are identified in the statutory responsibilities of organisations and institutions are, in this respect, crucial to how consumer organisations function. If consumers are to be understood in only a very narrow conception, in that they are merely individuals in the process of purchasing, or having purchased, a product or service, then there are limitations also on the scope of consumer organisations. It is therefore potentially in their interest to take a narrower conception as it increases the potential wins that they might have. However, here it is possible to see that different institutions and organisations have markedly different constituents, be they identified as 'consumers', or 'users'. In this respect the Council would need to work harder to represent consumers in their contact with Telecoms Authority, than they would in their interactions with the Competition Authority, who recognise that it is specifically consumers that they are interested in. How the institutions understand individuals, as consumer, users, or citizens, plays into the role that consumer organisations, like the Council, have. It is also important in terms of understanding the major political thrust of the parliament, and what their intentions are:

The reasoning for the law is often put in the first paragraph in Norway. Why we have this law, and the overarching things you have to look out for. You can't use these paragraphs materially in a court of law for instance, it doesn't amount to a lot, but they are political instruments. So if the ECOMM Act and the Competition Act is totally different in how they are comprehended by the people who are working on them I'm not sure, but at least there is a signal, a political signal from the *Storting* [Parliament] that they want to have the *consumer* in focus in the Competition law and the *user* in the ECOMM law. (TN, Interview, 2011)

So this means that the Council's role is relatively constrained when it comes to addressing the Telecoms Authority, in comparison to the Competition Authority, as the Council cannot rely on saying that the Authority has statutory obligations to the consumer as an individual. However, this can also be brought up as a way to lobby the Authority in itself:

I love to use this example when I talk to the Post and Telecommunications Authority when they are being too much of a regulator say 'Well we need to make the businesses go good, we need to take care of them, and they need to have a level playing field towards competition from outside', and I

say ‘Well I understand that you don’t look at consumers because you don’t have a definition in the law’, they are talking about users not consumers, the director of the PTA isn’t too happy about that. It’s a cheap shot but we have different roles and the law gives them a different role to what I have. (TN, Interview, 2011)

So it possible to see how important the statutes and laws around the regulators, authorities and organisations are in determining the extent of the activity and the character of their interactions. The Council therefore needs to manage the relationships and connections between the different institutions carefully in order to ensure that the consumer interest is always being taking into account. This brings us back to considering the fact that the consumer interest is at times peripheral and at times core to the regulation and policy process, and therefore the Council’s role subtly changes in their interactions with these different bodies.

This chapter will now look at how the Council develops its campaigns and policy initiatives in order to see the process behind why the organisations choose particular policy objectives over others. This can then help in understanding in which circumstances the organisations might have more impact than others, as these would tend be chosen over potentially more challenging policy areas; The idea of ‘picking one’s battles’. This can then help us to understand whether the organisations can be seen as a counterbalance to industry and agency pressures, and the extent to which they anticipate having potential impact on policy and regulation. Understanding these processes can give us a picture of the active role of consumer organisations.

#### **7.4.2.1 Campaigns and Policy Areas**

The way in which the Council comes up with their campaigns is a combination of personal experience and intuition, followed up by research, including input from consumers themselves through a variety of channels. For example they recently hosted a conference on video games and asked a range of individuals, academics, journalists, and developers the simple question ‘Is there anything in the games market that we as consumer representatives should be working on?’ (Forbrukerrådet, 2011) There were a few examples of games being released before the Christmas period that were poorly developed, which had led to a lot of gamers complaining online. So with a combination of both some of the staff at the Council, researching online forums, and inviting various important people in the industry the council could see whether or not this should be an area of importance (Interview, TN, 2011). This is how they might find out about a particularly problematic sector. Also in how they build an evidence base to ensure that this is in fact something which the Council, and by extension both consumers and the government, should be concerned about.

In practice, when considering any policy area, it is essential for those in consumer organisations to make a rough judgement about the perceived costs and benefits of a particular direction, which is made based on the evidence and research suggested, but also crucially takes into account the potential impact:

There is a graph. It [our work] should impact a lot of people, and there should be a reasonable possibility to make an impact. So if something affects very few people and you have no chance of changing, you shouldn’t be working on it. And, the other end of the scale, if a lot of people are affected and there is a big chance of making a change. That is one way to find out whether it is worth working for it. (TN, Interview, 2011)

This is also what was witnessed in the UK, and with the Ombudsman in Norway; that they must pick their battles carefully, to find out what project might have the best outcome for the most

amount of people. This is the same for Which?, the Consumer Ombudsman, The Consumer Council, and Consumer Focus. This dilemma is a common issue for any interest organisation, but which is made more acute if you are a peripheral actor with relatively few resources, or a constrained remit. It is also the case that organisations funded through public funds need to show directly how money is spent and that it is spent wisely – there is control over budgets and remit. This is in contrast to business that has a freer remit, whose logic concerns the bottom line, which may well put them in a far greater position than the consumer organisation. The battle then becomes about the relative cost effectiveness of fighting for or against a piece of legislation for each side; consumers or producers. It is therefore in the interests of business to spend more as they know of the budget constraints of public bodies, and relatively small organisations, if they end up spending that extra British Pound or Norwegian Kroner, then they may win. But is it all about the money? Probably not. Although resources are clearly a vital part of the extent to which interests are able to impact on legislation, it also comes down to ideas and ideology.

Therefore we also need to consider how ideas feature in the analysis. What are the general overriding ideologies and what are the trends in public policy. How do consumer organisations fit into these at any given time? If they are core, they'll see more gains, if more peripheral then they'll see less, and this can change from policy area to policy area. Therefore what campaigns they choose is significantly important, and why the Council also look 'up the chain' to the European level to see what the organisations there are concerned about, as having an understanding of market problems at an international level can put the organisations, and therefore consumers, in a better position domestically: 'We try to make our working plans in line with BEUC...We are not waiting until it comes to Norway. We are very aware that the processes that are going on in Brussels are the ones that we have to be in, not the ones in Oslo. Being in early means in Brussels not in Oslo.' (TN, Interview, 2011)

The Council, and the Norwegian policy process, also has the issue of the distinction between citizens and consumers. This is also apparent in the UK, especially when dealing with issues in the media. At what point is it that someone is a consumer and someone a citizen has not been articulated well enough. This is maybe the point on which the ideological distinction lies. The more spheres in which individuals are seen as consumers the stronger consumer activism is dominated by a more neoliberal ideology and the more that individuals are seen as citizens, in their consumption, the stronger the social democratic ideology. This can vary from country to country, and from policy area to policy area, and also ties in with the understanding where consumer organisations are seen as core or peripheral to policy and regulation processes.

What this chapter has discussed so far are both the organisation itself, and the process through which it comes to deciding upon particular policy objectives. This has shown us that the Council has to be tactical in what it focuses on, and that it needs to build its connections around a particular issue with both the Ombudsman and the relevant Authority. What will now be addressed are the informal connections that the Council utilises in its activities, in order that we can gain a deeper understanding of the networks that build up, and the ideas that characterise consumer advocacy in Norway.

#### **7.4.2.2 Informal Connections**

In addition to both the formal contacts that the Council needs with the Authorities and government departments are the informal, and more personal connections. As was seen in the UK these can be of great significance to how policy gets developed. But, as is generally argued here, these relationships are still constrained by the structural conditions in which the consumer organisations

operate. However, it might be the case that informal connections can ensure an issue gets on the table:

This is a personal thing as well because, the head of the post and telecommunications office and me, they are in Lillestrøm, we have been ‘head-butting’ a couple of times, we don’t have that personal relationship that is normal for us to just go out and have lunch and talk about things. But with the Data Inspectorate chief, he used to be the [Consumer] Ombudsman, and we know each other very well so we go out and have lunch, which is really informal, and just talk about things. (TN, Interview, 2011)

What is important to appreciate here, is that the policy official and the ex-ombudsman had very similar ideas about consumer activism in large part due to how closely they had worked together. In this respect we can see that ideas and perspectives towards the consumer debate generally can have an impact on the perceptions of consumer organisations, despite individuals not necessarily being able to change much within a particular context.

There is also a choice made as to whether it is best to make connections at a similar level to the official you are – this could be called horizontal influence, in order for them ‘sell the idea upwards’, or whether it would be best to send a formal letter to someone more senior so that they can sell it downwards – vertical influence. This happened for Forbrukerrådet when they tried to make their Facebook campaign more European, instead of the Digital Rights officer connecting their counterpart in BEUC they wrote a formal letter to the Head of BEUC (TN, Interview, 2011). This is interesting in terms of what was seen in the UK with regard to networks, and what has been addressed with regard to ‘which battle to pick’. Although there are by and large structural and institutional constraints on activity by consumer organisations, due to both funds and remits, the informal networks that have built up around consumer rights and advocacy do play a distinct role within this. They are also not flat networks but involve hierarchy, and are therefore like Davies (2011), and others, suggest are not in any way neutral, but hierarchically determined despite the freedom of individual actors to make independent connections. In this respect networks do not exist independently of the institutions and structures but are greatly constrained by them.

The instance in which an individual may try to push the structural constraints may have an impact, but equally may be reacted to. In the case of the Norwegian Consumer Ombudsman it seems to be that as they became more political, they were changed, or that the Ombudsman started to work outside his remit due to the fact that they might be changed:

Bjørn Erik Thon, was [previously] the head of the Consumer [Ombudsman], who had the Apple case, which we gave to him, he was probably pushing his boundaries as an Ombudsman, being more political than the present one is, who is more being an Ombudsman, Bjørn Erik was really active and went out and talked outside of the Marketing Act as well. That is something that the government, when they hired the new one, they wanted someone who was a bit more low key, more ombudsman-like. So the ombudsman has a more difficult role balancing...their ombudsman work and if they have any policies or thoughts outside the Act they are working within. (TN, Interview, 2011)

This shows that within the ‘consumer family’ there are structural constraints due to the specific roles expected of the organisations by the government. But it also shows us that an epistemic community is created around consumer advocacy issues which might in some circumstances be helped by particular individuals in particular positions, even though it is generally the case that

consumer advocacy is seen to be structurally constrained. It also might be the case that individual personalities and relationships between people might differ in the different cultures of particular ministries and authorities. Some of the cultures might be more or less susceptible to the influences of a particular individual, which demonstrates that structures are not monolithic but in a state of flux, although this still greatly determined by particular ideologies like neoliberalism. 'I think different personalities at the top of the ombudsman really could change how they are being looked at [perceived], or what kind of work they do, also how we work with them.' (TN, Interview, 2011) Therefore the head of one authority might well be more sympathetic to consumer advocacy issues than the head of another, and might well see consumers in a different ideological light – for example, that there are social dimensions to being a consumer as well as economic ones. However, there are still broader institutional structures which constrain and largely determine the extent of activity of consumer organisations, and this is argued to be in great part down to the broader ideological context.

The chapter will now move to look at the more international issues by considering the connections that the Council has in Brussels. This is given special attention here as it seemed to be the case that Norwegian organisations had better connections with EU bodies, than they did in their own country (TN, BF, Interviews, 2011), and that increasingly policy and legislation is decided at the EU level. Although consumer organisations in the UK, like Which?, do have strong connections to EU bodies such as BEUC, there seemed to be a greater degree of importance placed on the EU level in Norway, than there was in the UK.

#### **7.4.2.3 Norwegian Consumer Organisations and the EU**

As has been stated earlier in regard to both the UK and the Consumer Ombudsman, consumer issues are increasingly being decided in Brussels. This means that consumer organisations need to be ahead of the game to ensure that they impact upon policy and regulation as best they can by being in Brussels. The view is generally held (Hull, 1993; Loth et al., 1998) that the earlier in the policy process one can get the better chance one has of impacting on the final legislation. What is also interesting to mention is that even though Norway is not a Member of the EU, the access the Council has in Brussels is better than in Oslo:

Being a Norwegian in Brussels is really like being a Swede or a German...I have never met a closed door. It is easier to have access to people in the commission than in the government in Norway. My experience is that the commission is much more interested to hear stakeholders, you can call it being lobbied, in the writing of a paper, than the Norwegian government is. They are very closed up, and they are sitting there writing things, and then they put it out in the hearing, and then you can respond. In Brussels you have the chance to talk to people writing and ask them, and tell them. (TN, Interview, 2011)

But this is a problem for the Consumer Council. They have great access at European level, and for the most part this seems like the best place to have access. In much of the literature (Hull, 1993; Loth et al., 1998), and as has been seen here (BF, ES, TN, Interviews, 2011), the earlier on in the legislative and regulatory process one can intervene the better. As much legislation now originates in Brussels it is preferable for consumer organisations that they find a keen ear here. However, it is still difficult for the Consumer Council in their discussions with the Norwegian government, even though it might be the case that trying to change legislation at a Norwegian governmental level, as they still have to act in the interests of Norwegian consumers on a regular basis domestically too. This is interesting in terms of the comparison with the UK. Where, comparatively, the consumer

organisations seem to have greater access to the government in lobbying terms.

However, the relationship between regulators and consumer organisations seems to be the strongest bond in both countries, which is interesting in terms of how the regulatory state functions. As well as government devolving power to the regulators, they are also devolving the responsibility to have connections and relationships with the various interests competing for influence. This was seen in the UK in how the regulators have explicitly made moves to include and accommodate consumer concerns in their structure, through the Consumer Forum and Consumer Panel at Ofcom. It was seen in Norway with how the Consumer Council will rarely go to the relevant department in order to achieve something, but will go to the relevant regulator or authority. In this respect it is possible to see that the connections that are most important for consumer organisations are to the regulators and authorities. Therefore the consumer organisation's role becomes one of informing and contributing to the tasks of regulators, whilst also trying to constantly ensure that a consumer voice is present in the regulatory and policy process.

The Consumer Council is the most important part of the 'consumer family' in terms of consumers being represented in regulatory and policy processes in Norway. Although the Ombudsman is a vital part of the dynamic, as is SIFO who will be looked at next, their narrow remit means that they are not able to lobby as extensively as the Council. But, as was made clear earlier, the professionalisation of the business lobby and the increasing presence of lobbying by business in Norway, an accelerating lobbying culture, means that the job of the Council becomes ever more important in ensuring that consumers are represented and that consumer issues are core, not peripheral concerns.

One dimension that has also been alluded to in the UK is research and evidence; if organisations go to policymakers, both regulators and government officials, with solid evidence for a case they are more likely to gain favour. This is why the final part of the 'consumer family' is also important, as they carry out significant research into consumer issues. In this way SIFO, comparing with the UK, is the research arm of Which? or Consumer Focus. In this respect, it seems that Norway takes seriously the value of evidence, with regard to consumer issues, in having a designated consumer research body, where in the UK this is left to in house research teams. However, this may in fact be less effective in terms of impact on policy and regulation as the connections between organisations may be less strong than with-in organisations. Now the main consumer research body in Norway will be looked at in greater detail.

### **7.4.3 SIFO – National Consumer Research Council**

The National Institute for Consumer Research (SIFO) is a government run research organisation specifically concerned with issues around consumption and consumers. They have been actively engaged in both testing products and researching consumer issues since the 1950s (SIFO, n.d 1). They are also, much like the Consumer Council, involved in discussions and debates at a European level (AN, UK, Interviews, 2011).

