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A study of the outcomes of the transposition of the EU Directive on Employee Information and Consultation in two jurisdictions

A thesis submitted in partial fulfilment of the requirements of the degree of Doctor of Philosophy

by

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<u>DECLARATION</u>

I hereby certify that I understand what plagiarism is and that this thesis is entirely my own work. Neither the thesis in its entirety nor parts thereof have been published elsewhere in either paper or electronic form unless indicated through referencing.

Student Signature_____

Date_____

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ABSTRACT

This thesis examines the impact of the European Union Directive on Employee Information and Consultation (ICED) (2002/EC/14) in workplaces in Northern Ireland and the Republic of Ireland. Evidence is derived from six research sites in three case study companies operating on a cross border basis. The ICED created for the first time a legal right for employees to obtain information on a specific ongoing basis from their employers. There was considerable anticipation from the academic and practitioner communities that ICED would transform or at the very least have a significant impact on the provision of employee voice.

The main rationale of the thesis was to investigate the potential of the regulatory effect of the ICED in terms of shifting the axis of employment regulation and in any subsequent modification of workplace employee voice forms and practices. The investigation was a systematic study that examined the role of workplace governance regimes in shaping the outcomes of voice as observed through the lens of the ICED regulations and the concept of regulatory space.

The main conclusion of the study was that the ICED had little workplace impact for a number of differential reasons. Primarily the regularity space for the ICED regulations was captured in the interests of preserving voluntarist and existing voice forms and practices. The type of governance regimes in individual workplaces played a significant part in determining the outcomes experienced by employees from the ICED regulations. As such this thesis makes a contribution to the theory of workplace governance regimes and their role as rule makers in the political arena of employment regulation.

DEDICATION

This thesis is dedicated to the memory of my beloved younger sister Jacqueline (Jackie) Hill (nee Hickland) who sadly died far too young in December 2013 (1963-2013).

ACKNOWLEDGEMENTS

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ABBREVIATIONS USED

ACAS -   Advisory, Conciliation and Arbitration Service

BRC-   British Retail Consortium

CBI –   Confederation of British Industry

CME –   Coordination Market Economy

CRC –   Central Representative Council

EU –   European Union

EWC –   European Works Councils

FTO –   Full Time Trade Union Officer

GMB –   General Municipal and Boilermakers Union

H&S –   Health and Safety

HPWS –   High Performance Workplaces

HRM-   Human Resource Management

I&C –   Information and Consultation

IBEC –   Irish Business and Employers Confederation

ICED –   Information and Consultation Directive

ICT –   Information and Communications Technology

IMPACT –   Irish Municipal Public and Civil trade union

IR –   Industrial Relations

ISAC –   Irish Sales and Administrative Centre

LME –   Liberal Market Economy

LRC –   Labour Relations Commission

MNCs –   Multinational Companies

NCPP –   National Centre for Partnership and Performance

NER –   Non-union Employee Representation

NI –   Northern Ireland

NIRC –   Northern Ireland retail Consortium

PRA –   Power Resource Approach

ROI –   Republic of Ireland

SIPTU –   Services Industrial Professional Trade Union

TEEU –   Technical Electrical and Engineering Unions

TUC –   Trades Union Congress

UCATT –   Union of Construction, Allied Trades and Technicians

UK –   United Kingdom

UNITE –   UNITE - The union

US –   United States of America

VoC –   Varieties of Capitalism

WERS –   Workplace Employment Relations Surveys

Chapter 1 – Introduction and Contribution

1.1   Introduction and Overview

Since the 1960s forms of employee voice have been important employment policy objectives of the European Commission (Gold and Schwimbersky, 2008). The transposition of the Information and Consultation Directive (2002/14/EC) [1](ICED) into the employment laws of European Union (EU) member states has established for the first time general frameworks for informing and consulting employees. This thesis sets out to evaluate the impact of employment regulation on employee voice through a study of the content and transposition of ICED in the two jurisdictions on the island of Ireland, namely Republic of Ireland (ROI) and Northern Ireland (NI).

There has been considerable scholarly interest in the significance of ICED on the potential to reshape or 'transform' the voluntarist forms of Industrial Relations (IR) in Ireland and the UK and specifically the bestowing of general rights[2] on employees in member states to be consulted and informed, as opposed to transnational rights (Bercusson, 2002; Sisson, 2002; Dundon *et al.* 2003: Storey, 2005; Roche and Geary, 2005; Hall, 2006). The focus was mainly on the potential legislative provision of employee voice as possible challenges to both union based single channel voice forms and employer sponsored direct forms of workplace communication. There is sustained interest in the academic literature in aspects of the implementation of ICED in ROI and UK (Koukiadaki, 2010: Deakin and Koukiadaki 2011; Hall and Purcell, 2012; Cullinane *et al.* 2013; Curran and Quinn, 2012). Similarly there is ongoing research by the EU Commission and Eurofound into aspects of implementation, 'fitness check' and evidence of the impact of ICED (EU, 2008 and 2009; Hall and Purcell, 2011). Therefore, current academic literature and ongoing research by the

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[1] Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002 establishing a general framework for informing and consulting employees in the European Community, OJ 23.3.2002 L80/30 and hereafter referred to as ICED

[2] There are specific rights to information and consultation (I&C) by employees in member states that pertain in certain circumstances EU Directives, such as Collective Redundancies (92/56/EEC) and Transfer of Undertakings (2001/23/EC)

EU Commission indicates the topic of employee voice as spurred by ICED (Appendix G) has relevant scholarly, policy and practical considerations.

There are multiple forms and patterns of regulation relationships that influence broader workplace governance regimes; the law and government regulation, market conditions in the economy, organisational hierarchies and power relationships, and employer and employee collective associations (Campbell and Lindberg, 1991; Hollingsworth *et al.* 1994; Hauptmeier, 2011). Conceptually the role of governance regimes in shaping voice has received little empirically based research attention. This study seeks to address this limitation on how the functioning of workplace governance regimes influence and shape the outcomes of employee voice as examined through the specific lens of the transposition of ICED in workplaces on the island of Ireland.

This chapter will proceed by outlining the background and context of the role of EU employment legislation in Section 1.2. The specific research questions developed are given and explained in Section 1.3. A fuller exposition of the research problem under scrutiny and conceptual considerations is in Section 1.4, the contribution of the thesis to the field of industrial relations (IR) is then considered in Section 1.5 before concluding with a brief statement on the structure of the thesis.

1.2 Empirical background and role of EU employment laws

The European Parliament and Council of Ministers formally adopted the ICED in February 2002. The stated purpose of ICED is (EU, 2002):

> *to establish a general framework setting out minimum requirements for the right to information and consultation of employees in undertakings or establishments within the European Community*

The broad policy statement provides some choice to individual member states in the transposition into national level regulations. ICED does, however, specify that information means transmission by the employer to the employees' representatives of data in order to enable the latter to acquaint them with the subject matter and to examine it. It further states that, consultation means the exchange of views and establishment of dialogue between the employees' representatives and the employer.