This section will outline the important aspects of SIFO as an organisation; their organisation, their function, and their connections. Being that they are first and foremost a research institute, they are less active in their lobbying than the Council, and in legal work like the Ombudsman, but do play a crucial role in the 'consumer family'. The research they produce is utilised by both the Council and the Ombudsman, and they work reasonably closely, although SIFO, unlike the other two organisations, no longer shares an office building. This has meant that SIFO has become more distant from the activities of the other organisations than in the past (EJ, Interview, 2011).

### 7.4.3.1 Organisation and Operations

SIFO is a special case, in that they are a government funded, although an independent research institute dedicated to specifically researching consumer issues. They are given a free regime to research what on whatever they see fit. They have a board where members are appointed by the Ministry of Children, Equality and Social Inclusion, and then a variety of staff both academic researchers and product testing staff. Their principal mission is to develop and disseminate knowledge in the field of consumers and consumption. It essentially functions as an academic institution (EJ, Interview, 2011). They are run by a Board appointed by the Ministry, which ‘consists of representatives from research institutions, other consumer institutions, organisations and SIFO employees.’ (SIFO, n.d. 1) This includes the consumer Ombudsman, and senior staff members from the Council.

There are three core areas of research at SIFO: consumption and the economy, culture of consumption, and technology and environment (SIFO, n.d. 1). This ranges from qualitative research into various social and cultural practices, to larger studies with international co-operation, to the testing of products. They have, much like Which? in the UK, a fully functioning laboratory for testing all manner of products sold on the Norwegian market (EJ, AN, Interviews, 2011). In order to conduct this work they are funded through a variety of streams. 50% of their budget comes from projects for the Ministry, and then 50% comes from a variety of Research Council grants, EU grants and industry funding (EJ, AN, Interviews, 2011). It is mostly all ‘public’ money, as the industry funding is for very specific projects which are infrequent. In this respect SIFO does ‘answer’ to the ministry, in the sense that they have to keep on track with their research agenda and show results. One of the principal reasons being that if a new government were to get in that did not see their work as particularly beneficial, then they would be cut. Despite the fact that they have been working well for so many years, there is still a concern that the more right-wing party, *if* they got in, might not look upon the organisation favourably. As in the past they have stated that they would move research funding away from social research towards other research, like medicine (EJ, Interview, 2011) However, even within political parties there are changing winds in terms of priorities:

Due to changing political attention, for instance we belong to this sub division of the Department that has to do with consumer issues, and this has been into different kinds of ministries and every time there is a new government they change the [headline] title of the ministry, right now it is the Ministry of Child Affairs, before it was the Ministry of Equal Rights, before that it was actually the Ministry of Consumer Affairs. But that is way back, some 20 years. So these headlines [titles] actual tell you the main priority of the government...this has an effect on the political attention we are given. (EJ, Interview, 2011)

This is interesting in terms of what this thesis is arguing, that ideas and ideology matter, as these can determine the structures put in place to deal consumer issues. The political attention that the organisation receives is dependent on the perspectives of the policymakers that are in charge in the parent ministry. As will be shown in the next chapter (chapter 8) perspectives towards consumer organisations and their involvement in policymaking and regulation can be drawn along ideological lines.

What is clear is that as an organisation SIFO has a fairly independent status, and can conduct research without being too tied to their funders, and who have to demonstrate both scholarly activity and public dissemination through the media. This section will now turn to the connections

SIFO has, particularly concerning their parent ministry.

### 7.4.3.2 Connections

For SIFO the key connection is with the parent ministry, the Ministry for Children, Equality and Social Inclusion, and the Department for Consumer Affairs. This is who they meet with regularly, who have oversight of their activities and who control 50% of their budget. SIFO's contact with individual consumers is limited to when conducting research, but this can bring up crucial issues. When this does occur it is backed up by significant evidence, as a result of dissemination, and one of the principal places that this is done in through the media.

We're a research institute. So if we, through our research, can document for instance that consumers are not satisfied with conditions in this or that industry it often has a really big impact. This goes two ways. We have meetings with regulators and ministry to present our findings, but...the biggest impact is through the media. Our stuff is very often on the front pages, because it sells, it is about YOU. (EJ, Interview, 2011)

The focus on the personal dimension of consumer advocacy is interesting, and brings us back to the more neoliberal dimensions of consumers. The idea that consumer issues impact on individuals, not on collectives. The scandals can be focused on how it might have impacted on *you* as a person, not how it might impact on society in general. In terms of Norway, this increase in neoliberal discourse in the media has been evidenced by Nafstad et al. (2007), this will be considered in the next chapter.

It is also interesting to note that SIFO perceives that they can have a reasonable impact on industry if it is the case that consumers are really not happy. This seems to be in contradiction to what various colleagues said about the overall impact of SIFIO on policy generally (UK, IT, Interviews, 2011). This is possibly explained by the fact that by and large policy issues and regulation are influenced little by consumer organisations, but that when a major problem is found in a particular industry, and there is a strong public reaction – high salience, then something might be done. A good example of this was with the predatory behaviour of the major dairy producer Tine, who, as a result of both public outcry and the work of The Norwegian Competition Authority, was forced to pay a substantial fine.

In addition, the researchers at SIFO, due to some becoming experts on particular subjects, are called upon to be on advisory boards for some of the regulators and Authorities (EJ, UK, Interviews, 2011). This inclusion of expert advice and advocacy organisations is part of the broader trends in governance and network governance more specifically. That through bringing together the various stakeholders, including consumer representatives and experts, 'better regulation' will be reached. This is part of the broader 'republican tripartism' which this thesis is concerned with. These advisory groups and forums, like in the UK, are a crucial part of the structure of governance networks, as it is where the contact between the decision makers and stakeholders is institutionalised. This will be discussed in greater detail in the next chapter (chapter 8).

However, for SIFO the most important connections, or 'governing dialogue' (AN, Interview, 2011) are made in three different ways (AN, Interview, 2011): (1) is through a 'commission letter' from the ministry which states the budget for the institute. This letter is divided into various categories detailing the extent of SIFO's activities. The letter is accompanied by biannual meetings with the ministry, the DCA, where SIFO report on their activities, budget, tasks and on-going projects. In these meetings they received signals from them on the political priorities. This is a strict and formal meeting. (2) SIFO has a monthly breakfast meeting with at the Director of the Department for



Consumer Affairs in the Ministry. This is more informal meeting where they keep up-to-date with each other's activities. (3) The head of SIFO has regular conversations with the Head of Office, under the Director, for the Department for Consumer Affairs. These usually revolve around on-going projects that SIFO is conducting on behalf of the Department and Ministry. These three dialogues, which are official SIFO interactions with the Department and Ministry, are in addition to the more informal connections between other SIFO researchers and regulators, Authorities and Ministries (AN, Interview, 2011).

The amount of connections between SIFO and the Ministry seems to be more than the other two organisations, the Ombudsman and the Council, albeit that they all have regular contact with their shared parent ministry. But the one difference is that SIFO is constantly and actively working on behalf of the ministry, so it needs to be made sure that the work that they do is in accordance with the Ministry's needs, 'otherwise our budget would be vulnerable.' (AN, Interview, 2011) It is also the case that over the last few years that SIFO and the Ministry have become closer, by mutual consent, but that SIFO is acutely aware of the dangers that this holds, especially the fact that they do research on behalf of the Ministry:

There are dangers of course. From our part, we are interested in having an arms-length distance to the Ministry so they don't involve [themselves] too much in our research agenda, because a research agenda should be driven by an academic interest and not through what the government thinks is important or not. If there are political considerations that are governing our research then the value of the research will deteriorate. (AN, Interview, 2011)

So for SIFO the challenge becomes how they manage their relationship with their parent Ministry, to ensure on the one hand that they are doing what is required of them in terms of research for the Ministry, and on the other that that they remain independent and arms-length deciding upon areas of interest and expediency. Due to their budget being tightly controlled by a government Ministry means that SIFO have to perform certain duties, but they constantly re-visit the manage the their relationship in order that academic integrity is not compromised, as a senior advisor from SIFO says:

...the basic funding is broken into three parts: building our competence, projects related to on-going governmental duties, money to support other projects. The government is interested in the research for them, whether it is useful for them in their on-going policy making. They give signals, and then we respond with ideas, then there is a dialogue on how the research should be designed. There is a tolerance, and patience from the ministry that research is a process that needs freedom, and they cannot interfere and control it directly. There I think our government and SIFO is in a very beneficial position because I know research institutes similar to us but related to other ministries that are much more strictly, and much more tightly controlled by their ministry. (AN, Interview, 2011)

It is therefore possible to see that despite the relatively close relationship between SIFO and their parent ministry they still enjoy greater freedom than their counter-parts in other sectors. It seems apparent from the interviews in general, that SIFO's success is in their combination of product testing, public interest research and its dissemination in the media, and their high-level academic research on not just markets but social and cultural dimensions of consumption too. However, as one researcher pointed out they find that their academic work suffers from a focus on more popular media dissemination. This is seen to be easier, quicker and cheaper to produce, as it is firstly in Norwegian, and it has a short turn around, when a media outlet is informed about something it is

normally pretty immediate in its coverage. This is in stark contrast with high-level academic work which is more costly, more difficult as it needs to be in English, and there is a significantly long turn around for dissemination (EJ, Interview, 2011).

In summary, SIFO is the primary research institute for consumer related issue in Norway. It is well funded by the Ministry for Children, Equality and Social Inclusion and enjoys relatively close, but reasonably free, relationship with the Department of Consumer Affairs who oversee their activities. It is interesting to note the importance of the media as a point of dissemination, something that was also alluded to in discussion with both the Ombudsman, and the Council. The importance of directly informing consumers of the current debates, issues and possible scandals seems very apparent, despite the fact, or maybe because of the fact, that one commentator suggested that Norwegians were generally very passive (IT, Interview, 2011). SIFO, although outside the loop in terms of direct policy and regulation lobbying, does seem to be an integral part of the consumer family in terms of their relationship with the ministry, their connections to the other organisations, the dissemination of their research via the media and academic publications, and through their researchers sitting on advisory boards across sectors. Despite all of this, their impact, and consumer organisations impact generally, is still considered by some of the senior researchers (UK, IT, Interviews, 2011) to be peripheral. This issue will be returned to in greater detail in the next chapter (chapter 8), but it is very interesting, and crucial to this thesis, to make clear that, despite the favourable structures, these organisations are still peripherally important to policy making and regulation. Subsequently this makes determining their role, the central question of this thesis, much more difficult, but all the more important. Even though they seem to be understood to be peripheral this tells us a great deal about contemporary network governance, the regulatory state and the connections to civil-society. It shows that although there has been a broad encouragement of civil-society inclusion and institutionalisation, that this is seemingly largely rhetorical and that the decision making power still resides outside of forums designed to devolve the practices of policy making and regulation close to ‘citizens’. This problematizes contemporary practices of network governance, much like Davies (2011) suggests (as discussed in the theory chapter (3)), in the sense that these connections are still very much hierarchical despite being imbued with an ideology of inclusion and devolution.

This chapter will now turn to consider the policymakers, particularly focusing on the Department of Consumer Affairs, the key institution inside the Norwegian government that deals with consumer issues. This will be done in order to gain the perspective of the those that are closer to the decision making, and to get an understanding of the role of consumer organisations in Norwegian politics.

## **7.5 Regulators and Policy Makers in Norway**

In a similar way to the UK, Norway has a variety of regulators in place to uphold various Acts of parliament, and to ensure that particular sectors run in accordance with the Act. This is no different with the media where there is the Mediatilsynet in place to uphold the Broadcasting Act. However, the Norwegian regulators, unlike the UK, do not have ‘consumer forums’. There are advisory groups set up, for example in the Food Industry, where consumer advocates with a particular expertise in a specialist area will be called upon. This was shown in the previous section when concerning the experts at SIFO.

The more crucial connection is with the parent ministry, and specifically with the Department of Consumer Affairs (DCA). It is with the DCA that the various members of the ‘consumer family’

meet regularly. What was accessed through the interviews was the key ministry in the Norwegian government that is specifically concerned with consumer issues, in addition to the three arms of the consumer advocacy ‘family’, and a discussion with a key officials in the Norwegian culture ministry. These together enabled a significant understanding of the place of consumer organisations in Norwegian regulation and policy making to be gained.

### **7.5.1 Department for Consumer Affairs: Organisation and Connections**

The Department for Consumer Affairs (DCA), which is part of the Ministry for Children, Equality and Social Inclusion (MCES, 2012), is the main point of contact for the consumer organisations in Norway. Although there are important connections built up between consumer organisations and Authorities (regulators), the primary point of contact, in general, is with the DCA. In particular this is with the Director General, who has regular meeting with the Ombudsman, and the Consumer Council. The DCA employs 20 people who work on various aspects concerned with consumer issues and upcoming policy.

They are the primary point of contact in the government for the consumer organisations. To the extent that they enjoy a better relationship with them than they do other ministries and regulators, due to both the fact that they are funded by the DCA and the Ministry, but also that they have shared objectives. They are principally concerned with consumer issues, just like the consumer organisations. The DCA’s role is, other than helping to implement the legislation of the politicians in charge, is to also lobby other ministries and regulators from within (BF, Interview, 2011).

As a Department in a ministry they spend time talking to a variety of interest groups, including environmental NGOs about issues related to consumption and the environment. This is interesting in regard to what one of the commentators from SIFO suggested, that most of the major public policy problems, like the environment, were really issues of production *not* consumption (IT, Interview, 2011). Changing the habits of consumers was not going to resolve a problem which at its heart was an issue with the production process. This takes us back to a more Marxist perspective that sees the core concern in the production process itself, not in the results of the process. As Grant (2005) suggests we now live in a political order which is chiefly concerned with the results of the production process, but in addition as an interviewee suggests, the cleavage between labour vs. capital, and now moved to one of production vs. consumption (UK, Interview, 2011).