The ICED seeks to ensure that the right to information and consultation covers a number of scenarios: information on the recent and probable development of the undertaking's or the establishment's activities and economic situation; information and consultation on the situation, structure and probable development of employment within the undertaking and on any anticipatory measures envisaged, in particular where there is a threat to employment; and the exchange of information and consultation between employers and employees is conducted with a view to reaching an agreement on any decisions likely to lead to substantial changes in work organisation or in contractual relations.

The introduction of ICED was not without political controversy; it was opposed by a 'blocking minority' of member states comprising Denmark, Germany, Ireland and UK. Together Ireland and the UK continued to oppose ICED right until the last moment (EIRO, 2001). EU directives on employment regulation are highly contested and are shaped by a variety of influences and political choices (Baldacchino, 2001). The ICED was highly significant for Ireland and the UK as they were the only two countries that required major changes in their employment laws at the time.[3] Indeed the history of attempts by the EU Commission in the area of employee voice is littered with failed attempts and blocking manoeuvres from the EU Council of Ministers (Gold, 2010). The EU Commission (EU, 1995:1 and 2) stated;

> *The subject of information and consultation is politically sensitive and often gives rise to heated discussions.…with a large number of blocked proposals.… discussions have been not only long, but also lively, controversial and, in some cases, even heated.*

The political agreement reached on the ICED was initially concluded in June 2001 under the Swedish Presidency, after being launched as a draft Directive in 1998. After many changes and negotiations between the European Parliament and Council, ICED was finally passed by the European Council and Parliament in March 2002. While there has been interest in forms of employee voice by the European

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[3] The ICED was agreed in 2002 and EU had 15 members, subsequently major changes in the laws were required in new member states of; Bulgaria, Cyprus, Estonia, Malta, Poland, and Romania.

Commission from the 1960s (Gold and Schwimbersky, 2008), it was not until the enactment of the first Social Action Programme (1974) that there was legislative support for employee voice (Ewing and Truter 2005). The Social Action programme became known as the EU 'social dimension' (Hall, 2005) and the political goals associated with it are fourfold; harmonization of company law, prevention of social dumping, the protection and extension of workers' rights and the promotion of employee voice as a 'productive factor' (Gold, 2010:3). The main objective behind the ICED and other employment regulations is to reduce the imbalance of power inherent in the employment relationship (Gollan and Patmore, 2013). The power imbalance in the employment relationship operates at two levels: setting or varying the terms of employment and the existence of control/subordination to the employer wishes (Davidov, 2013). The purposes, therefore, of the ICED and the subsequent transposed regulations in EU member states are a redistribution of power and justice at work while also attempting to create industrial democracy as a productive factor and as a mutual gain for employers and employees (Kochan and Osterman, 1994; Cullinane *et al.* 2013).

One of the overriding concepts governing the EU is that of subsidiarity which limits and constrains supranational regulation efforts (Keller and Werner, 2012). In recent years the EU has moved away from 'harmonization' or 'convergence' to procedural forms of governance that seek to create a floor of rights with flexible modes of co-ordination (Gold and Schwimbersky, 2008). These developments have been characterised and described in different ways; as a form of neo-voluntarism (Streeck, 1998), a type of negotiated Europeanization (Lecher *et al.* 2002), an example of reflexive law (Teubner, 1993; Barnard and Deakin, 2002), multi-level European governance (Marginson and Sisson, 2004) or reflexive harmonisation through open methods of co-ordination (Deakin, 2009). In tandem with less convergence policies there was a shift towards neo-liberal policies in the EU from the 1990s and the consequence has been more variation and heterogeneity and an:

> *emerging trend of enterprise-specific forms and increasingly divergence not only between but also within member states* (Keller and Werner: 638).

The changing dynamics of employee voice mechanisms in the traditionally voluntarist IR regimes of the UK and ROI from the mid 1980s is reflected in

declining levels of trade union density and the rise of employer sponsored direct forms of voice in both jurisdictions (Charlwood, 2006; Heery 2010; Lavelle *et al.* 2010) (which will be elaborated further upon in Chapter 3). ICED had been viewed as a potential mechanism to create a permanent and statutory framework for employee information and consultation (Dundon and Wilkinson, 2009). It was, however, introduced with broad terms as a 'general framework' for informing and consulting employees and as a minimum floor of rights (Hall *et al.* 2007). In both jurisdictions there were three key areas of the transposition that proved contentious; application thresholds in workplaces, direct involvement and the elective nature of the legislation (Dundon *et al.* 2003: Veale 2005).   Thus ICED followed recent patterns of EU legislation in facilitating high levels of flexible implementation and the encouragement of enterprise-specific models in particular the following five sections of which are included in the transposed regulations in NI and ROI[4]:

a) *Choose whether to apply the directive to undertakings with at least 50 employees or to establishments with at least 20 employees* (Article 3);
b) *Designate the employee representatives who are to be informed and consulted* (Article 2*);
c) *Require employees to take specific steps to trigger the introduction of information and consultation procedures* (Recital 15*), rather than making conformity with the directive's requirements mandatory for all relevant undertakings or establishments;*
d) *choose whether to enable the social partners, including those at undertaking or establishment level, to agree on information and consultation arrangements which differ from the directive's provisions* (Article 5);
e) *Determine the enforcement mechanisms and sanctions that apply in cases of non-compliance, although the latter must be 'effective, proportionate and dissuasive'* (Article 8)*.   (Carley and Hall, 2008: 3).

ICED created for the first time in the traditional voluntarist systems of UK and ROI a legal entitlement to information and consultation for employees on a range of general and not just specific issues. There are many similarities and some differences in emphasis between the ICED regulations in NI and ROI as set out in Appendix A. Broadly the differences are of a technical nature: the maximum number of employees

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[4] ICED implementation into the UK was delayed until 2005 and phased in over time until fully transposed into law in 2008 as '*The Information and Consultation of Employees Regulations 2004 No 3426*' and in NI as the '*The Information and Consultation of Employee (Amendment) Regulations (Northern Ireland) 2006 No.86*'. ICED was similarly transposed into law on a phased basis from 2006 in ROI as '*Employees (Provision of Information and Consultation) Act 2006 as S.I. No. 382 of 2006*'

needed to meet the threshold is 100 in ROI and 2,500 in UK, while Standard Rules, or the default system, apply 3 months after a valid request in ROI and 6 months in UK. Two technical items are of significance. In ROI trade unions who represent a minimum of 10% of a workforce have a guaranteed role in an ICED created information and consultation (I&C) forum but not in the UK. Secondly, under enforcement and penalties in the UK, if employers fail to comply with the ICED regulations they cannot construe that to be an action of those who control them directly or indirectly such as the corporate board of an MNC. There is no such provision in the ROI regulations that which could have had an important impact on Ireland's very large MNC sector.