It seems from discussion with the DCA, that their principal contacts are with the consumer family, and with other ministries. Being that the DCA is part of the government ministry their role is far more focused than that of the Consumer Council. They are there to do the bidding of the minister in terms of issues relating to consumers and consumption, and it is their role to ensure that the ‘consumer family’, who are bigger organisations, do their job in this respect (BF, Interview, 2011). As you can see in the table below the Consumer Council and SIFO are directly answerable to the DCA:

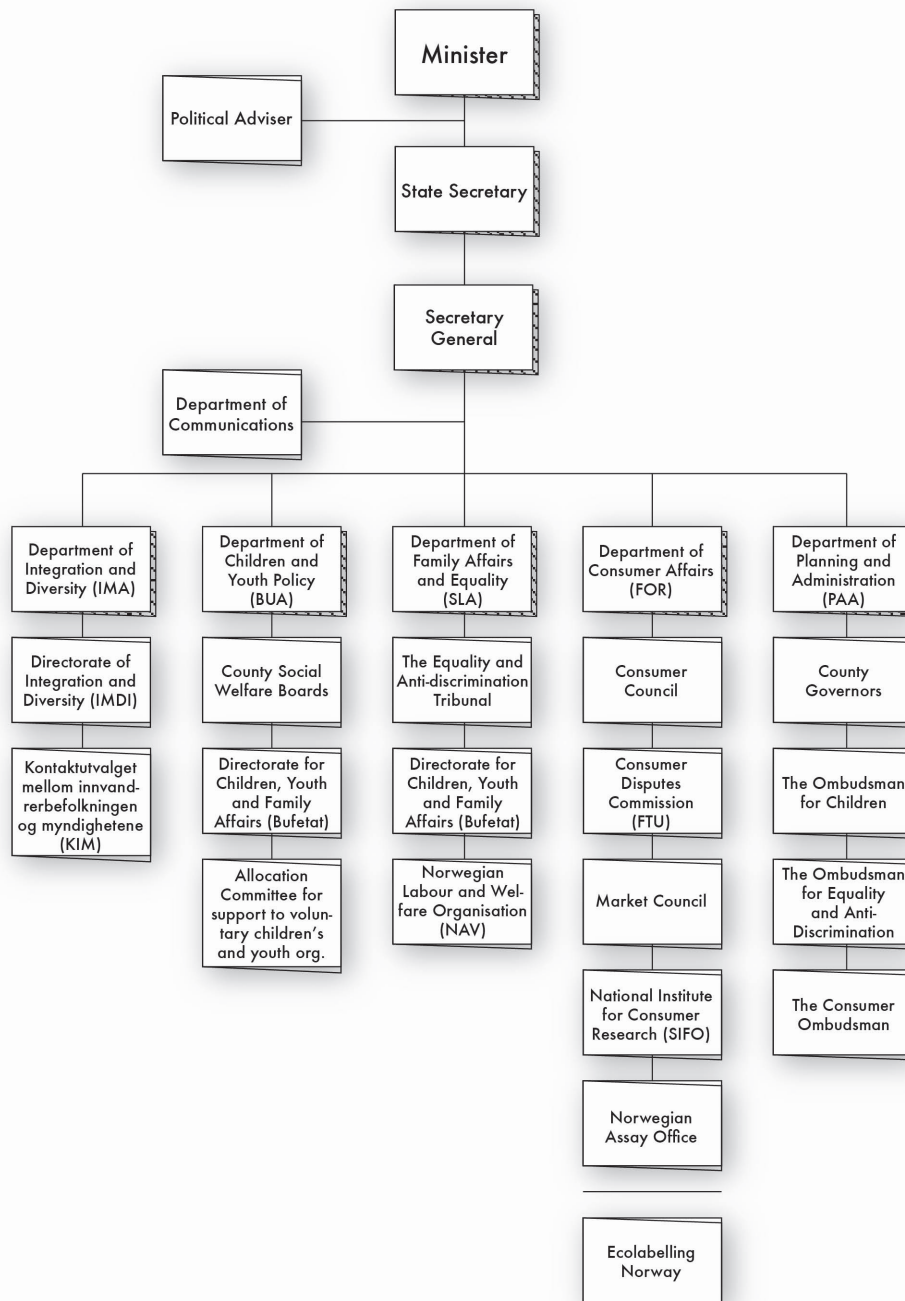


Fig.3 Structure for the Ministry of Children, Equality and Social Inclusion (MCES, 2012)

It is therefore clear to see that the consumer organisations in Norway, although relatively independent in their operations, are very much part of the government structure. This complies with Norway being a more corporatist state than the UK through having the representatives of collective interest, like that of consumers, incorporated into the main body of the state. However, there are differences between ministries, and between departments, as to how close their relationships are with the subsidiary organisations. For example, in the consumer section, the various organisations seem to have, and understand themselves to have, good working relationships, but which do not compromise their core mission. The Consumer Council, it seemed, was less eager to admit to this, often stating their independence despite the financial and political oversight from the DCA and the Ministry (TN, Interview, 2011). Whereas SIFO and the DCA understood the ties to be close, although not overbearing: 'It is a strong tie but we are perfectly aware of our different roles.' (BF, Interview, 2011) However, the DCA recognises that the institutions set-up around consumer

representation, including the ‘consumer family’, the DCA itself, and the dispute resolution agencies share common goals but that they have their separate roles. Moreover, the Consumer Council itself is seen to recognise that they are part of a ‘consumer family’, and that the DCA and MCES are part of that: ‘I think they [Consumer Council] have a better relationship with us than with other ministries. I think they feel we are their ministry.’ (BF, Interview, 2011) This sense of being part of something is a vital part of how consumer representation and advocacy works in Norway. Through the various bodies an epistemic community is created that, in their different roles, represents the interests of consumers.

The greater difficulty for the DCA comes with their attempts to persuade other ministries to adopt more consumer orientated policy and regulation. On the whole they consider the attempts to influence other ministries as not generally successful, some ministries being particularly difficult to persuade, like the Ministry of Trade and Industry. Others, like the Ministry of Agriculture and Food, who work with similar cases, and who have responsibilities that overlap with the DCA and the MCES, are far easier to persuade (BF, Interview, 2011). This again can be put down to a shared set of ideas about the role of regulation, and the purpose of consumer protection and representation. The times when other ministries do come to the DCA is when they themselves have a specific consumer issue that they need help with, rather than broader policy and regulation which may require input from consumer organisations: ‘If they [other ministries] have a consumer interest, and they have when it comes to dispute resolution, because they are bound by EU resolutions, then they need our help, and then we are very interesting for them.’ (BF, Interview, 2011) In this respect the regulations put in place through the EU are of significance for consumers, as decision makers are forced to comply with particular standards with regard to dispute resolution. However, this only concerns consumer *within* markets. Dispute resolution and consumer redress issues are systems put in place to deal with problems occurring within markets, and are therefore not concerned with the process in which regulation and policy is created.

This seems to be the major factor in when consumer organisations are seen as core, and when they are seen as peripheral to a policy or regulatory process. When developments in policy or regulation have an explicitly consumer dimension, like the Consumer Rights legislation, the organisations become the ‘go-to’ people for those making and ratifying the policy. But when the consumer interest is perceived to be of peripheral importance, like with product placement legislation, then consumer organisations have the bare minimum impact. It is in this respect that understanding the role of consumer organisations, and whether they can counter-balance industry pressures and have impact on policy and legislation, we can only really understand it on a case-by-case basis. In this respect the *issue*, much like ideology, matters. This will be discussed in greater detail in the analysis chapter next (section 8.6).

Although there are institutionalised and ad-hoc meetings with the consumer organisations, it is when a major issue arises that they actively work together. This took place recently with the Consumer Rights legislation going through Brussels, an issue that has come up in numerous other interviews in both the UK and Norway (JH, TN, Interviews, 2011). The EU was another issue that also arose, as the DCA, together with other consumer organisations in Norway had got together in order to put forward the Norwegian interest in respect of the Consumer Rights regulation: ‘For example we were working hard [to] influence the upcoming directive on consumer rights, and there we had a permanent group with two ministries involved, our ministry and the Ministry of Justice, and the consumer institutions. All worked for Norwegian interests, on mostly the same ground, but through different channels.’ (ES, Interview, 2011) In this way the various organisations together, and in a particularly expedient case, could potentially have some impact and ensure that

the legislation was drafted in such a way that consumer advocates across Europe would be satisfied. The European Directive for Consumer Rights will have to be implemented into member state law by 2014, and consumer organisations throughout Europe, including both the UK and Norway, have been involved in the process. However, as one consumer representative from BEUC, the European umbrella group for consumer organisations said, there have been ‘compromises’, but: ‘In general we are happy with what is included in this directive.’ (Moore, FT, 2012) So in the case of Norway the various institutions concerned with consumers, although having a variety of independent roles, came together over a crucial issue and what has been reported was by-and-large a success for consumer organisations, and subsequently consumers. The DCA, for Norway, was a key part of this coalition as they are a Norwegian government ministry so do hold weight in Brussels, having built a good working relationship over 25 years enabling them to have exclusive meetings with the commission (BF, ES, Interviews, 2011). It also helped that one of the officials in the commission, who was working on the legislation, had previously worked in a local office in the Norwegian consumer council (ES, Interview, 2011). In this respect the connections that the DCA has in Brussels, combined with their experience, enabled them to an extent lead the consumer coalition in putting across their perspectives, which is for a small country like Norway is impressive.

In summary, what this section has outlined is how the Department of Consumer Affairs deals with processes of regulation and policy making and what connections they have to both other consumer organisations, other ministries and the EU. It was shown that the Department for Consumer Affairs acts on behalf of the Ministry for Children, Equality and Social Inclusion to ensure that consumer policy is adhered to, that new policy takes consumers into consideration, and that they oversee the activities of the ‘consumer family’. It was also clear that interactions between themselves, other ministries and the consumer organisations happened very much on a case-by-case basis, despite the institutionalised connections. It was really when a particularly important issue arose that they would capitalise on the relationship between the different consumer organisations who would otherwise be working on their own concerns.

An overview of this chapter will now be given in order to get an insight into the state of consumer representation, and consumer organisations in Norway as a whole, and to see what role they have in Norwegian politics.

## **7.6 Conclusion: Understanding Consumer Organisations and Representation in Norway**

Norway, despite the significant differences with the UK in terms of structure and ideology, faces some of the same issues when it comes to consumer representation. In Norway it is possible to see a well funded and well organised, in terms of roles for the different organisation, consumer advocacy system. This is despite the fact that, as one commentator put it ‘Norway has no consumer organisations’ (IT, Interview, 2011), in the sense that they do not have any organisations that represent grassroots consumers, but only government funded public bodies. The three members of the ‘consumer family’, together with the DCA make for a solid structurally stable consumer representation, despite the legitimacy issues surrounding their contact with consumers. However, it still remains the case that by and large the organisations feel that they are peripheral to the main policy making and regulatory processes. It is only when particularly obvious cases, like that of consumer rights legislation, arise do they become core to the process. This will be addressed in greater detail in the next chapter.

In addition, Norway clearly differs from the UK in the extent to which, as practiced govern-

ance, they place less emphasis on farming out responsibility to regulators than the UK does. Even though there are numerous regulators and Authorities with particular responsibilities, it is less developed in terms of the inclusion of consumer perspectives than in the UK with the example of Ofcom. In this respect the regulatory state can be seen to exist much more starkly in the UK than in Norway. What is clear however is that consumer issues, and consumer organisations, are given, on the face of it, more resources and more power. As shown in the interviews the Norwegian ‘consumer family’ is very well supported financially, compared to other European countries, but also crucially they are generally seen in a positive light by both policymakers and the public (BF, ES, Interviews, 2011). This is made most clear with the dedicated consumer department in the Ministry, and with the ‘consumer family’ that directly feeds into the ministry. This is typical of a more corporatist system that Norway is often claimed to be.

But it does not however necessarily mean that consumer organisations have any more impact than they do in other systems. What is interesting is that despite the significant difference in systems there is considerable similarity in the way in which consumer organisations are at times understood to be core participants in policy making, and at other times considered to be very peripheral. This is also despite the rhetoric from the authorities that consumers are the most important group and that all policy provisions are made on the basis that they would enhance the position of consumers. Even though the policymakers, of course consider consultations and the input from consumers as vital, but this does not mean that policy and regulation will necessarily go that way as there are various other interested stakeholders who also involved in lobbying.

In Norway consumer representation, through the various institutions, is still in a good position despite the fact that some of the interviewees think that it is changing. So what we see in Norway is a system of consumer representation that has remained relatively stable over the years, which receives popular support, but which has little political power in the regulatory and policy process, although can have some power when there are media scandals or very ‘consumer specific’ issues.

The major point is that consumer organisations have more weight than individual consumers, who have the classic collective action problem. They can then represent them in forums in which individual consumers would not otherwise be represented but business and labour would be. The idea that government officials would be both representing the citizen interest and the consumer interest whilst trying to arbitrate between the competing interests is difficult, due to the increasing complexity of consumer markets that has resulted from a neoliberal policy paradigm. If it is the case that markets need to be opened up, then consumers need to have the ability to act over and above merely opting out, which is the only line of defence for the market liberal. You cannot opt out of some markets as there is either not enough competition or that a particular good or service has become dominant. In this respect, despite the issues with some of the Norwegian organisations, like their grassroots legitimacy and the lack of a consumer conscience, the fact that they are so well-funded, structurally stable, and enjoy popular support are positive attributes.

What is most important to note about Norway is the scale of their consumer representation in comparison to their size, as one official pointed out:

We are a little country but we probably have the largest consumer organisations compared to the population...in the figures about how much the European governments contribute to consumer organisations, in money real I think Germany is a little bit ahead of us, but proportionally Norway is way beyond any other country. So the consumer council has quite a unique standing in Norway, they cover all aspects of consumer policy and interests and matters, in that sense there is not room for other organisations. (ES, Interview, 2011)

But, as the interviewee pointed out, the very fact that there is such a strong corporatist dimension to the consumer movement in Norway means it does not leave much room for other actors, like a more ‘grass-root’ movement with a direct relationship to a ‘membership’. Therefore those that think that Norway needs to develop more member-based advocacy organisations, for both democratic legitimacy reasons and to have greater independence, might be willing to forgo the relative luxury they experience in terms of proximity to government and in terms of resources.

Like in the UK consumer organisations in Norway seem to be core when it comes to consumer rights legislation, but peripheral when it comes to broader policy and regulation. It seems to be the case that only when significant evidence can be shown that either a market is failing to provide adequate choice, or when there is enough public outcry about a particular issue, that consumer organisations have some leverage. But as we have seen it is the organisations themselves that are required to better understand these issues and then disseminate the findings. Outside of this consumer organisations, in Norway and the UK, remain just an interest among many, and in most sectors it is industry which has greater weight. So, if the organisations were not there, the situation would be that consumer rights legislation would most probably be weaker, there would be less exposure of scandals and market issues, and there would be far less developed information and redress services. However, it might then be the case that more independent grassroots organisations, like Which? in the UK would come about, but due to the various collective action problems associated with such diffuse public interests, this is in theory unlikely.

So consumer organisations, in both UK and Norway, therefore play a vital role in the broader public sphere, but whose strength in policy and regulation is largely of peripheral importance, and limited to being core in very specific cases. In this respect there are significant improvements that could be achieved if a genuine counter-balance to industry and agency pressure is to be achieved. Furthermore the regulatory state, in the case of the UK, can be seen to be inclusive of consumer interests, but that when weighed against that of industry is far weaker. In short, in both the UK and Norway consumer representation is good, but could be far better.

This investigation will now move onto the analysis chapter, where the findings from the chapter on the UK (chapter 6), and this chapter on Norway (chapter 7), will be analysed in greater depth, and the key arguments presented.



# 8. Empirical Analysis: Consumer Organisations in the UK and Norway

## 8.1 Introduction

This thesis is concerned with the role of consumer organisations in policy making and regulation. It has so far outlined the literature on consumer organisations, interest groups, and the state and governance networks in order to gain a full understanding of the complex dynamics at the heart of contemporary policy making. It then utilised data gathered from elite interviews in the UK and Norway in order to get a deep understanding of the role that consumer organisations play, and are understood to play, in the regulatory and policy process, and has sought to take account of the extent to which they are seen as a balance to industry and agency pressure. The theories on the regulatory state, governance networks and constructivist institutionalism have been utilised to structure the analysis. This was achieved by addressing how the regulatory state appeals to civil society, assessing the subsequent governance networks that result, through a constructivist institutionalist position that is concerned with the ideas and perceptions of actors within the policy and regulatory process. This analysis also used the meta-frame of an interpretive epistemology that is concerned with unpacking the ideas, practices and discourses of phenomena derived, and interpreted from ‘...observation, conversational interviewing, and texts, rather than translated into measures’ (Yanow, 2003, p.16). What has been seen is that it matters how consumer organisations see themselves, and how policymakers, construct the role of consumer organisations. This can tell us a great deal about the politics of policy and regulatory process. What has also been shown is that consumer organisations’ role in policy making and regulation is greatly determined by ideology, ideas and issues. In addition it has been shown that despite the structurally advantageous position of consumer organisations, compared to some other interest organisations, they are still relatively weak compared to that of business.