The importance of ICED regulations is in the potential IR impact they have at workplace governance level in terms of altering voice forms and practices through regulatory effect. An examination of the level of claims/referrals made under ICED regulations that were fully processed in IR disputes bodies in both jurisdictions could be a useful barometer of activity. The reason for only examining those cases that exhausted the ICED regulatory schemes is that they represent fully formed and appropriate cases. There is some evidence to indicate that there are other cases that may or are in the process of being taken but are very much in the undergrowth at this stage. In Table 1.1 below the numbers of cases are outlined and indicate that only one case was taken in NI and three in ROI in the years 2006-2012.

Table 1.1 – ICED Adjudications

STATE IR BODY	YEARS 2006-2012
Industrial Court – NI	**1 Case - Ref No: IC35/2007**
Labour Court – ROI	**3 Cases - Refs No's: RIC081/2008 RIC101/2010 RIC111/2011**

Sources: Labour Court Ireland and Industrial Court Northern Ireland
Annual Reports 2006- 2012

Storey (2005:16) predicted the impact of the ICED regulations as: "likely to be limited". Others have described the regulations as an underpinning of the "concept of

industrial citizenship" (Martin, 2003: 164). Other research supports the contention that ICED has had limited impact in practice (Hall *et al.* 2010) or that it needs further time to bed down (EU, 2008) and:

> *In practice, the effect of the Directive was insufficiently strong to generate major institutional change in any particular country, though institutional adaptation did occur (Donaghey et al. 2013: 3).*

The adaption of new forms of legally available voice through ICED regulations in NI and ROI would appear not to have led to widespread changes in voice practices. This possibly indicates that ICED has had little practical effect on the operation of workplace governance regimes and has not spawned a new layer of voice forms or practices. Despite a background of institutional support for more employee 'engagement' (MacLeod and Clarke, 2009) and the creation of competitive and fairer workplaces in UK government policies which supports workplace partnership (DTI, 2004) or the existence in ROI of national social partnership mechanisms from 1987 until 2010. Nonetheless ICED has created a legal entitlement to employee voice in EU member states, though perhaps it can be viewed as a constrained legal right. Such a legal entitlement does create an institutional legal effect that workplace governance regimes need to acknowledge and combine with their existing operational systems. This is a matter that deserves investigation and has potential for public policy implications and deserves to be examined in practice and explored conceptually through two pertinent streams of literature that of workplace governance regimes and of employee voice (both will be discussed in more detail in Chapters 2 and 3). To this end the next section will outline the research questions developed to answer this research problem.

1.3 Research Questions of the study

The research questions aim to shed light on what is not known about the role of differing governance regulation and its effects on employee voice in companies operating in NI and ROI. There are different legal frameworks in each jurisdiction which affect voice and workplace governance. Thus the main research question is an overarching one that encapsulates the complexity of the broader issue:

> ***Main Research Question: "How has the transposition of the ICE Directive affected employee voice in companies on the island of Ireland?"***

A number of supplementary research questions were developed to explore aspects of the transposition of the ICED and forms of workplace governance. The first supplementary research question is:

> ***First Supplementary Research Question: 'What has been the impact of ICED in cross-border companies on the island of Ireland?'***

This question is focused on the need to understand how ICED transposed regulations have influenced changes in workplaces in both jurisdictions. The Irish and UK governments transposed the Directive with slightly different regulatory emphasis. Comparing the impact of this is best explored in cross-border companies where the effect of ICED regulations can be compared in terms of company policies and practices and identification of any specific adjustments made to legally comply with external regulation at workplace level.

The second supplementary research question is concerned with ICED influence on voice outcomes. The path dependent role of voluntarism in both jurisdictions and the continuing influence it has in workplace decision-making and hierarchies is a specific factor on how employment regulation is implemented. In particular this question is concerned with how managers and employees in union and non-union settings conceptualise, experience and operationalise voice since the introduction of the new regulatory voice framework. Thus the second supplementary research question is:

> ***Second Supplementary Research Question: 'What factors have influenced the particular outcomes of voice schemes and practices in the case study companies?'***

Much of the literature on voice has tended to consider outcomes in terms of unitary and pluralist frames of reference, from collective bargaining or a rights-based identity (Hauptmeier, 2011). There has been little attention paid to the role of governance regimes on the transposition and content of ICED regulations or how

they have been interwoven and normalised in voice schemes at workplace levels. To this end the values and beliefs that sustain governance regimes need to be subject to scrutiny as to their role in social legitimizing voice schemes at work. The device of regulatory space, discussed in Chapter 3, also allows for the exploration and measurement of laws such as that of the ICED within the confines of workplace governance regimes. Thus the third supplementary research question is:

> ***Third Supplementary Research Question***: *'Who occupies the regulatory space for employee voice in workplace governance regimes?'*

We will now consider the rationale for the thesis in the next section.

1.4 Research Problem and conceptual considerations

There was considerable anticipation as to the effects of ICED on the voluntarist IR regimes in ROI and UK (Bercusson, 2002; Sisson, 2002; Dundon *et al.* 2003: Storey. 2005; Roche and Geary, 2005). The anticipated effect of ICED regulations was that of 'legislatively-prompted voluntarism' that could create diffusion of workplace specific I&C arrangements (Hall and Terry, 2004). Yet there has been little in the form of registered disputes about voice arrangements brought about by ICED regulations in either NI or ROI as shown in Table 1.1. Conceptually, governance can assist in studying how change occurs, or does not occur, including the process of adjustment and choices made that shape outcomes (Katz, 2006: 331). In the extensive literature in Chapter 2 the nature and functioning of workplace governance regimes is discussed further.

There are, therefore, a variety of forms of governance regimes in the employment relationship from unilateral management to joint regulation. Governance is an approach that seeks to encompass consideration of a wide range of factors that influence workplace regimes including state politics, regulatory institutions and actor agency (MacKenzie and Martinez Lucio, 2005). Throughout the twentieth and twenty-first centuries the employment relationship itself has remained fairly stable but workplace regimes have changed (Thompson and van den Broek, 2010). This requires to be understood and explored in terms of how workplaces adapted to or

normalised the regulatory effect of the ICED in shaping governance regimes for voice outcomes, practices and forms.

Forms of governance regimes are crucial in assessing how and to what extent actors can occupy the regulatory space for employment relations (Sisson, 2007). In relation to applicability to this thesis, regulatory space concerns the range of IR issues subject to decision by various actors – either unilaterally or jointly. This has particular relevance as to how the process to implement the ICED was agreed at EU, national and subsequently workplace levels. As Dobbins (2008a) and Boxall and Purcell (2011:171) indicate, there was a contested political process on ICED implementation in both Ireland and the UK. The analytical tool of regulatory space and the capture or occupation of particular pieces of regulation is a useful concept to explore the practical workings of workplace governance regimes and how they influenced or reacted to new forms of regulations such as ICED.

Employee voice plays a key part in the governance of the employment relationship (Marsden, 2011:1; Heery, 2011:342). Conceptually, there is a complexity of interests involved in and variety of definitions of employee voice as a multi-dimensional construct, a product of external policy and internal workplace developments (Lecher *et al.* 2001; Marchington and Wilkinson 2000; Dietz, *et al.* 2010). As many scholars in the field have advanced, understanding the dynamics, meanings and purposes of voice within workplace settings is bound-up with recognising the importance of managerial initiatives (Ramsay, 1977, Marchington *et al.* 1993; Wilkinson *et al.* 2004; Dundon and Wilkinson, 2009). This is discussed in more detail in Chapter 3.

ICED was intended as a regulatory means to advance employee voice through the broad objective of promoting social dialogue in the EU while specifically encouraging active workplace forms of voice that would allow employees to have a say in decisions at work. The ICED (2002) preamble states:

> *a particular objective of the Community and the Member States is to promote social dialogue between management and labour….inter alia, that information, consultation and participation for workers must be developed*

> *along appropriate lines, taking account of the practices in force in different Member States*

This brief discussion of employee voice and governance regimes literature has introduced the conceptual issues, which are fundamental to providing the base upon which the research questions were developed and these sets of literature are further elaborated upon in Chapters 2 and 3. Variation in experiences, practices and institutional support for voice is a research concern in comparative IR (Sako, 1998; Traxler 1999; Meardi 2007; Barry and Wilkinson, 2011). Many scholars have investigated aspects of the implementation of ICED, as given above. There is, however, a research gap specifically the absence of a systematic comparative study of ICED transposed regulations and their efficacy in terms of specific regulatory impact for example in the two jurisdictions on the island of Ireland. In international law Ireland is divided between two sovereign states: the United Kingdom of Great Britain and Northern Ireland, and the Republic of Ireland (Whyte, 1983). UK and Ireland share a common legacy in terms of colonial and post-colonial relations: the partition of the island of Ireland and the creation of Northern Ireland; a continuing legacy of a British tradition of policy making and a sense of Irish dependence on Britain for policy direction long after independence in 1922 (Daly and Yeates, 2003). There are differences in terms of economic size and very distinct political traditions including approaches to international relations. Yet they share a common language, have a common law tradition and share many cultural ties. Both jurisdictions have operated open-border policies of residence, trade and travel rights without the necessity of passports for many years both before and after they both became members of the EEC in 1973. The ROI decision to join the EEC was predicated on the UK becoming a member at the same time (Laffan and O'Mahony, 2008).

Both jurisdictions are broadly similar and are within the liberal market economy (LME) typology of the varieties of capitalism (VoC) (Hall and Soskice, 2001). It is probably more accurate to describe ROI as a hybrid model of LME and CME (Teague and Donaghey, 2009). Each economy possesses many common features and has similar origins in their voluntarist systems of industrial relations. This broad categorisation masks significant differences in policy trajectories such as the influence of Thatcherism in the UK. Since 1987 Irish macro-economic policy has

been guided by social partnership agreements between government and key social and economic interests (Hay and Smith 2005). Therefore, both jurisdictions have evolved differently within their economic and political institutional frameworks in the latter half of the twentieth and early part of the twenty -first centuries. The institutional features of each are different such as how actors relate to each other through the regulatory framework and the operation of labour and production work environments. Although in recent years there has been policy shifts in each jurisdiction are discernible in modes of economic governance, for example towards market-conforming measures taken in privatisation of state owned companies and others including the marketisation of pensions (Hay and Smith 2005: 127). The history and culture of each jurisdiction have given shape to divergent but similar approaches to implementing ICED. A comparative analysis of the impact of the ICED in workplaces on the island of Ireland should shed light on ideational responses and the circumstances for selecting their differential policy discourses.

The above arguments offer a compelling case and the necessary validity for applying and developing the concepts of governance regimes and voice at an empirical level to determine the regulatory effect of ICED on voice experiences and practices in workplaces on the island of Ireland. The next section will outline the contribution the study will make.

1.5 Contribution of Study

In pursuance of the research questions this enquiry will contribute to the field of IR in two distinctive ways. The first is to advance a theoretical contribution, and the second is to highlight its public policy relevance.

1.5.1 Theoretical contribution

The theoretical contribution the thesis makes is in the area of workplace governance regimes concerning how ICED regulations either constrained or promoted employee voice. Specifically, the study aims to examine what influence and effect the transposition of ICED has had in workplaces. To this end the purpose of the thesis is to widen the current limited scope of empirical findings in relation to the potential influence and effect on employee voice and IR. It will be an original empirical study into regulatory influence in employment relations. The research enquiry involves the

pursuit of case study and qualitative research strategies to obtain empirical evidence from workplaces. It was decided that the most appropriate method to advance the theoretical contribution was to conduct research in private sector companies which operate on a cross-border basis with operations in NI and ROI in different sectors of the economy. This would provide three pertinent comparative dimensions: a) it would be cross jurisdictional; b) it would be cross-sectoral; and, c) it would be an intra-company study through the lens of differing but similar ICED regulations. In essence the contribution is an analysis of recombinant capitalist workplace governance (Crouch, 2005). Examined through the shifting axis of ICED employment regulation, considering how it is normalised into everyday workplace operations and establishing what causal factors create different responses and outcomes in workplace regimes on the island of Ireland. As Crouch (2005) explained the operation of governance regimes is not a static state but one where:

> *Actors seek out those elements of one governance mode that seem to be associated with certain desired outcomes, and elements of others that give different ones, recombining them in order to maximise their performance* (Ibid.: 126)

1.5.2 Public Policy

A second contribution of this study is in relation to public policy concerns in European, Irish and UK IR. As has been made evident in this chapter the issue of employee voice is a highly contested one and the transposition of the ICED was a politicised one. There is ongoing scholarly concern about the nature of the impact of ICED in terms of take-up and creation of new ICED inspired voice forms or practices in Ireland and the UK (Ewing, 2010; Taylor *et al.* 2009; Hall and Purcell, 2012, Cullinane *et al.* 2013). Another feature of the transposition process in Ireland and the UK was the contrasting manner of 'social partner' involvement. For the first time ever the 'social partners' in the UK, i.e. the Government, Confederation of British Industry (CBI) and the Trades Union Congress (TUC), made an agreement on EU legislation and agreed the content and manner of transposition of ICED (Hall, 2006; Veale, 2005). In contrast, the context in ROI at the time was the dominance of public discourse in ROI for over two decades by national social corporatism or social partnership. Yet for the first time on any EU legislation, there was no agreement

between the 'social partners' on the transposition of ICED, on the content or text of national regulations. Instead there was much disappointment and hostility expressed by trade unions (Dobbins, 2008a). Consequently, the contextual factors of the transposition processes and the on-going influence of ICED in workplaces is a matter of significant public policy concern in terms of effectiveness of legislation. The EU operate a policy of review of the application of legislation and a 'fitness check' programme of certain Directives since 2010 (EU, 2013) which has resulted in a number of research reports (Ales, 2007; Carley and Hall, 2008; EU, 2008 and 2009; Donaghey *et al.* 2013). This study, therefore, offers an original empirical investigation that can be of benefit to ongoing scholarly and practical concerns as to the extent of the fulsomeness of ICED application in workplaces on the island of Ireland.