This chapter will take what has been outlined in the previous two chapters on the UK and Norway, and draw out the most salient factors in order to structure the chapter; whether they are core or peripheral to the policy process (section 8.3), the ideological frames in which they are constructed (section 8.4), and the importance of ideology, ideas and issues (section 8.6). It will directly address the research questions, and will show how we can understand consumer organisations in contemporary policy making and regulation, and in so doing gain a full understanding of the complex politics of policy making. What is shown is that consumer organisations’ role differs depending on ideology, ideas and issues. The broader ideology of the state matters in so far as it has a determining impact on the structure and resources of the organisations, but also it sets an ideological context in which the organisations have to operate. The ideas matter as individuals within the policy making and regulatory process have political positions with regard to the extent of the market, the extent of regulation, and the legitimacy of particular groups and organisations, and this matters for how consumer organisations build relationships and ultimately represent consumers outside of markets.

After this, the research questions will be directly addressed (section 8.6). It will start with the

supplementary questions in order to build towards the key overarching question of ‘what the role of consumer organisations is in contemporary policy making and regulation?’ In order to take account of this question we need to first understand the more intricate dimensions regarding three specific elements: (1) how consumer organisations are institutionalised by the state, (2) the extent to which consumer organisations provide a counter-balance to industry and agency pressure, and (3) in what respect consumer organisations are understood to impact upon policy and regulation. By understanding these three elements, can we then address the primary concern of what role consumer organisations play in contemporary policy making and regulation.

The thesis will then move onto the conclusion (section 8.7) where the broader debates will be addressed with regard to the analysis and arguments presented in this chapter. It will also provide some issues for future research.

First this chapter will consider the differences and similarities between consumer organisations in the UK and Norway, before moving to look at the broader themes. This will then set in context the deeper analysis that comes after.

## 8.2 Major Differences and Similarities: UK and Norway

As we have seen in terms of the structure of the state, and the incorporation of consumer organisation, there are significant differences, but also some similarities. There are several themes which were evidenced, core/peripheral, the framing and the place of ideas, which will be addressed in this chapter as stated above. What this section will do is look at the differences and similarities in terms of the UK and Norway as political systems.

The relatively more pluralist political system of the UK, and the subsequently more corporatist system of Norway, did by and large fit what was evidenced with regard to consumer organisations. The consumer organisations in Norway were part of the state structure, albeit at arm’s length. They are chiefly funded and overseen by the Department of Consumer Affairs and the Ministry for Children, Equality and Social Inclusion, and even though they exhibit considerable independence in their activities, they are still ultimately answerable to those that hold the purse-strings. This does not however seem to have made a difference in terms of whether they are considered to be either core or peripheral to the regulatory process, or the extent to which they have impact on policy. The UK on the other hand displays greater pluralism, in that there are more independent organisations from a wide cross section of civil society, all whom are included, or have the opportunity to be included in the various policy and regulatory forums that are convened by numerous regulators. However these organisations are not exclusively and explicitly *consumer organisations* but a variety of charities and NGOs concerned with their particular constituents’ issues as consumers. But when concerning those organisations which are exclusively and explicitly *consumer organisations* there is one notable difference. That is the organisation Which?. The organisation’s independent status, combined with its successful business model and the fact that it is incorporated into governance networks through its position as a ‘super-complainant’, and its inclusion in policy making forums both across British policy making and regulation but also at a European level, makes it one of the more successful organisations in terms of its operation. This does not necessarily translate into direct influence, but does give the organisation good standing in the policy and regulatory process. Which? is respected in the fact that it does not take money from anyone – public or private, and that it has a membership that gives them a grassroots dimension. However, this has itself been criticised, as the ‘grassroots’ membership is made up of those individuals that subscribe to their product testing magazine, who are largely middle class and affluent, and can be accused

of being ‘petty minded penny pinchers of commodity capitalism,’ (Hilton, 2009, p.51). They do not therefore represent the bulk of consumers, or in particular ‘vulnerable’ consumers who have a particular significance for regulators and policy makers, due to them being ‘at particular risk of exploitation’ (BIS, 2012, p.4). This is evident in the recent consultation and response documents for the ‘Changing Consumer Landscape’ consultation in the UK, in which vulnerable consumers are mentioned frequently as one of the key reasons for the need for a system of consumer protection and representation (BIS, 2012).

Despite these concerns accorded to Which?, they are well respected in the UK and elsewhere (IT, MG, Interviews, 2011/12), and provide us with an anomaly in terms of the consumer organisation populations in both the UK and Norway. Consumer Focus, the other dedicated consumer organisation in the UK, is similar to that of Forbrukerrådet, being that it is a non-departmental public body, and also located in the same office as the OFT, the ombudsman, much like Forbrukerrådet and Forbrukerombudet in Norway.

In more structural terms the consumer organisations in the UK seem to be more varied and dispersed, in terms of both how they are run and their connections to other organisations, than those in Norway, which are more concentrated in terms of their closeness to government and their relationship to each other. The importance of this in terms of the strength of consumer representation in each system is difficult to ascertain, as in one respect the incorporated system one might consider to be better for the organisations and for consumers as they are closer to the levers of power and the decision making process. However, this could be a way to disarm the organisations and co-opt them into a broader system in which their impact is diluted. According to one commentator consumer organisation inclusion in Norway is largely aimed at merely increasing legitimacy: ‘It’s about legitimacy. They don’t want to communicate about solutions, about the power between the industry and consumers, they don’t want any of that...they’re interested in, it’s about legitimacy, they want peace and quiet.’ (UK, Interview, 2011) Although this might be an overly cynical perspective on the role of consumer organisations in Norway, the particular interviewee had been active in advisory groups for a number of years, especially in food policy, and was decidedly negative about the potential of consumer organisations in impacting on policy and regulation. This tells us that the system which incorporates might not be so good for the consumer at the end of the day. Where in the UK we do see a more diverse and dispersed population of organisations, the regulators themselves are seemingly, in the case of Ofcom at least, keen to ensure that consumer organisations and their representation are made part of the institutional design through the various forums. As stated, Ofcom has as its mandate to regulate in the interests of ‘consumers and citizens’, as does Ofgem, the energy regulator. But both have been criticised for a lack of attention to the needs and wishes of consumers: ‘OFTEL, too, under its various Director Generals (DGs) could be seen in general to be on the side of the consumer. In spite of this in the first five to ten years after privatization it was not apparent that the consumer’s lot was improving in terms of lower prices or better standards of service.’ (Young, 2001, p.55) However despite this Young also suggests that privatisation has been of benefit to consumer organisations, and by logical extension consumers. This is of significant interest, as it is the suggestion that consumer organisations have become *more* relevant with DLP as consumers are the target interest:

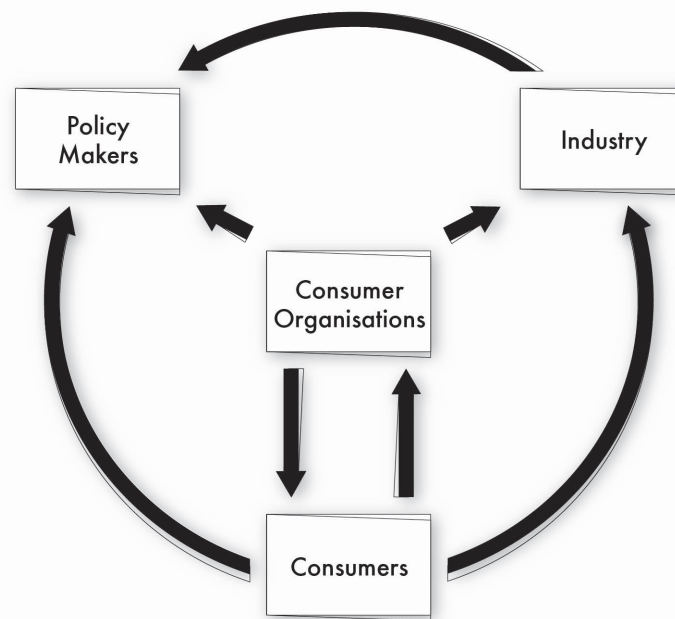
Under nationalization, consumer bodies were weak and had little influence (Ogden, 1997, p. 535). Those established at privatization developed a much stronger role, each with its own individual structure and modus operandi. Other organizations such as the PUA, NCC, CA and the National Association of Citizens Advice Bureaux (NACAB) have also been instrumental, through lobbying parliament, Whitehall and the regulatory offices in gaining improvements for all categories of customers. (Young, 2001, p.64)

One suggestion from across the interviews is that market size matters, as was suggested in the interviews at the EU level with BEUC - the bigger markets tend to have stronger, and better resourced, consumer organisations. However this does not seem to be the case with Norway, which has a relatively small market but a strong consumer presence, as was outlined above in Section 7.6. However, what it may show is that without the state intervention, as in Norway, small markets do not enable a strong consumer voice, which are possible in larger markets. The consumer organisation from Malta, for example, complained of the lack of funding and resources, and put it down in large part to the relative market size combined with a disinterested state (Consumers' Association of Malta, Questionnaire, 2011).

However, the co-option we see in the UK, is not the same co-option as we see in Norway, but a way that the regulatory state attempts to get 'better regulation', for, as was said by the Ofcom official (see chapter 6 on the UK), both instrumental and democratic reasons. The process is made more democratic through reaching out to a wide variety of civil society organisations, and although the connections might not be as well developed and concentrated as in the Norwegian case, it may have a greater impact collectively. This however could also be down to the ideology, ideas and issues which will be looked at later in the chapter. Furthermore, even though the UK is by and large more easily defined as neoliberal, the setting up of some of the regulators under New Labour were themselves ideologically contested:

...those from a neoliberal perspective have feared that such bodies too easily become an insidious and unaccountable extension of the state; meanwhile, those taking a social democratic approach to governance have hoped – albeit with critical doubts along the way – that such bodies can achieve beneficial outcomes precisely because of their political independence, their concentration of expertise and their flexibility in working with industry, civil society and the public. (Lunt and Livingstone, 2012, p.3)

In this respect the regulatory culture in the UK seems to provide a more dynamic relationship than of that in Norway, which is fairly instrumental. Norwegian policy makers seem to see consumer organisations as a link, and a mediator, between them and the public evidenced as they are seen as: 'A way to get relevant information. To understand what is going on. To test the water,' (OC, Interview, 2011), and they can, '...see loopholes in our legislation,' (ES, Interview, 2011), and this is principally due to the fact that: 'They meet the consumers. We don't' (BF, Interview, 2011). In this respect consumer organisations in both countries can be seen as 'eyes on the ground', organisations who help politicians and policymakers to see the potential pitfalls of policy and regulation. In this respect consumer organisations become somewhat of a mediator in the governance network. This diagram helps to illustrate this:



**Fig.4 Consumer Organisation Intermediation**

As this diagram shows, consumer organisations, receive information from consumers in the form of complaints and redress cases, this informs them of issues in particular sectors and markets. This enables the organisations to really understand how particular markets are functioning for consumers. At the same time the organisations are able to provide consumers with information, both about the rights as consumers and about products and services, through both their website, campaigns and media appearances. Consumer organisations are themselves able to feed the information they receive from consumers through to policy makers and industry. This is done both through the institutionalised forums and through ad-hoc connections. At the same time consumers inform industry through their consumption practises, and inform policy makers both through individual responses to consultations and ultimately through the voting booth. At the same time industry is also lobbying the policymakers for favourable conditions for business, which by and large means *less* regulation.

Therefore what is crucial here, and where the consumer organisations in both countries share characteristics, is that they are seen as mediators between the public and policy makers, they enable the policy and regulatory process to be more porous and open to public scrutiny, but also providing input that directly serves the interests of consumers. So, on the face of it their role seems to fit into what the theory on governance suggests of public interest organisations: ‘The inclusion of relevant and affected groups and organizations in governance networks help to overcome problems in terms of societal fragmentation and resistance to policy change, and thus tends to make the governing processes more effective.’ (Sørensen and Torfing, 2007, p.4) However, what is crucial to understand, and therefore what this analysis chapter, and thesis as a whole is aimed at achieving is determining, through understanding the participants’ perspective, whether or not these governance networks actually work in this way when concerning consumer organisations in practice. What needs to be understood then, when looking back at fig.4, is whether or not the connections between consumers and policy makers, and consumer organisations and policy makers is enough to counter-balance the intermediation between policymakers and industry.

Through the interviews it has been possible to gain an understanding of how consumer organisations are understood to fill this role, and the extent to which it is successful in terms of acting as a counter-balance to industry and impacting on policy. What has been found is that consumer

organisations are in fact largely peripheral to the processes but if the issue is salient and obviously explicitly relevant to consumer organisations input, like that of Consumer Rights legislation, then they will get to input in a significant way. What mattered was the ideology of the structure, the ideas of those involved and the issue in hand; all of these dimensions play a part in the role that consumer organisations will subsequently have in a particular policy process.

This chapter now moves to look at how the inclusion or exclusion of consumer organisations into the policy and regulatory network can be theorised further. This is done in terms of the extent to which organisations and policy makers understand the consumer interest to be core or peripheral to decision making, and therefore determine the role of consumer organisations in the process. This has been done through drawing on the interviews and building a picture of how it is that consumer organisations play a role in the policy process, and what was found was that perceptions and understandings were in many respects contradictory. However, once we theorise the role they play, and critically analyse them, it is possible to see that the role that they have is by no means fixed, as evidenced in individuals' different understandings of the place of consumer organisations - which can also have a determining impact. This is why taking account of the perceptions of individuals involved in the regulatory process is so vital for understanding the contours of the state and governance networks, as it is these perceptions and positions which both evidence and can shape the activity. It is the ideas and discourses that construct the institutions themselves, therefore what needs to be uncovered and unpacked are these very understandings.

This chapter now turns to look at one binary dynamic which frames the way in which individuals involved in the policy process understand the consumer interest and consumer organisations. This is done in terms of the extent to which the consumer interest is seen as either core, or peripheral, to the policy process, which then impacts the particular role of consumer organisations.

### **8.3 The Consumer Interest: Core or Peripheral**

In the previous two chapters we have seen how consumer organisations in two different polities interact with policy makers and regulators, and have understood, to some degree, what role they play in contemporary governance. They inform policy makers of consumer issues within the market, and potential issues with new legislation outside of the market, whilst at the same time informing both industry of concerns, and providing information and dispute resolution to consumers themselves. They also provide greater democratic legitimacy to the process in general, and their inclusion conforms to the central premise of governance networks. What will now be shown is the ways in which consumer organisations are understood to play a role in the policy and regulatory process, in terms of how the extent to which the consumer interest is seen to be either core or peripheral to the decision making.

This is not to say that it is only the case that consumer organisations, or the consumer interest, are only ever core or peripheral, but to suggest that, depending on the particular policy area, those actors involved, the norms and ideologies of those actors, and the broader ideological frame, will impact on the role that consumer organisations are understood to have in that particular case. This the might well be translated into them, in practice, in particular scenarios, being core or peripheral themselves, but this is of no consequence if we are trying to understand their broader role in the policy and regulatory process, and system of governance as a whole, as the answer to the simplified question 'Do they have influence?' will just be an ambiguous 'Well it depends.' It is therefore far more satisfactory to detail and theorise the intricacies of inclusion as public interest groups, taking account of the differences in perceptions, both in broader terms of their inclusion in the regulatory

process but also in terms of ideas and ideology of individuals. The place of consumer organisations, and the consumer interest, in this respect is not one or the other, either core or peripheral, but both, in different circumstances and in different capacities.