1.6   Outline of the study

The chapters that follow are designed to bring the reader through the aims of the investigation and follow the stages of the enquiry. They inform the research questions that were developed from an analysis of the literature as outlined in chapters 2 and 3. This provides the analytical and evaluation frameworks to consider the remaining research questions. Chapter 4 considers the study's research methodology which considers the issues of reliability and validity in the research strategy and methods employed in the thesis. Chapters 5, 6, and 7 present empirical findings from the three case study companies in the six units of analysis where the research took place. Chapter 8 is an integration of the findings from chapters 5, 6, and 7. Chapter 9 is the discussion of the findings and analysis of the data obtained in the research. Finally, Chapter 10 is the conclusion of the study and will outline the theoretical and public policy contribution and outline some areas where further research may be needed.

Chapter 2 – Workplace Governance Regime and the Employment Relationship

2.1 Introduction

This chapter will review a number of theoretical approaches to workplace governance. The rationale for studying workplace governance has been informed by the research questions for the thesis, several contextual developments surrounding the regulation of employee voice, and a number of discrete issues in the extant employment relations literature related to regulatory governance. The often quoted starting point, or standard definition, for IR research tends to present the subject matter as almost exclusively concerned with the 'study of rules' (Clegg, 1979). However, the research questions posed in Chapter 1 draw attention to the multiple forms and patterns of regulation shaped by various institutions and external bodies beyond micro-level workplace rule-making. Consequently, overlapping meso and macro factors and relationships are known to influence broader workplace governance regimes; the law and government regulation, market conditions in the economy, organisational hierarchies and power relationships, and employer and employee collective associations (Campbell and Lindberg, 1991; Hollingsworth *et al.* 1994; Hauptmeier, 2011). These overlapping regime influences are simplified in Figure 2.1.

Figure 2.1 Overlapping regime influences
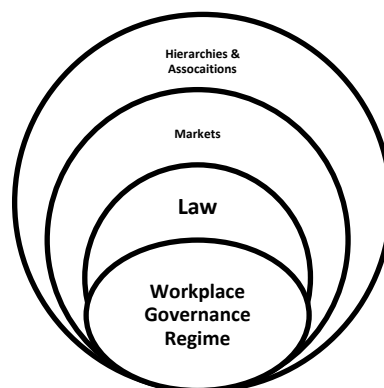
Adapted from Campbell and Lindberg, 1991; Hollingsworth et al. 1994;
Hauptmeier 2011

Drawing on the framework depicted in Figure 2.1, this chapter will proceed as follows. First, neo-institutionalist theory will be considered in informing issues concerned with employee voice regulation and workplace regimes. Secondly, the chapter will link the content and transposition of ICED with employee voice regulations and with the politics of participation within capitalist economic organisations (Watson, 2008). Capitalism is an economic and social order, or governance system, not governed by objective laws but by a set of interrelated social institutions (Streeck, 2010). To this end Varieties of Capitalisms (VoC) and power resource approaches are compared to illustrate and introduce workplace governance as a multi-level perspective that has emerged to advance knowledge about IR processes. Finally, the concept of regulatory space is developed as an analytical tool to further advance the research objectives for this thesis.

2.2   Neo-institutionalism and the workplace regime

There are many wide and variable definitions of an institution and of what it does. An institution can be work itself, a trade union, or a government agency or other state body affecting employment relations such as the Labour Court or ACAS. Crouch (2005) explains that institutions are 'structures' and 'mechanisms' of 'social order' that enable and sustain a degree of cooperation and conformance in terms of behavioural outcomes. Institutions therefore regulate and reproduce patterns of human action. Institutionalisation is a different concept to an institution. The former is about the extent to which a practice or body is embedded in a society or in a particular day-to-day human activity (Crouch, 2005). The roots of modern organisational institutionalism are found in works by Meyer and Rowan (1977) and DiMaggio and Powell (1983). Their work established the idea that organisations are influenced by their institutional contexts. Streeck and Thelen (2005: 9) offer a broad definition of institutions as:

> *"building-blocks of social order; they represent socially sanctioned, that is, collectively enforced expectations with respect to the behavior of specific categories of actors or to the performance of certain activities. Typically they involve mutually related rights and obligations for actors, distinguishing*

> *between appropriate and inappropriate, 'right' and 'wrong', 'possible' and*
> *'impossible' actions thereby organizing behavior into predictable and*
> *reliable patterns".*

This section of the chapter will outline the importance of institutions to the employment relationship and provide a theoretical basis to link outcomes and behaviour in workplaces. It will outline dialectical processes of work institutions and how external influences shape beliefs and actions through normative and regulative actions. Thompson and McHugh (2009:15) describe this dialectical process as *'reciprocal interaction, between structure and human agency or between conflicting groups'*.

Stinchcombe (1997: 2) contends that institutions are run by people who organise activities on their own behalf and that they shape the creation and the function and interrelationships of units in their different countries and markets. It is recognised that capitalist economies take on different forms in different countries (Albert, 1992, Hall and Soskice 2001). An economy is, an "instituted process" (Polanyi, [1957]1992), and it follows that capitalism is a specific type of economy which is constructed and organised to secure support for the pursuit of profit. For this study institutions are defined as,

> *more-or-less taken for granted repetitive social behaviour that is*
> *underpinned by normative systems and cognitive understandings that give*
> *meaning to social exchange and thus enable self-producing social order*
> (Greenwood *et al.* 2008:4/5).

Defining institutions in the manner of both Stinchcombe (1997) and Streeck and Thelen (2005) has the advantage of situating them as people or actor centred and embedded within their society. As Boxall and Purcell (2011:171) state the oppositional approach of employers to the EU Directive on employee information and consultation was essentially political. In essence what the employers were doing in this instance was to reinforce their constructed social order to limit employees having a voice over managerial decisions; a concept that was 'alien' to British

management according to the Institute of Directors (Coats, 2004) or a form of 'social engineering' according to an Irish management representative (IBEC, 2010).

From the above it can be posited that institutions relate to social actors through rules and their implementation. Exploring institutional theories enables the distinguishing between action and outcomes, and facilitates the analysis of rule makers' intentions and how rule-takers perceive and act as a result within structural constraints. Weber (1978) added that using analytical tools such as those that seek explanatory or rational understanding can also unearth motives. He believed that this could be best achieved by placing questions in a context of meaning. He added that observed actors may conceal motives, bear opposing and conflictual motives and only the observation of actual outcomes can give a solid basis for judgement.

Throughout the twentieth and twenty-first centuries workplace regimes have undergone wide changes (Thompson and van den Broek, 2010). In the 1960s institutionalist literature wrongly contended that there would be a convergence of national IR systems as industrialisation and the growth of economic activity spread across countries (Kerr *et al.* 1960). This convergence view had its foundations in the orthodox systems theory of Dunlop (1958). It was based on the general assumption that the structure of social systems would become isomorphic with the environment of such systems (Traxler, 2003). In contrast, such a view was challenged in studies by Dore (1973) on Japanese and British factory work, by Streeck (1984) on employment in car plants in Germany. Both Dore and Streeck have shown in some detail that national patterns of employment relations are linked to their national employment relations institutions at any given time. Marchington *et al.* (2005) highlight UK de-regulation and the growth of new industries mostly in the service sector, where there is fragmentation of work organisation and the growth of core competencies and the consequent buy-in of other skills. Wailes *et al.* (2003) demonstrate that national institutions shape distinct patterns of employment relations within different national business systems and there is a mixed picture of convergence. Such work compliments contemporary neo-institutionalism which recognises different varieties and even nuanced regional systems of capitalism (Crouch *et al.* 2009).

Neo-institutionalism has advanced understanding of complex comparative employment relations issues (Kaufman, 2010). Godard (2002) explored institutional environments, employer practices and state regulation in the liberal market economies of Britain, Canada and United States of America (USA). He reported that in addition to legal regulation, states help shape both cognitive and normative rules which underpin employer decision-making processes and employer policy orientations to the employment relationship. Ferner and Almond (2006) examined USA MNC operations in Europe, and considered how different host environments influence what is implemented in local practices and also drew on comparative institutionalist frameworks to explore national development paths taken by different countries. As a theory this helps explain globalisation, the influence of USA multinational corporations (MNCs) on business organisation models and the complex patterns both of convergence and continuing differences in employment relations policy. Thus variants of neo-institutionalism have been utilised in IR literature and have sought to link enterprises to their environments and to understand taken for granted assumptions. For the purposes of this thesis which is cross-national and cross-sectoral, neo- institutionalism is a 'fruitful' perspective (Paauwe and Boselie, 2007) with several relevant themes connected to the research questions concerned with ICED impact and factors influencing employment governance, namely: managerial choices, worker and union contestation, cross-border working, and cognitive, normative and regulative forms of employee voice change.

In summary, neo-institutionalist literature provides more than a descriptive comparative framework as it specifically seeks to understand the capacity of labour market actors, historical, socio-economic and cultural factors that mediate change in governance regimes (Barry and Wilkinson, 2011). Hence, there is validity in a theoretical lens that can examine external and internal constructs of workplace governance mechanisms by way of analysing structure and human agency. Such work provides links with the macro regulatory decision making at a political economic level and highlights the importance of managerial choices and union behaviours as actor-centred agency in the construction and operation of workplace regimes

Institutionalist and neo-institutionalist work have developed categorisation schemes on which to construct comparative analysis. The next section will consider two main approaches in neo-institutionalism: VoC and Power Resource Approaches.

2.3 Varieties of Capitalism and Power Resource Approaches

The most influential neo-institutionalist framework used most recently by IR scholars is that of Hall and Soskice (2001) in their work, *Varieties of Capitalism: The Institutional Foundations of Comparative Advantag*e. The VoC framework is centred on the development of a model of business systems that would identify the fundamental differing characteristics of capitalism: liberal market economies (LME) and co-ordinated market economies (CME). Their work specifically rejected the notion of convergence arising from the phenomenon of globalisation or the transfer by MNCs of single best practice models into countries. They premised their work on a definition of employers in each defined regime type, and that differences in the institutional framework generated systematic differences in corporate strategy (Hall and Soskice, 2001:16). They regard their work to be an actor-centred approach with the private firm as the main actor; driver and agent of change (Hall and Soskice, 2001: 6). They posit that the role of the firm in LMEs, such as the USA and UK, have their economic activities co-ordinated by fluid markets which allow greater opportunities to utilise resources to increase returns. In contrast, Germany is considered a CME where economic activities are co-ordinated through institutions that support firms to develop networks and long term planning. Part of the Hall and Soskice (2001) framework also highlights differences in LME and CME in collective bargaining arrangements; training and vocational training schemes; the durable relationships between firms and suppliers, and the financial structures surrounding firms' ability to raise capital over a longer term.

The Hall and Soskice VoC approach has been the subject of extensive criticism which is best summarised around twelve main issues by Hancké *et al.* (2007: 8-9). Some of those criticisms are: that VoC is deterministic, or a static interpretation of path dependency; that it provides reified notions of the world into LMEs and CMEs only; ignores within system diversity and neglects the role of the state. For Hancké *et*

al. (2007) such criticisms are merely caricatures and fail to explore the VoC approach which is that all institutions that underpin coordination are subject to constant renegotiation. Nonetheless, a significant criticism of VoC is that it only provides a production regimes perspective or employer centred version of capitalism which does not take account of class structures (Korpi, 2006; Gallie, 2007). This power resources approach (PRA) emphasizes the role of socioeconomic class and the ability of employers to wield more power in interactions with employees. Pontusson (2005) adds that PRA is a deeper analysis of capitalism which is not apolitical and requires a consideration of the dynamic distribution of power relations which are among collective actors which are embedded features in institutions. As such PRA considers the firm is not a passive institution or rule taker but one that has the ability to exercise agency and create hierarchical workplace governance regimes that reflect LME capitalist power relations (Nash, 2011).

In the LMEs of Ireland and UK the most prevalent feature of employment relations is the traditional and institutional support for voluntarism. Essentially voluntarism is a reflection of the state approach that encourages and supports employers and employees to agree workplace arrangements (Boxall and Purcell, 2011). Against this legacy of voluntarism however has been the expansive regulation of employment through European and national laws shaping various workers rights and employer obligations, including especially those relating to voice and participation. This evolving dynamic between voluntary agreement and institutional regulation connects the subject matter to political factors often overlooked or neglected in mainstream IR theory (Pontusson, 2005; Korpi, 2006; Gallie, 2007). Streeck and Thelen (2005:10) provide an elaboration of this point of view in the following way;

> *This is because to the extent that modern economies are political economies – that is, governed by politics – they are mainly controlled by norms and sanctions that are formalized*

Hauptmeier (2011) further advances the case for recognising not only the socio-economic but also political considerations affecting the changing axis of workplace governance given the decline in collective bargaining as one of the main regulatory IR processes. He does so by integrating four governance roles or influences, which

serve to intersect economic activities and employment regimes: law, markets, hierarchies and actor-based associations. These four governance roles were depicted in simplified form earlier in Figure 2.1 to which Hauptmeier (2011: 173) further explains:

> *States govern societies by law. Markets coordinate the exchange and allocation of goods and services and employees. Management organizes economic activity and employment relations through hierarchical decisions (Williamson, 1983). Associations such as labour unions and employers' associations engage in collective bargaining and regulate the substantive and procedural terms and conditions of employees*

In summary the VoC and PRA can be considered important for this study for several reasons. VoC scholars have provided valuable insights into understanding employer strategies, while PRA put the role of politics and socio-economic class as major factors in the governance of the employment relationship. The analytical toolkit of neo-institutionalism adds further differentiation concerning governance regimes especially the continuing support for voluntarism in Ireland and the UK amidst growing legal regulation. These developments also point to the important interplay of political dynamics as a central concern to advance the aims of this thesis specifically the main research question which is concerned with who may or does occupy the voice regulatory space of ICED.