The next diagrams, fig.5 and fig.6, show the ways in which the consumer organisations can be seen to play a role in the policy process in terms of the consumer interest being either core, or peripheral, to the decision making. On the left hand side is a diagram of how the consumer interest are understood to be core to the regulatory process, and on the right hand side is a diagram detailing how the consumer interest is peripheral to the process. Below the diagrams is a full explanation of the role of consumer organisations in each circumstance.

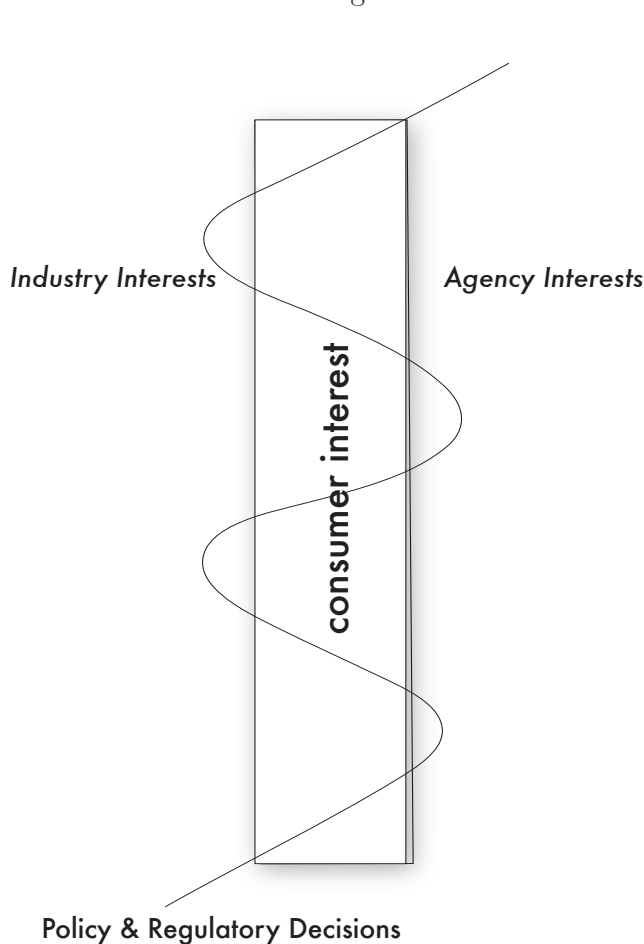


Fig. 5 Consumer Interests as Core

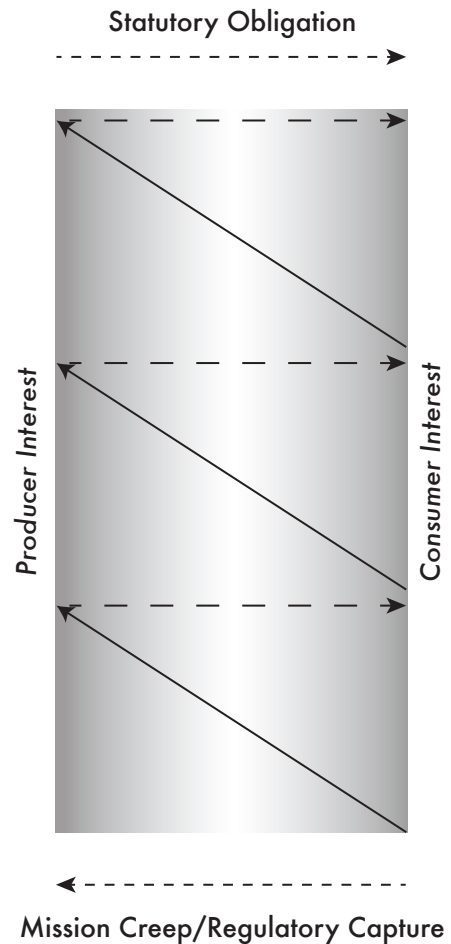


Fig. 6 Consumer Interests as Peripheral

From the analysis in the empirical chapters (chapters 6 and 7) we can see that the representation of the consumer interest can be understood in two ways. That either the consumer interest is core to all that regulators and policy makers do, as shown the left-hand diagram in fig.5, where policy and regulatory decisions meander from some being more in the interest of producers, and some being more pressured toward agency concerns. This is *not* to say that these interests could not overlap, they could, but to explicitly show that decisions will have some bias, be that in favour of the producer or the agency. What is crucial here is that the consumer interest is core. It is a central tenet by which policy and regulatory decisions are made. The role of consumer organisations, when this might be the case, is to embellish and strengthen this, the stronger the interest organisation community the wider the band in the middle would be and the less the fluctuation between producer and agency pressures.

The regulators and policymakers, in addition to some consumer organisations, thought that the consumer interest was core to policy making and regulation. Even though it is likely that the regulators and policy makers would say this, as it is by and large their statutory or parliamentary obligation, it can still be gauged in terms of core and peripheral, as sometimes the consumer interest might be core, and sometimes it will be peripheral. In these circumstances we can then analyse what role consumer organisations have, to either embellish or strengthen policy and regulation proposals and implementation, or, in the next case, to ensure that statutory duties are upheld.

It is also the case that the consumer interest can be seen as peripheral, fig.6, where policy and regulatory decisions gravitate away from the consumer interest and toward the producer interest. This occurs through both regulatory mission creep, and regulatory capture. Consumer organisations role in this scenario is to ensure that statutory obligations are adhered to, and that the consumer interest is kept in mind.

So what we can see is two scenarios (1) where consumer interests are core to the process, and consumer organisations help it to be stronger, or (2) that consumer interests are peripheral to the process, and consumer organisations' role is to attempt to ensure that the consumer interest is taken into account and that statutory duty adhered to. Both of these circumstances exist in the UK and in Norway, and the difference is purely on a case by case basis. With the consumer rights directive, for example, the consumer interest, and consumer organisations themselves, were core to the process. In the example of product placement it was peripheral, as most consumer organisations were against the proposals, and it was only the minister's decision which changed the ban. Consumer organisations were then in a position where they had to merely ensure that Ofcom would keep to their statutory duties, with regard consumers, in light of the lifting of the ban, and that the rules around product placement to children, regarding junk food, were adhered to.

This section has sought to detail the conditions in which the consumer interest can be seen to be either core or peripheral to the regulatory process and by doing so illustrated the particular role of consumer organisations. They themselves become either central to the process, making sure that consumer are central to the decision making, or they become peripheral trying to ensure that what is left of particular regulation is adhered to by the regulators. This shows that the role of consumer organisations, in both the UK and in Norway, and potentially in other states, can depend on a variety of factors, but which can be broadly theorised into these two dynamics. What will be looked at now are more individual perspectives, by those involved in policy making, towards consumer organisations. It is argued that these positions themselves can impact upon the extent to which consumer organisations can be seen to play an important role in the policy and regulatory process.

## **8.4 Perspectives on Consumer Organisations**

In addition to understanding where the consumer interests features in the broader policy process, we also need to better understand how individuals' perspectives towards consumer organisations as a political force might impact the perception of consumer organisations and as a result, their role. In the interactions with a wide range of policymakers, both in regulator, authorities and in ministries and departments, there are individuals with positions towards the inclusion of consumer organisations, and it is these perceptions which have an impact on the extent to which consumer organisations are taken into account, beyond the structural requirements.

It is through these forums that consumer organisations can become affected by the institutional conditions, which through a move to the regulatory state have changed in terms of how consumers are represented. However, the broader political framing of consumer organisations needs to be



theorised in terms of their inclusion into the networks of the regulatory state. It is then possible to see that there are conflicting arguments regarding the inclusion of consumer organisations into the structure of the regulatory state, and this problematizes the assumption that consumers are both uni-dimensional and that their representative power is determined merely by the mechanistic success of a particular group on a particular policy. Instead it needs to be understood that consumer representation, as part of the contemporary state in regulatory capitalism, is bound by conflicting ideological positions and that subsequently consumer power is hindered in scenarios outside of the market. Moreover it highlights the inherent politics of structures considered depoliticised.

Three particular frames will now be outlined with regard to consumer organisations: ‘perfect form’, ‘toxic agent’, and ‘fly-in-the-ointment’. These are three ideological positions concerning the inclusion of consumer organisations into the regulatory state and network governance. They are stylised but best represent the three main positions toward consumer organisations in the most parsimonious way. First the three positions will be outlined, then a table will be included in order to better see how these positions compare in respect of those involved, their politics and philosophies, and their pleas.

## 8.4.1 Typology of Consumer Organisations Frames

### 1. Consumer Organisations as ‘Perfect Form’:

Consumer organisations represent individuals in a way that is *most* suited to living in a consumer society such as we do. Individuals are largely unconcerned by significant macro-issues of ideological antagonism and require only that the market works more efficiently to deliver better goods and services and a lower price. Consumer organisations advise on the implementation of smart and well-targeted regulation to better serve the public good, and to police and report market failures and infringements, including anti-trust legislation, price-fixing and collusion. In this respect consumer organisations can ‘grease the wheels’ of both capitalist enterprise and consumer democracy – they provide the necessary information to both industry and government on the one hand, and consumers/end users on the other. They can be seen as an epistemic intermediary relaying information to producers, legislators and consumers. They are also particularly important when it comes to the representation of ‘the vulnerable’ (which could be read as ‘not rational’) consumer – children, the elderly, the disabled, the frail and the very poor, who require specific advocacy as they have relatively little power. This is the position held by the groups themselves and more centrist politicians and civil servants, who see that a capitalist liberal democracy needs management in order to better serve the population, and to make sure the most vulnerable are cared for – from this perspective the market and competition are seen as means to an end.

### 2. Consumer Organisations as a ‘Fly-in-the-Ointment’:

Consumer organisations are seen as unrepresentative re-articulations of ideologically driven civil society groups, NGOs and charities, who attempt to gerrymander issues into particular configurations in which they can influence policy. Their representativeness is undermined by the universality of the ‘consumer’ label – consumers are individuals with vastly different, and more significant identifications, and cannot therefore be treated as a single body of people. This is emphasised by the relatively small membership of consumer organisations in comparison to the general population of consumers. Their claims of legitimacy as being ‘a voice of the people’ against those of corporate interests are seen as a mask for crowbarring interventionist policies where none are necessary, or even desired by individuals themselves. These groups undermine the rational consumer by

attempting to speak on their behalf from a privileged position – they are largely middle class and affluent but represent lower class and ‘vulnerable’ consumers as they ‘know what is good for them’ – an elitist position without merit.

This position is usually held by market liberals – intervention in the market is seen as corrupting, especially when trying to accommodate the collectivisation of the distinctly individual demand of consumers. They see these groups in general from an Olsonian perspective: groups (including firms) seek rents from the manipulation of regulation, consumer organisations are therefore representing the interests of their members, not the public at large of whom everyone is a consumer. As Dryzek and Dunleavy (2009) say of this position: ‘Politicians, interest groups and bureaucrats may all claim to be serving the public interest, but that is just cheap talk that justifies their actions and cloaks their real motives.’ (Dryzek and Dunleavy, 2009, p.106) They therefore consider consumer organisations to be misrepresenting people who are rationally capable of representing themselves in the marketplace on a more accurate and individual level – they see their influence as both unjustified and disproportional. They see markets and competition as ends in themselves.

### **3. Consumer Organisations as ‘Toxic Agent’:**

This perspective is politically opposed to the ‘fly-in-the-ointment’ position, in that they consider consumer organisations to be emblematic of a system which continues to promote the identification of individuals as ‘homo-economicus’, and this eclipses far more important social identifications like being a ‘citizen’. They see consumer organisations as ‘capitalist apologists’ who instead of trying to change the overall structure of the system, which promotes the market values that de-politicises significant public issues (through various neo-liberal developments like the regulatory state, NPM and public choice organisation), they in fact conform to a particular world view that promotes the market and capitalism as the optimal system for human society. They do this whilst at the same time eclipsing genuine political and economic grievances of individuals and groups that identify themselves as anything but ‘consumers’ – other social justice groups, NGOs and civil society organisations. This position is held by those critical of neo-liberalism, capitalism and the primacy of markets – although primarily of the left also includes communitarians. In the extreme they hold that capitalism should be swept aside for more humane and sustainable forms of social organisation, or that public spirited regulation should be held as sacrosanct. They see the relationship between markets and democracy as antagonistic, and the institutions of the state should be on the side of democracy and citizens, not the market and consumers. They see capitalism as a generally corrosive process that blindly empties human experience of any moral core, merely serving-up evermore parts of social life to the dictates of capital accumulation, as it pathologically searches for more investment opportunities for continued growth. Communitarians are less extreme but generally see that the free market has no eye for ethics and should therefore be heavily regulated in particular fields of life, and call for the primacy of *citizens* as a core identity. These positions can be easily compared in the table below where they are set out in terms of political ideology on typical left right axis:

Politics	Left	Centre	Right
Position	'Toxic Agent'	'Perfect Form'	'Fly in the ointment'
Philosophy	Marxist, communitarian	Liberal, reformist	Libertarian, Market liberal
People	Environmentalists, Social Activists, critics of neo-liberalism, critics of market dominance	Consumer organisations themselves, policy makers, social democrats	Business groups, industry lobby, market liberals, libertarians
Plea	Increased regulation of public goods and commons to nationalisation	'Smart/Better regulation', second gen.regulation, EU harmonisation	Further liberalisation, de-regulation and increased property rights.

**Fig 7. Typology of How Consumer Organisations are Framed**

What is shown by this theorisation is how there are different arguments at play with regard to the inclusion of consumer organisations as representatives in regulation and policy making. This takes seriously the conflictual nature of politics and public policy, which much of the literature on the regulatory state and public policy does not explicitly recognise.

It was previously outlined (chapter 3) how the theory on the regulatory state does not take consumer representation into account, yet consumer organisations, and their representation, are a familiar part of the regulatory structure. This chapter then moved beyond this to theorise the political dimensions of consumer representation in order to better understand the conflicting politics of regulation and policy making. Here the investigation has shown that consumer organisations can be argued to fit into three broad normative frames. It can therefore be seen by and large that the regulatory state, and the institutional structures, construct consumer representation, as a 'perfect form', as they both bring information from civil society, grant greater legitimacy on regulatory and policy processes whilst not directly challenging the status quo of marketisation. In this respect they become a fairly safe form of representation, even though they are pro-regulation in ways neoliberals would not be. However, as has been shown this also negates the contested nature of regulatory regimes, the politics of depoliticisation, and also provides a very narrow conception of consumer representation. It is therefore possible to see that within the structure of the regulatory state, in the connections between regulators and civil society, there are conflicting arguments about the nature of consumer representation. This is not to say that any one particular perspective is right or true but to describe in greater depth the theoretical positions at the heart of the politics of regulation and the regulatory state. This further exposes the relationship between the state, the market and civil society as a highly contested and political field. In this way it is also possible to see how the various discourses, norms, and arguments that contemporary policy making fields are composed of have a determining effect on structures and institutions, as Howarth suggests:

Institutions like states, markets or governance networks can be conceptualized as more or less sedimented systems of discourse, that is, partially fixed systems of rules, norms, resources, practices and subjectivities that are linked together in particular ways. (Howarth, 2010, p.312)

So it is possible to see how broader hegemonies, like neoliberalism, can impact on the structure of the state in terms of the characteristics of the regulatory model. This subsequently has an impact

on how consumer representation is positioned as political representation. This is of vital importance to understand, as how civil society is engaged with by the state is fundamental to how contemporary democracy functions. The views and perspectives of various political actors, how they are positioned, and how they position themselves are key points of reference in disentangling the complexity at the heart of regulation and policy making.