2.4 Governance regime types: A multi-level perspective

The main research question is: How has the transposition of the ICED affected employee voice in companies on the island of Ireland? It is, therefore, important to establish what a governance regime is and how it operates. It is a term associated with the management of work and people in organisations. For Edwards (2006a:2) workplace governance can be defined as:

> *set of practices operating at the level of the workplace that manages*
> *employees and promotes their active co-operation in the productive process.*
> *These practices cover pay, training, the organisation of the work task,*
> *commitment and communication....and refers to the wider system of rules*
> *that regulates workplace regimes*

There are a variety of forms of governance in the employment relationship from unilateral management to joint regulation. It is an approach that seeks to encompass consideration of a wide range of factors that influence workplace regimes including state politics, regulatory institutions and actor agency (MacKenzie and Martinez Lucio, 2005). Governance is thus a multi-level approach that links neo-institutional analysis to workplace behaviours and outcomes.

The point of departure for this study is the regulatory impact of the ICED and its impact on employee voice practices in organisations operating in both jurisdictions on the island of Ireland. The ICED and the subsequent domestic regulations did not emerge in a vacuum but through the sort of institutional and political processes discussed in the previous sections. The political dimensions of how the 'rules of the game' are made in both jurisdictions are therefore fundamental to understanding that:

> *economic activity is not only situated within distinctive constitutional and*
> *political contexts, but depends upon the legislative and regulatory roles of*
> *governments for its viability* (Wood, 2001:247).

The governance perspective in IR is viewed as a multi-level system involving mixed motives that are shaped by both distributive and integrative interests (Katz, 2006: 331). Governance can, therefore, assist in studying how change occurs including the process of adjustment and choices made that shape outcomes (Katz, 2006: 331). In this respect, there are three principles to a governance perspective. Firstly, Kelly (1998) argues that the employment relationship is recognised as containing both unequal and unjust construct outcomes. Thus governance models are inevitably contested between competing parties and actors. Second, governance extends what Purcell (1993) and others (Edwards, 2003; Martin, 2003; Sisson, 2007: Blyton *et al.* 2011) argue is a narrow view of IR based almost exclusively on rules and job

regulation. Importantly, the role of collective bargaining in most firms has been replaced by various practices that come under the broad banner of Human Resource Management (HRM), including non-union voice or communications mechanisms that by-pass or co-exist with union channels for information sharing. Third, the social and psychological dimension of how attitudes and beliefs are regulated in employment is an important source of governance. Among others, Emmott (2005) offers the psychological contract as a modern model for interpreting behavioural and performance outcomes in companies with trust, fairness and delivery as key factors in the implicit deal between employees and employers.

Each of these three assumptions about the governance of the employment relationship, however, only makes a partial assessment of employment regulation. Purcell (1993) and Emmott (2005) both share the view that the decline in collective bargaining and in the power of trade unions have meant that negotiated rules and regulations in the employment relationship are now secondary to other aspects of employment regulation. A problem with the psychological contract model is its over-reliance on abstract, invisible or implicit expectations predicated on an ideological bias to the neglect of structural and other institutional factors (Cullinane and Dundon, 2006). It is a partial view for two reasons. It denies the importance of the many complex elements both formal and informal that exist in an employment relationship. Furthermore, while the notions of the psychological contract or the shift away from collective bargaining are not inaccurate, they do have a tendency to downplay the role of mediating institutions and actor factors which sustain the political construct governing employment relations across workplace, national and European levels.

The governance perspective, therefore, has a multi-level bearing on the endogenous ability of the EU to influence labour market legislation in firms in NI and ROI. There is a myriad of interconnecting factors that influence the workings of the employment relationship. With regard to ICED, it was designed to have a causal influence or create an impact on the ground with employees. In the instance of ICED it has been the subject of double levels of subsidiarity (Marginson and Sisson, 2004) in the governance sphere from EU to national government and then at workplace levels.

Institutions give effect to the employment relationship and provide the 'rules of the game' which have causes and consequences on individuals, organisations and governments which can be the essence of a governance focus in workplace studies (Sisson, 2007). Governance is concerned with patterns of interaction and coordination, in the space between hard and soft law, and how it is adopted and implemented as a structural and process dimension (Diedrichs *et al.* 2011). Governance can link together both the various neo-institutionalist perspectives (e.g. complementarity, path dependency and actor agency) and the multiple levels where it is deployed (e.g. local, national, and supra-national such as the EU level) which all combine to influence employment relations behaviours and actions.

In summary, governance regimes can be viewed along a continuum depicting different types (from unilateral to co-determination) covering multiple levels of analysis and neo-institutional regulation. At the same time there are a range of variables of contestation affecting the pattern and type of governance regime that makes for an indeterminate employment contract. According to Marginson and Sisson (2007) this is the 'stuff of IR'.

The next part of the chapter will outline how political concepts, features such as influencing factors affecting workplace governance regime configuration, specifically the concepts of legitimacy, ideology and power.

2.5 Governance regimes and the exercise of power, legitimacy and authority

The legitimisation of power and authority at work is a complex and contentious issue. Power is often absent in many descriptive HRM texts (Martin, 1992, Child 2005) even though it forms an implicit if not central part of management prerogative in terms of employment relations governance. Lukes (1974 and 2005) introduced three dimensions or 'faces' of power which have been used in employment relations research (Edwards and Scullion 1982, Batstone *et al.* 1977, among others). The first dimension is manifest power of the observable actions of a manager wielding authority to command and control employees in performing their work tasks. This is

not an aspect of power that is much contested as it reflects the existence of hierarchy in workplace arrangements. The second dimension is the basis or source of managers' is not the ownership of an employee or their labour power (Flanders, 1966) but how power is deployed through the technical and economic structures of a firm. The third dimension of power is the capacity to win or influence employees through an appeal to values, beliefs and ideologies. Work organisation is the institutional structure within which work takes place and where power is wielded. It is constructed not only by employers but also employees, their unions and state agencies who all interact to configure a productive system:

> *where the forces of production combine in the process of production* (Wilkinson, 1983:417).