This chapter will now move to address ideology, ideas and issues directly.

## 8.5 Ideology, Ideas and Issues

This chapter has so far outlined the various ways in which both the consumer interest, and consumer organisations themselves, are understood to play a role in the policy and regulatory process. There were three themes which arose in the research which are considered to be most important in addressing the research questions, which will be done next. These were ideology, ideas and issues. The broader ideology of the state, or the regulator, either more neoliberal or more social democratic, has a determining effect structurally. The New Labour government, although in many ways conceded to neoliberalism, also put in place institutions with a social democratic remit – like Ofcom and the focus on consumer and citizens. This has now been impacted by the Coalition's desire to have a 'bonfire of the quangos' which was to originally include Ofcom, but which will take the scalp of Consumer Focus in the reform of the 'consumer landscape'. In this respect we can see that the more neoliberal ideology of the Coalition has directly impacted the 'consumer landscape', and the Coalition's politicians, it is theorised, would more likely support the more market liberal position towards consumer organisations. There may be some who recognise the importance of consumer representation, and there having been Liberal Democrats rather than Conservatives at the helm in BIS, the department responsible for the changes, might well have lessened the blow. What is important to note is that both the broader ideology of the government matters to the role of consumer organisations.

Furthermore, although this thesis recognises, and argues, that structure plays a significant part in determining the role of consumer organisations, it also recognises the impact that individuals can have. This was made clear in the product placement issue, where due to a new minister being put in place the legislative process shifted to being in favour of a lighter touch regulatory stance. The importance of individuals was also recognised by one of the interviewees:

It's a fortuitous combination of circumstances that get things to change, or not. It doesn't seem to be down to structure but seems to be down to luck. It is amazing how often luck is on the side of the consumer but there are times it is not. I'll give you an example, a minister deciding very early on in digital television switchover that he wanted to have a consumer expert group to advise him...digital switch over would have been significantly different had that not happened. (RC, Interview, 2011)

So what this tells us is that understanding the role of consumer organisations in contemporary policy making and regulation is incredibly complex. We have seen how the broader ideologies of the two states impact upon the relative stability and incorporation of consumer organisations, we have also seen how the extent to which the consumer interest is included is greatly determined by contingent factors like that of ideas and issues. The values and ideas of particular individuals, in the UK at least, can have an impact on the role of consumer organisations, and the responsibilities that they are given.

The third important dimension to take into account is that of issues. The issues that is under discussion matters to the extent to which consumer organisations are important. The recent de-

velopments in Consumer Rights legislation that have come from an EU directive are evidence of this. All organisations that were spoken to as part of this research were involved to a greater or lesser degree at both national and EU level discussion. Decision makers seemed to take seriously the points of view and perspectives of consumer organisations with regard to the new directive, with Which? even suggesting that they had significant impact on it (JH, AS, Interviews, 2011). But even then consumer organisations, although broadly happy with the results, were still required to make compromises to industry pressure (FT, 2012). The most stark example of this is with the EU food labelling legislation which became a debate between GDA (Guideline Daily Amounts) and the Traffic Light system (Red for unhealthy, Amber for mild, and Green for healthy). Industry was all in favour of GDA, as they argued that the traffic light system would unfairly discriminate against particular foods. Whereas all of the consumer representatives, including numerous MEPs and all of the consumer organisations, health organisations, and consumers themselves whom had been surveyed were in favour of the traffic light system. When the vote went through it was decided in favour of the GDA system, a clear victory for industry. This campaign on behalf of the food industry was widely seen as one of the largest lobbying operations in recent years (EurActiv, 2010).

Furthermore, regulation and policy on broader more diverse issues are difficult to discern. Although consumer organisations in the UK are involved in all of the regulated utilities sectors (water, gas, electricity, telecommunications) it is seemingly quite random as to whether they have an impact on policy or regulation. In Norway, there have been discussion over particular issues like food for many years, but which those involved felt there was little impact from their side, and where the producer groups had significant impact (UK, Interview, 2011).

Therefore, as has been shown throughout the empirical chapters (chapter 6 and 7) and in the analysis chapter here, ideology, ideas and issues have a significant impact on the extent of consumer organisations involvement and subsequently on both the ability to counter-balance industry and agencies pressures and their ability to impact on policy.

These questions will now be address directly and concisely taking into account the discussion so far.

## 8.6 Research Questions

This section will now directly answer the research questions that have guided this thesis. It will do so succinctly in a way that brings all the prior analysis together. It will also start with the supplementary questions in order to build towards the key question.

### 8.6.1 *How are consumer organisations institutionalised by the state?*

This question is vital in appreciating both how the state, specifically the regulatory state, has taken consumer organisations to be part of the institutional design, but also in terms of the extent to which these organisations are part of the governance networks.

What we have seen in both countries, in a variety of different ways, are states actively engaged in the inclusion of consumer organisations into the governance network. This is in and of itself hugely important in our analysis, and one of the primary motivations for this research. Even though, in the UK, there are dramatic adjustments being made to the ‘Consumer Landscape’ with the closure of Consumer Focus and the introduction of a ‘Regulated Industries Unit’ under the wing of a revamped Citizens Advice Bureau.

What we see in the two case countries are two starkly different approaches to the inclusion, or incorporation, of consumer organisations into the state. Drawing on Rose (1981), as stated earlier

in both the literature review (chapter 2), and in the empirical chapters (chapters 6 and 7), there are examples of the different models of consumer representation in both countries. Norway more readily fits into the *Corporatist Model*, whereas the UK fits uneasily between the *Free Market Model*, and the *Quasi-Public Consumer Agency Model*. Principally, consumer organisations in the UK are institutionalised through developments in the regulatory state which demand their inclusion, whereas in Norway consumer organisations are a part of the state structure. Even so both systems display independence from the central government, although not always in fiscal terms, and contribute to regulation and policy debates through formal mechanisms like forums, consultations and advisory groups, and more informal mechanisms like contacts with various civil servants and other decision makers.

### **8.6.2 To what extent do consumer organisations provide a counter-balance to industry and agency pressure?**

This question is an essential dimension to understanding the extent to which the regulatory state has realised the *republican tripartism* that is intended to ensure ‘better regulation’. Part of the purpose, theoretically, of a move to more governance networks and ‘reaching out to civil society’ is to ensure greater democratic legitimacy, but also to ensure that a broader set of interests are taken into account and ‘regulatory capture’ is reduced. What is found is that by and large the consumer organisations are relatively peripheral to the decision making processes, in which industry is not. Being that it is the industry that are the subject of the regulation they are central to the decision making, despite the fact that there are such clear consumer issues with many of the regulated industries. This is on top of the fact that there is a serious resource imbalance with industry and corporations making lobbying part of their PR arm. Consumer organisations, although often funded by the state need to account for ever public penny spent, and therefore need to pick their battles very carefully. They cannot have as deep pockets as industry and corporations and therefore have to be far more tactical about what they choose to lobby on, this was evidenced in numerous interviews with regard to ‘picking battles’ (GN, TN, JH, RC, Interviews, 2011).

Another key factor, which was also brought up in numerous interviews in both countries, was that consumer representatives were often lumped together under the ‘consumer perspective’ where as industry would have the opportunity to put their cases forward individually. This, for the consumer organisations (GN, TN, JH, Interviews, 2011), was a problem as, for example, if there were ten seats at the table nine would be for industry and one would be for consumers. This clearly disadvantages the consumer representation as the forums and consultations become weighted towards industry.

In all three respects (1) engaging with civil society, (2) resource imbalance and (3) consolidation of consumer representation, consumer organisations are not in an adequate position to redress the imbalance between industry and agency pressure. It might be the case that in some marginal cases that consumer perspectives reach the final policy goals, but that by and large industry have significantly more weight.

### **8.6.3 In what respect are consumer organisations understood to impact upon policy and regulation?**

This question most closely addresses the issue of influence. In asking how consumer organisations are understood to have an impact upon policy it is possible to see how influential they see themselves to be without getting into the difficult territory of measurement.

There are chiefly two dimensions to this question. That is (1) direct and (2) indirect impact on

policy and regulation. It was evidenced that in general consumer organisations, and even policy makers did not consider consumer organisations to have that great a direct impact on final policy; having an overwhelmingly favourable part of legislation written up in their favour. However, it is the case that they might be understood to have had a concessionary impact, where even though the bulk of a piece of legislation goes through, there are some concessions to the consumer input. This was evidenced to often be the case - that even though organisations were on the whole peripheral, and did not see themselves or were not seen to have significant impact, they still did not consider their efforts as entirely wasted.

In addition there is another dimension with regard to indirect impact, and this concerns a more subtle embedding of consumer concerns in the policy and regulatory processes more generally. This was more often what consumer organisations saw themselves as doing. Their role in the process in this respect was to ensure that consumer issues were always on the minds of decision makers.

This brings the chapter to the final key question:

#### ***8.6.4 What is the role of consumer organisations in contemporary policy making and regulation?***

Bringing together what has been answered in the previous questions it is possible to say that consumer organisations' role is multi-dimensional. Principally this thesis argues that they are there to ensure that to as great extent as possible consumers are taken into account in decision making, and primarily do this through a subtle embedding of consumer concerns. However they also do serve the function of bringing greater legitimacy to the policy process through their very inclusion, despite what potential impact they do or do not have. In this respect they give the impression that governance networks are inclusive and horizontal, when in fact it may well still be the case that they are still very much hierarchical and dominated by particular interests. Therefore, if we look at them critically, that can be seen to be, in their current form, supporters of a system which on the whole does not include the interest of consumers. This is possible to see as they broadly contribute to the process, they are included as civil society bringing greater legitimacy to the policy and regulatory processes, whilst simultaneously still referring to individuals as consumers over being citizens, in this respect they do not 'rock the boat' ideologically but perform a particular role in their very inclusion. In this respect, much like Hilton (2009) suggests of organisations move from being concerned broadly with issues of access to goods and services and are now primarily concerned with choice, this can be seen as part of a broader process of neoliberalism that has constructed the policy arena as one in which citizens are rather complicated and have ambiguous demands, whereas consumers are more straightforward and conform to various principles regarding the sanctity of the market.

Put simply, consumer organisations' role is one in which their presence is utilised by a system of governance that is principally concerned with 'better markets' rather than 'better regulation' in order to grant greater legitimacy to regulatory and policy decisions that by and large benefit industry.

### **8.7 Conclusion**

This chapter, and the thesis as a whole, speaks to the literature on the regulatory state, and the literature on governance networks through a constructivist institutionalist and interpretivist perspective. It shows that there are inherent contradictions and confusion in processes of governance, which made the particular ideological developments about depoliticisation and the emancipatory

nature of networks in their current form illusory. It has done this through an analysis of the role of consumer organisations in the UK and Norway.

This chapter has specifically considered four different elements: (1) the major differences and similarities in consumer organisation intermediation in both the UK and Norway, (2) the extent to which consumer interests are seen as either core or peripheral to the regulatory and policy process, and subsequently what role consumer organisations have, (3) the various ways that consumer organisations are constructed as political actors, and (4) the key themes that impact on consumer organisation's activities ideology, ideas and issues. It then moved to directly address the research question in light of both the empirical findings and the analysis.

It is concluded that there were attempts by a social democratic government in the UK to implement a system of consumer representation that was both multi-faceted and ingrained, which did not contradict neoliberal tenets, and supported 'third way' philosophy. This is now being undone in favour of a more neoliberal regime under the current government. Where consumer interests were beginning to be understood to have an impact, mostly from an indirect embedding of consumer concerns, they are now side-lined in the broader reforms of the Coalition. This shows that the Norwegian system for consumer representation is more stable, but possibly more peripheral, whereas the UK system is less stable but occasionally can produce more favourable conditions for consumers.

Directly assessing the key question of this research, however, sees the role of consumer organisations as a marginal attempt to ensure greater representation of individuals in policy making and regulation. It is seen to be of greater benefit to the policymakers themselves than to individual consumers who are still considerably removed from the system. Individuals' representation by consumer organisations can be of benefit *if* a variety of factors work in their favour (ideology, ideas and issues) but the challenges to them impacting policy seem great. Industry has considerably more resources, and more actors, in addition to them not having to justify the 'representivity' like consumer organisations do. The potential for consumers to be represented outside of markets, and to counter-balance industry and agency pressures, is there in the institutional design but suffers from both being constructed discursively in a neoliberal context, making choice the primary focus, and being outnumbered by business interests, despite the fact that it is consumers whom regulation should serve.



# 9. Conclusion – Consumers at a Crossroads with Corporations in the Crosshairs

Much of the literature bemoaning consumerism makes for pretty ‘grim reading’ (Cremin, 2012). Whether one argues against consumerism from a fiscally conservative, an environmentalist, or Marxist position, the answer is often simply just ‘buy less stuff’. This impacts directly upon consumer politics, and the representation of consumers outside of markets, as the concept of ‘the consumer’ is framed in a particular ideological light as shown in the previous chapter (chapter 8).

What this thesis has sought to explore, and argue, is that consumer politics, and consumerism, does not need to be beset by a sense of passivity, but can in fact be part and parcel of a more active/activist political order. The idea that things just happen to consumers, can be replaced by one in which consumers are empowered through representative bodies. The neoliberal suggestion that consumers are ‘active’ within markets does not scratch the surface in political terms. This is also the case of so-called ‘political consumption’; discretionary consumption cannot determine some crucial markets. This is also set against the fact that business and corporation still have, and increasingly so, significant agency in regard to policy and regulation. What is required therefore, as the literature points out, is a counter-balance to these pressures. The most obvious of these, with regard to markets and their regulation, is that of consumer organisations. This thesis sought to investigate, problematize and take account of these organisations as political actors, to detail the challenges and difficulties that they face in trying to represent individuals in the decision making process.

This conclusion will be split into five sections: (1) the main aims of the thesis, (2) the methods utilised, (3) the key findings and arguments, (4) the points of originality and (5) areas for future research.

## 9.1 Thesis Aims

This thesis has had three principal aims: (1) to address the extent to which consumer organisations can be understood to be a counter-balance to industry and agency pressure, (2) to understand their role in contemporary regulation and policy making, to analyse the politics at the heart of regulation and policy making, and (3) to provide a deeper understanding of consumer organisations themselves and contemporary governance networks than the current literature provides. The thesis sought to do this in the tradition of critical policy studies that challenges various orthodoxies around public policy and public administration literature.

## 9.2 Methods

The research presented in this thesis was achieved with an interpretivist epistemology, constructivist institutional theory, and utilised interviews and document analysis to gain an understanding of consumer organisations in the UK and Norway. In this respect it was also a comparative study. These countries were chosen as they are similar in that they are liberal democracies, but principally

different in terms of the dominant governing ideology; the UK being more neoliberal and Norway being more social democrat. This enabled us to see the extent to which ideology plays a part in how consumer organisations are institutionalised, which helped us explore the key question of understanding what role they have in the policy process. Additionally, the two countries are different in terms of the how the political systems are understood, their broader ideology, their population size and their relationship to the EU, and can therefore be used as comparisons most different, as stated above. From this we can then see what phenomena are similar and can unpack the particularities of each case.

### 9.3 Key Findings and Arguments

This thesis set out to better understand the place and role of consumer organisations in contemporary policy making and regulation. It wanted to understand and problematize the politics of governance networks through focusing on a hitherto under researched phenomenon; consumer organisations. More broadly it also wanted to address neoliberalism as an ideology and a practice, and to better understand the contours of the relationship between civil society and the state in a paradigm of neoliberal dominance.

There were four key findings, all of which concerned the extent to which consumer organisations played a role in the decision making process: (1) that even though consumer organisations have been incorporated into the policy process they still remain largely peripheral to the decision making, (2) that consumer organisations across politics share similar challenges with regard to being a counter-balance to industry pressure, (3) policy makers across politics see the organisations as valuable sources of information in the process of regulation, (4) consumer organisations construct themselves and are constructed, by policymakers, through various discourses, and this has a determining effect on the their role in the policy and regulatory process.

Additionally, there are two key arguments, and theorisations, in the investigation: (1) that the consumer interest can be understood to be either core or peripheral depending on a variety of factors, and that consumer organisations role changes as a result, and (2) that consumer organisations can be understood, in political terms, to fit into one of three types, which by extension can impact on the extent to which they are incorporated into the decision making process.

In this respect it is also argued that ideology, ideas and issues matter to whether or not consumer organisations are considered to be either peripheral or core to the regulatory process. If it was the case that particular issues required specific input from consumer organisations then they would be brought into the process, as the consumer interest was seen as core.

The broader argument of this thesis was that through looking at consumer organisations we can better understand and problematize dimensions of contemporary state-civil society in a neoliberal paradigm. It is no doubt that neoliberalism as an ideology impacts on the processes of governance, in terms of the value placed on the market as a form of organisation. Consumer organisations primarily conform to this, as they are both constructed and construct themselves as merely representing consumers inside markets, and therefore, as Hilton (2009) suggests being overly concerned with 'choice'.

Although the consumer, and their representation in regulation and policy making, is here argued to be able to be reconfigured in a more radical way. It is by no means an answer to the significant ideological debate between the individual and the community that dominates so many policy issues today. The liberty of individuals is so often set against that of the interests of the community, and no-one has yet come up with a resolution that does not involve heavy compromise for either

side. What this thesis has argued, through empirical investigation and theoretical reflection, is that although consumers are not necessarily atomised but have widely shared interests, and that due to the nature of collective action problems need to be represented by organisations. These bodies can then, if given the power, act to counter the pressure from business and bureaucracy itself. In this way being represented as a consumer does not need to be seen in terms of being an individual but can be seen as being part of a collective, which can function to counter the trend of neoliberalism to both individualise citizens and to promote the interests of business.

## 9.4 Originality

This thesis is original in four main respects.

1. The comparison between the UK and Norway in understanding public policy issues and governance has yet to be done. This is a shame as the two countries are different in terms of the how the political systems are understood, their broader ideology, their population size and their relationship to the EU, and can therefore be used as comparisons most different, as stated above. From this we can then see what phenomena are similar and can unpack the particularities of each case.

2. It brings together three sets of theory that have yet to be addressed in the same study. Through using the theory on the regulatory state, the theory on governance networks and the theory on constructivist institutionalism this thesis has sought to utilise how these theories frame particular political phenomena; the state, civil society, networks, governance, and the role of ideas in structures and institutions. It also contributes to these bodies of theory by addressing a particular empirical example, that of consumer organisations in the regulatory process. This helps address the gap in the regulatory state literature about the role of public interest groups and their institutionalisation, and whether or not they are a counter-balance to industry and regulatory pressure. It also contributes to the literature on governance networks through looking at an empirical example in a critical way – it intends to make clear the political contours of processes which have largely been seen as neutral developments, in a similar vein to Davis (2011).

3. It is also original in that it is the first study to directly and explicitly try to understand the role of consumer organisations as political organisations *outside* of the market. Other studies have considered them peripherally but only when addressing other topics such as regulation (Lunt and Livingstone, 2007; 2012), consumer representation more broadly (Rose, 1981), or in a more historical vein as a social movement (Hilton, 2009). These studies were important for this thesis, but they do not directly consider consumer organisations as political agents outside of the market and in governance networks, something that this thesis did.

4. It is also original in that it conducted interviews with a range of individuals across the UK and Norway involved in and with consumer organisations in a variety of ways. These interviews gave a great insight into the challenges and issues that consumer organisations face as political agents, and subsequently the issues that governance networks and the regulatory state faces in terms of civil society inclusion and participation. These interviews provided the thesis with a variety of observations that linked consumer organisations operating in two different political systems. It was observed that although there are great differences in their institutionalisation and broader structural conditions, they face similar challenges.

## 9.5 Areas for Future Research

This thesis has addressed a particular contemporary phenomenon, consumer organisations, and

to take account of them as political agents in the policy process. It was specifically concerned with understanding what role they had in regard to being a counter-balance to industry and agency pressures and in terms of their impact on policy making. However, there were numerous issues that arose in the interviews, and through the broader research, that were of significant interest but which were outside the parameters of this thesis. In this respect there are three principal areas which came to light that require further research and these fit under the broader headings of: the EU, the media and representation.

### **9.5.1 The EU**

The importance of the EU for European countries cannot be overstated. This is also the case for interest groups, and also consumer organisations. As was evidenced in the thesis, the earlier in the policy cycle that views are heard the more likely it is that they would be able to inform the final policy, and being that much of today's legislation originates in Brussels, the EU is key. This is no different for consumer organisations and consumer representation. BEUC the umbrella consumer organisation in Brussels is looked to as a stronghold in Europe by the various domestic groups who make up their members. However, BEUC still face similar problems to the organisations in the UK and Norway, in terms of having to fight against a far better funded industry lobby and a broadly neoliberal ideology. What is not understood however is the connections between domestic consumer organisations and BEUC, and the extent to which there are particular organisations that lead policy campaigns and whether there are organisations that construct themselves differently more in terms of access and not choice. What would be interesting to find out would be the extent to which consumer organisations in BEUC are different in terms of their focus, and whether or not there is a tendency to become more neoliberal as organisations 'professionalise'. In this respect three questions could be addressed:

1. Do we see the same Europeanisation with consumer organisations as has been witnessed with other interest groups?
2. Do consumer organisations across Europe differ in their focus with regards to issues of 'choice' and 'access'?
3. To what extent do the consumer organisations of Western Europe dominate the campaign agenda, and what legitimacy problems does this pose for an umbrella organisation like BEUC?

### **9.5.2 The Media**

The second major factor that arose in the analysis is that of the importance of the media for consumer organisations. It was quite clear that the contact time between consumer organisations and journalists was greatly valued by the organisations as part of their campaign strategy to essentially inform the people that they are representing of what the issues are. Information is a key product of consumer organisation activities, and they have websites full of information on consumer rights, various scandals and campaigns they are running. What needs to be better understood is both how consumer organisations utilise the media, both old and new forms, and whether or not campaigns which get picked up in the media are more likely to have a knock-on impact in policy making. The media also provides a way in which individuals and organisations can connect with each other, this also may have implications to some of the issues with regard to representation that will be considered next. In respect of the media three questions need addressing:

1. How do individuals utilise the media to inform themselves about consumer issues, and what part do consumer organisations play in this?
2. How are consumer organisations utilising new media to better get information from, and give information to, consumers?
3. Do campaigns that get media attention have more success in the policy making arena than those which do not?

### **9.5.3 Representation**

The third area of research that is required for a better understanding of consumer organisations is a more theoretical understanding of the issues around their representation. There are concerns that some public interest groups do not adequately represent consumers being that the constituency of consumers is so diverse. Some are also referred to as ‘sock puppet’ organisations, publicly funded organisations which lobby the government – the government lobbying itself through public funds. There are also concerns that some consumer organisations only represent a marginal set of largely middle class ‘penny pinching’ interests, as was alluded to earlier. If a consumer organisation does not have members can it still be said to represent consumers? These are all issues that need to be addressed with regard to consumer organisations. Questions that could inform this research agenda could be:

1. Is there a common constituency of consumers that consumer organisations represent? If so how do they legitimise themselves?
2. Can new media, like apps on smart phones, help to bridge the perceived gap in representation between consumers and consumer organisations?

## **9.6 In Summary**

This thesis has sought to take account of consumer organisations as political actors in contemporary policy making and regulation. It has argued that there are complex political dimensions to their inclusion in the various processes of governance, and that the current literature does not adequately address these. On the one hand there is the often very technocratic literature on the state which does not take the role of ideas, ideology and cultures seriously, and sees the process of governance and policy making as able to be achieved by pulling the right policy levers and utilising the correct ‘policy instruments’. And on the other hand there is the often much more critical, and more theoretical, policy and governance literature, which does not directly address political actors and seek to find out the processes that are going on within the institutions themselves. What this thesis has sought to do is to attempt to bridge these gaps by taking a critical account, and problematizing, a particular political actor, consumer organisations, and their role in the policy and regulatory processes. The investigation highlights, through an empirical grounding, that the politics of policy making is far more complex than the literature suggests, in that consumer organisations themselves are understood differently by different political hues, and they understand their role and impact differently in particular settings, sometimes seeing themselves as core to processes but more often being seeming to be peripheral. This is most interesting in light of the various changes in governance which have led to the inclusion and engagement with civil-society organisations. As the regulatory state is said to have developed in the name of better functioning for consumers, whilst processes in governance encourage greater participation with NGOs and other civil-society

actors in order to be both more 'effective' and harbour greater legitimacy. It seems from this investigation that consumer organisations are by and large peripheral to policy and regulatory processes despite the different ways in which they are institutionalised in the different political settings (UK and Norway). The complex politics at the heart of regulating capitalism is in this way embodied in the struggles that consumer organisations have both in terms of their legitimacy as political representatives – the general lack of 'representativeness' hinders their legitimacy despite the clear shared public interest in greater consumer power, and their actual impact on policy where they are by and large peripheral despite the positive light they are professed to be seen in by policy makers. In this respect more analysis of consumer organisations in different political contexts, in terms of their relationship to the EU, how they utilise the media, and their representativeness, will help to gain greater clarity of some of the complex characteristics of contemporary capitalism and neoliberalism, something which of significant importance.

# Appendix 1.1

## List of Interviewees and Interview Dates

### *United Kingdom*

(AS) Aniela Sroczynski, EU & International Advocacy Officer, Which? - 29<sup>th</sup> November 2011

(CM) Claire Milne, Antelope Consulting, Chair of Consumer Expert Group, Ofcom - 30<sup>th</sup> November 2011

(CP) Claudio Pollack, Director of Content, Consumer and External Affairs Group, Ofcom - 2<sup>nd</sup> December 2011

(CB) Collette Bowe, Chair Communications Consumer Panel, Ofcom - 31<sup>st</sup> May 2012

(JH) John Holmes, Senior Economist, Which? - 29<sup>th</sup> November 2011

(RC) Robert Clarke, Voice of Listener and Viewer - 21<sup>st</sup> October 2011

(RH) Robert Hammond, Director of Postal Policy and Regulation, Consumer Focus - 14<sup>th</sup> October 2011

(SC) Sophie Chalk, International Broadcasting Trust - 29<sup>th</sup> November 2011

### *Norway*

(AN) Anonymous, SIFO - 14<sup>th</sup> September 2011

(BF) Bodhild Fisknes, Director, Department for Consumer Affairs, Ministry of Children, Equality and Social Inclusion - 19<sup>th</sup> September 2011

(ES) Eirik Skaudal, Senior Adviser, Department for Consumer Affairs, Ministry of Children, Equality and Social Inclusion - 19<sup>th</sup> September 2011

(EJ) Eivind Jacobsen, Head of Research, SIFO - 14<sup>th</sup> September 2011

(GN) Gry Nergård, Norwegian Consumer Ombudsman Head, Forbrukerombudet - 12<sup>th</sup> September 2011

(IT) Iselin Theinen, Senior Researcher, SIFO - 14<sup>th</sup> September 2011

(TN) Thomas Nortvedt, Director Digital Services, Forbrukerrådet - 16<sup>th</sup> September 2011

(UK) Unni Kjærnes, Senior Researcher, SIFO - 14<sup>th</sup> September 2011

(ØC) Øyvind Christensen, Senior Advisor, Ministry of Culture - 15<sup>th</sup> September 2011

### *Brussels*

(JM) Jacqueline Minors, Director of Consumer Affairs, DG SANCO - 16<sup>th</sup> March 2012

(MG) Monique Goyens, Director General, BEUC - 16<sup>th</sup> March 2012

### *Questionnaire Respondents*

Communications Officer, The Swedish Consumers Association – 16<sup>th</sup> September 2011

Editor, Neytendasamtökin (Consumers' Association of Iceland) – 30<sup>th</sup> September 2011

Volunteer, L-Ghaqda tal-Konsumaturi (Consumers' Association of Malta) – 7<sup>th</sup> September 2011

# Appendix 2.1

## Interview Guide – Consumer Organisations/Groups

**What is the role of consumer organisations in contemporary policy making? Do they matter?**

### BASIC INFORMATION ON INTERVIEW AND INTERVIEWEE

Interviewee Ref No: .....

Recorded: Y/N

Gender: M/F

Date of interview: .....

Time of interview: .....

Name: .....

E-mail:

.....

Political Institution: .....

.....

Position: .....

.....

#### PRELIMINARY REMARKS:

Thank you for agreeing to take part in this interview. As I mentioned in my e-mail/letter, it forms part of my doctoral research project which is investigating the role of consumer groups in contemporary policy making in the UK and Norway. I am interested in finding out what part they play in the construction of regulation and whether or not they have any influence over legislation that concerns consumers.

Your responses will be treated as confidential and used only in the final thesis and in any academic publications produced from this.

The questions address the broader place of consumer groups in contemporary politics, their specific role in the policy process, the connections they make between citizens and the polity, and will specifically focus on the implementation of regulation on product placement as a case example. I will be interviewing a range of individuals from consumer organisation staff, to civil servants, to business leaders and lobbyists in both the UK and Norway

It will take approximately 30 to 45 minutes.

I will just say that by ‘Consumer Organisations’ I am referring to a variety of organisations that represent the interests of end user consumers. This does not include business as consumers.

Do you have any questions before we begin?



Background information on previous experience/positions if not otherwise available:

PART I

I would like to begin with some closed questions about consumer organisations

1. Are you a member-based organisation?	Y/N
2. Do you have regular contact with consumers?	Y/N
3. Are you members of any broader alliances?	Y/N
4. Are you members of BEUC?	Y/N
5. Do you think BEUC is an important body?	Y/N
6. Do you have contact with policy makers?	Y/N
7. Do you have contact with business groups?	Y/N
8. Do you have contact with other consumer groups?	Y/N
9. Have consumer groups increased their presence in policy forums over the past decade?	Y/N
10. Have consumer groups increased their connections to government departments?	Y/N
11. Have consumer groups increased their connections other consumer groups?	Y/N
12. On balance would you say consumer groups adequately represent consumers in policy forums?	Y/N
13. Do you regularly take part in policy discussions with government officials?	Y/N
14. Do you consult with regulators more than the ministerial departments?	Y/N
15. On average do you think that policy officials listen to the advice of consumer groups?	Y/N
16. Do you think that changes in government will have an impact on the strength of consumer group connections with government departments?	Y/N
17. Have European regulations increased the frequency with which consumer groups consult with government? And the EU commission?	Y/N
18. Do you think consumer groups are an important part of the regulatory process?	Y/N

PART II – CONSUMER ORGANISATION

I'd like to now consider the make-up of your organisation in order to get some comparative information about how consumer groups are run and operate.

1. (a) What would you consider your organisation type to be?
▲ Grassroots ▲ Advocacy ▲ NDGB ▲ Public Authority ▲ Government Department ▲ Other:
** (b) Do you think this has any impact on your dealing with policy makers? Do other types of groups have different relationships to policy makers? Can you give examples?
(c) In your experience do you think this has any impact on your dealings with other groups?
2. How would you describe your core mission?
(b) Do you feel that you achieve this more often than not?
3. How do you come up with your campaigns, or areas of focus? What is the process?
4. When you respond to consultations, how is it organised? Who responds?

5. Do you consult individual consumers about campaigns or consultation responses?

### PART III – CONSUMER ORGANISATION INTERMEDIATION

I'd like to now look at the connections between consumer organisations, regulators and government. I want to understand how important it is for both consumer organisations and governing bodies to have contact with each other, and whether the arrangements for consultation impact upon policy.

1. How often do you have contact with policy makers and other groups/organisations?
<ul style="list-style-type: none"> <li>▲ Regulators</li> <li>▲ Government departments</li> <li>▲ Consumer Ombudsman</li> <li>▲ Business Groups</li> <li>▲ Other consumer orgs</li> </ul>
**2. (a) Who do you normally speak to, and is this contact institutionalised or ad hoc? (Policy Makers & Groups/Organisations) If institutionalised, what is the process?
(b) Who instigates the contact? (policy makers or yourselves)
(c) What tends to be the nature of the contact?
<ul style="list-style-type: none"> <li>▲ General position on policy</li> <li>▲ Technical information about regulations</li> <li>▲ Direct lobbying (targeted campaigns)</li> <li>▲ Consultation responses</li> <li>▲ Other</li> </ul>
**3. (a) How effective is consulting policy makers in mitigating consumer issues? Could you give an example of this?

(b) What could be different?
**4. (a) Do you think the relationship between consumer organisations and government has changed over the past 5, 10 or 20 years?
(b) In what ways do you think the relationship has changed? Do you think this is an improvement? What do you think the reasons are for this change?
5. (a) What are the most valuable connections to you in the regulation process and consulting on policy?
<ul style="list-style-type: none"> <li>▲ Other consumer organisations</li> <li>▲ Government ministers</li> <li>▲ Civil servants</li> <li>▲ Business spokesman</li> <li>▲ Courts</li> <li>▲ Other:</li> </ul>
(b) What is it about these connections that you value? What could be improved?
** (c) What is their (connections) main impact? Is it on final policy or a more subtle embedding in a policy network, or other/both/neither? Examples?

PART IV – POLICY MAKING

I'd like to now look at what part consumer groups play in the policy making process., particularly how they engage with the process and what impact they may have upon it, and through what mechanisms.

**1. (a) Do you think that the current formal mechanisms of policy making, including consultations and consumer forums, provide an effective way of improving policy?
(b) Do you think they have an impact? Could you give examples of this impact?
(c) Do they provide an effective way of engaging with civil society generally? If yes, why? If no, why not?
(d) Do you think that there are informal mechanisms that have more impact on policy? What are these?
2. (a) What would you say are the core concerns of consumer groups with regard to policy in your area, and in general?
(b) How well understood are these by policy makers?
3. Which would you say had more impact on policy, campaigns or consultation responses? Or other forms of communication. Can you give an example?

4. (a) Do you keep up-to-date with the campaigns of other consumer groups? How do they inform you of current campaigns? How do you inform them of yours?
(b) What do you think is the most effective way of influencing policy? Why?
<input checked="" type="checkbox"/> Campaigns <input type="checkbox"/> Consultations <input type="checkbox"/> Advisory groups <input type="checkbox"/> Direct lobbying <input type="checkbox"/> Other
5. (a) Do you think consumer organisations are valued by policy makers?
(b) What is it that you think consumer organisations provide that is most valued to policy makers? (Does this match with the groups priorities and core mission? - later analysis)

## PART V – REGULATION

I'd like to now look more specifically at what part consumer groups play in how regulation is adopted. Particularly how consumer groups help to construct the regulation of markets instead of broader policy programmes. I am especially interested in product placement regulation, and how consumer groups have, or have not, impacted upon the recent changes in regulation.

**1. How essential is regulation in mitigating market failure and promoting consumer welfare?
2. Have you been able to initiate regulatory change? If so, when? Or are you asked to help assess potential problems with soon to be implemented regulation?
**3. Do you think that consumer groups are an integral, or peripheral part of regulatory design and implementation? Both personally (normatively), and as you think it stands (empirically).

4. In what ways do you think your core mission is reflected in contemporary policy and regulation? In what respects, and how might this be enhanced?
5. What are the regulatory issues that you are concerned with at present, and generally? Why these particular ones?
6. (a) Have you been involved in any campaigning or consultations about product placement regulation? If so, what exactly?
(b) Does the liberalisation of product placement regulation concern you? In what ways?
(c) Do you think that your concerns regarding product placement have been listened to by policy makers? Were you happy with the final legislation?
7. (a) Have regulations from the EU had an impact on consumer issues in general, and your organisation? In what respect?
(b) Do you think that EU regulations benefit consumers overall?(Norway: what do you think about the democratic deficit in that Norwegians have no say on these regulations?)

## VI – THE STATE

Finally I would like to get an idea of how consumer groups fit into contemporary understandings of the state more generally. I want to ask you to consider how both the structure of the state, and how it is facilitated impacts on the demands and impact of consumer groups.

** 1. What institutions are most important in the representation of consumers within the state, and policy making?
--

2. (a) How adequate is the provision for consumer issues in the current structure of the state? How might this be improved?
3. (a) Do you think that consumer issues are a priority of contemporary governance?
** (b) Do you think that the current institutional design allows for an adequate representation of consumers outside of markets?
**4. Do policies of deregulation, privatisation and liberalisation, in and of markets, mean that the representation of people as consumers is more or less relevant? Why?
5. Do you think that the way that governance is orchestrated, through regulatory agencies, helps or hinders consumer representation?
**6. Do you think consumer groups are empowered by a decentralisation of responsibilities to regulatory agencies? Do you think individual consumers are?



7. (a) Generally do you think there been more or less engagement with civil society groups in the formulation of regulation over the last decade? Examples?

--

(b) Does this benefit the policy-making process and regulation?

--

Can I finish by asking for any recommendations you might have for other people I could usefully speak to?  
Thank you very much for your time.

# Appendix 2.2

## Interview Guide – Regulators/Policy Makers/Independents

### What is the role of consumer organisations in contemporary policy making? Do they matter?

#### BASIC INFORMATION ON INTERVIEW AND INTERVIEWEE

Interviewee Ref No: .....

Recorded: Y/N

Gender: M/F

Date of interview: .....

Time of interview: .....

Name: .....

E-mail:

.....

Political Institution: .....

.....

Position: .....

.....

#### PRELIMINARY REMARKS:

Thank you for agreeing to take part in this interview. As I mentioned in my e-mail/letter, it forms part of my doctoral research project which is investigating the role of consumer organisations in contemporary policy making in the UK and Norway. I am interested in finding out what part they play in the construction of regulation and whether or not they have any influence over legislation that concerns consumers.

Your responses will be treated as confidential and used only in the final thesis and in any academic publications produced from this.

The questions address the broader place of consumer organisations in contemporary politics, their specific role in the policy process, the connection they make between citizens and the polity, and will specifically focus on the implementation of regulation on product placement as a case example.

It will take approximately 30 to 45 minutes.

I will just say that by ‘Consumer organisations’ I am referring to a variety of organisations that represent the interests of end user consumers. This does not include business as consumers.

Do you have any questions before we begin?

## PART I

I would like to begin with some closed questions about consumer organisations.

1. Do you consult with any consumer organisations?	Y/N
2. Do you consult with business organisations?	Y/N
3. Do you consult with labour organisations?	Y/N
4. Which do you consult with most?	C/B/L
5. Have consumer organisations increased their presence in policy forums over the past decade?	Y/N
6. Have consumer organisations increased their connections to government departments?	Y/N
7. Have consumer organisations increased their connections other organisations?	Y/N
8. Do consumer organisations adequately represent consumers in policy forums?	Y/N
9. Do your consultations always include consumer representatives?	Y/N
10. Do you think that policy officials act on the advice of consumer organisations?	Y/N
11. Do you think that changes in government could have an impact on the strength of consumer group connections with government departments?	Y/N
12. From experience have changes in government impacted on the connections between consumer organisations, regulators and policy makers?	Y/N
13. Have European regulations increased the frequency with which consumer organisations consult with government?	Y/N
14. Have European regulations increased the frequency with which you consult generally?	Y/N
15. Do you think it is important that consumers are represented in regulation and policy?	Y/N
16. Do you think consumer organisations are an important part of the regulatory process?	Y/N

## PART II – INSTITUTIONAL ORGANISATION

I'd like to now consider the make-up of your organisation in order to get some comparative information about how consumer organisations are run and operate.

1. (a) What would you consider your organisation/department type to be?
<ul style="list-style-type: none"><li>- Government Department</li><li>- Regulatory Agency</li><li>- Ministry</li><li>- Other</li></ul>
2. (a) Do you routinely communicate with interest organisations?
(b) Do you think that your organisation/department type has any impact on your dealings with interest organisations, particularly consumer organisations?
3. (a) What is your core mission?
(b) Do you feel that you achieve this more often than not?
4. Are consultations important in your organisations/departments operation? What is important about them?
5. In what respect are consumers represented by your organisation/department?

## PART III – INTERMEDIATION

I'd like to now look at the connections between consumer organisations, regulators and government. I want to understand how important it is for both consumer organisations and governing bodies to have contact with each other, and whether the arrangements for consultation impact upon policy.

1. (a) How often do you have contact with interest organisations?
(b) How often do you have contact with consumer organisations?
2. (a) Who do you normally speak to, and is this contact institutionalised or ad hoc? If institutionalised, what is the process?
(b) Who instigates the contact? (organisations or yourselves)
(c) What tends to be the nature of the contact?
<ul style="list-style-type: none"> <li>▲ General position on policy</li> <li>▲ Technical information about regulations</li> <li>▲ Direct lobbying (targeted campaigns)</li> <li>▲ Consultation responses</li> <li>▲ Other</li> </ul>
3. Do you think that consulting consumer organisations is an effective way of mitigating consumer issues?
(b) What could be different?
4. (a) Do you think the relationship between consumer organisations and government has changed over the past 5, 10 or 20 years?

(b) In what ways do you think the relationship has changed? Do you think this is an improvement? What do you think the reasons are for this change?
5. (a) What are the most valuable connections to you in the process of drawing up regulation and consulting on policy?
<ul style="list-style-type: none"> <li>▲ Other consumer organisations</li> <li>▲ Government ministers</li> <li>▲ Civil servants</li> <li>▲ Business spokesman</li> <li>▲ Courts</li> <li>▲ Other:</li> </ul>
(b) What is it about these connections that you value? What could be improved?
(c) What is their (connections) main impact? On final policy or a more subtle embedding in a policy network, or other/both/neither? Examples?

#### PART IV – POLICY MAKING

I'd like to now look at what part consumer organisations play in the policy making process. I want to understand how they engage with the process and what impact they may have upon it, and through what mechanisms.

1. (a) Do the current formal mechanisms of policy making, including consultations, advisory organisations and consumer forums, provide an effective way of improving policy?

(b) Do you think they have impact? Can you give an example of this impact?
(c) Do they provide an effective way of engaging with civil society generally? If yes, why? If no, why not?
(d) Do you think that there are more informal mechanisms that have more impact on policy? What are these?
2. (a) What are the core concerns of consumer organisations with regard to policy in your area, and in general?
(b) How well understood are these by policy makers?
3. (a) Which would you say had more impact on policy, campaigns or consultation responses? Or other forms of communication. Can you give an example?
4. (a) Do you keep up-to-date with the campaigns of consumer organisations? Do they frequently inform you of current campaigns? Do you inform them of relevant consultations, policy and regulatory discussions?
(b) What do you think is the most effective way of influencing policy? Why?
<ul style="list-style-type: none"> <li>⤴ Campaigns</li> <li>⤴ Consultations</li> <li>⤴ Advisory groups</li> <li>⤴ Direct lobbying</li> <li>⤴ Other</li> </ul>
5. (a) Do you value the input of consumer organisations?

(b) What is it that you think consumer organisations provide that is most valued? (Does this match with the organisations priorities and core mission? - later analysis)

**PART V – REGULATION**

I'd like to now look more specifically at what part consumer organisations play in how regulation is adopted. Particularly how consumer organisations help to construct the regulation of markets instead of broader policy programmes. I am especially interested in product placement regulation, and how consumer organisations have, or have not, impacted upon the recent changes in regulation.

1. How essential is regulation in mitigating market failure and promoting consumer welfare?
2. (a) Who initiates regulatory change? What is the process?
(b) Do you get help to assess potential problems with soon to be implemented regulation from interest organisations, particularly consumer organisations?
3. Do you think that consumer organisations are an integral, or peripheral part of regulatory design and implementation? Both personally (normatively), and as you think it stands (empirically).
4. Do you think that consumer interests are adequately reflected in contemporary policy and regulation? Do you think this could be enhanced? In what respect?



5. What are the regulatory issues that you are concerned with at present, and generally? Why these particular ones?
6. Have you been involved in product placement regulation?
(b) Does the liberalisation of product placement regulation concern you? In what ways?
(c) Do you think that the concerns of consumer organisations were implemented in the regulation on product placement?
7. (a) Have regulations from the EU had an impact on the process of regulation for your institution? In what respect?
(b) Do you think that overall EU regulations benefit consumers? (Norway: what do you think about the democratic deficit in that Norwegians have no say on these regulations?)

## VI – THE STATE

Finally I would like to get an idea of how consumer organisations fit into contemporary understandings of the state more generally. I want to ask you to consider how both the structure of the state, and how it is facilitated impacts on the demands and impact of consumer organisations.

1. What institutions are most important in the representation of consumers within the state, and policy making?
2. (a) How adequate is the provision for consumer issues in the current structure of the state?
(b) How might this be improved?
3. Do policies of deregulation, privatisation and liberalisation, in and of markets, mean that the representation of people as consumers is more or less relevant? Why?
4. Do you think the way that governance is orchestrated, through regulatory agencies, helps or hinders consumer representation?
5. Do you think consumer organisations are empowered by a decentralisation of responsibilities to regulatory agencies? Do you think individual consumers are?
6. (a) Do you think that consumer issues are a priority of contemporary governance?

(b) Do you think that the current institutional design allows for an adequate representation of consumers outside of markets?
7. (a) Do you think there been more or less engagement with civil society organisations in the formulation of regulation over the last decade? Examples?
(b) Does this benefit the policy-making process and regulation?

Can I finish by asking for any recommendations you might have for other people I could usefully speak to? Thank you very much for your time.

# Glossary of Abbreviations

BEUC	Bureau Européen des Unions de Consommateurs – The European Consumers’ Organisation
BIS	Department of Business, Innovation and Skills
DCA	Department for Consumer Affairs
DCMS	Department for Culture, Media and Sport
DG SANCO	Director General for Health and Consumers
MCES	Ministry of Children, Equality and Social Affairs
Ofcom	The Office of Communications
Ofgem	The Office of Gas and Electricity Markets
OFT	Office of Fair Trading
RIU	Regulated Industries Unit
SIFO	Statens Institutt for Forbruksforskning – State Institute for Consumer Research

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