For example Burawoy (1985) asserts that there are 'political moments' in the employment relationship which reproduce relations of consent, control and conflict. Fox (1971) asserted that there exists a set of behaviours which allow a subordinate to consent to the authority exercised by a superior and that this legitimises the governing of the relationship. Alongside managerial power governance of the employment relationship is also 'legitimised'. In a similar manner Burawoy (1985) considered that the hierarchy of power he and his fellow workers experienced were an expression of ideology. In other words, power and the authority to control others in the employment relationship exist from the moment of hiring; it is then made and refashioned through routines, social relations and emerging regulations in the workplaces.

Of course power and authority are not always legitimate and remain contested by different actors. For example, pay and payment systems can be viewed by workers as management devices to achieve a productive environment where employees are;

> *obedient to the cash stimulus and made obedient in such ways as to react precisely to the stimuli provided* (Pollard 1968: 190)

The enduring task facing management is to build a subordinate, loyal and productive workforce, which is a challenge to all employers and they are:

> *continuously confronted with the question where to use the carrot and where*
> *to employ the stick* (Harbinson and Myers, 1959: 49).

Hence the balance of power in the employment relationship is uneven and influenced by a number of variables including the indeterminacy of the employment contract, employee organisation such as trade union membership and prevailing market conditions. Significantly, Lukes' dimensions of power have not gone unchallenged. Lukes (2005) sought to explain the third dimension of power and locate the sense of freedom or autonomy of managers in relation to patterns of power (Dowding, 2006). What is not adequately explained is the continuous nature of the employment relationship along with the unequal power and discretionary nature of the control rights of managers. For example, Levy and Egan (2003:824) contend that companies create a:

> *corporate political strategy as the struggle to build or defend a hegemonic*
> *position in a specific field of actors*

In other words, employers have the ability to shape and control agendas within their company while being able to influence the wider political and legal arena on issues that concern their business. Béland (2006) considers that Lukes (2005) has not sufficiently defended the mechanisms of agenda setting, while Edwards (2006b) points out that ideological power is presented as an overly static view that fails to account for changes to workplace regimes affected by legal regulation or changing market conditions. The use by many managers of extensive communications to structure attitudes and shape preferences is a form of power 'over' or the ability to dominate through governance systems the attitudes of workers (Sisson, 2009). For example the ability of managers to create and operate formalised mechanisms of voice (Taras and Kaufman, 2006) through non union employee representation (NER) with varying formats and structures (Butler, 2009). Lukes does, nonetheless, demonstrate that there is an intentional use of power at "securing compliance to domination" (Lukes, 2005:109). Moreover the power 'to' achieve a goal or set of goals may not be in the apparatuses of the relationship alone but in a somewhat

contradictory ability of management to combine a performance management or employee voice system in which control and commitment co-exist (Edwards, 2006b).

In summary, power and authority affecting configurations of different workplace regimes is an important consideration for the research questions of this thesis, specifically questions addressing the actors who might occupy regulatory space for voice, and how. To this end power is never fully legitimised but it involves a complex web of formal and informal interactions that are at times hierarchical and in other situations negotiated. Finally, the political dynamics at the workplace cannot be separated from wider societal and institutional decision-making which can give legitimacy to variation in the type of employment regime considered earlier and depicted in Figure 2.2.

Figure 2.2 Societal and institutional influences
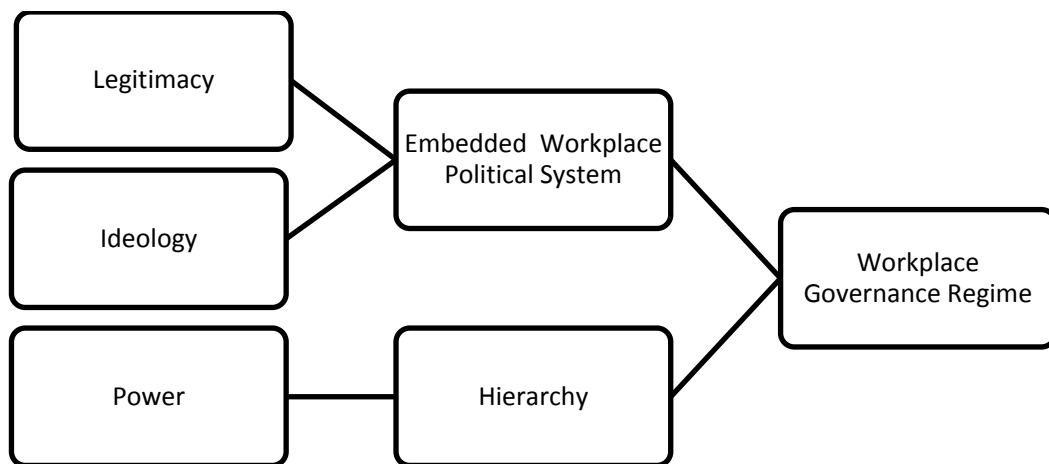
Adapted from: Burawoy, 1985; Lukes, 2005 and Edwards, 2006a & b

2.6 Regulation and the capture of regulatory space

So far in this review we have illustrated literature and concepts within neo-institutionalism, governance regimes and the use of political power in the employment relationship. This section will introduce the concept of regulatory space (Hancher and Moran, 1989, Scott, 2001, Barry, 2010) which will provide a link to the preceding sections in this chapter and directly to the attempt by the EU

Commission to create a regulatory space for employee voice by way of ICED. It is intended that this section will provide the framework on which to develop a consideration of employee voice in light of ICED and directly address the main research question of the thesis which seeks to establish if and how different governance regimes affect employee voice in companies on the island of Ireland. As Dobbins (2008a) and Boxall and Purcell (2011:171) pointed out, there was a contested political process on ICED implementation in both Ireland and the UK.

Streeck (2010:13) has described actors under capitalist social order as rule-takers who contest the regulatory space that affects them and then in turn interpret rules through their own perspective of workplace governance:

> *Ultimately this is because the free market, being the core institution of capitalism, promises to produce the common good as an unintended by-product of the self-interested pursuit of private goods, all by itself and unmotivated*

Streeck (2010) has described the competition for control of the regulatory space by constructing an analysis based on actor-centred and historical neo-institutionalist perspectives. In agreement with Hall and Taylor (1996), he accepts that there are three types of institutionalism; historical, rational and sociological, which in various ways account for social order, concerns with legitimacy and how societies have developed incorporating legacies from the past. In particular he has utilised historical (Thelen 1999) and actor-centred institutionalism (Scharpf, 2000) to analyse the opportunities and abilities of actors to make change through path dependence (Pierson, 2000) to track the transformative or gradual change. Streeck (2010) examines the major changes that have occurred in the employment relationship with the growth of the flexible organisation of work and labour markets. This is particularly relevant for Ireland and the UK who are seen as the closest to the ideal-type of LME (Gallie, 2007) and have experienced the erosion of pluralism, declines in union density and the growth of individualised employment regulation (Kersley *et al.* 2006; Dobbins, 2010).

What then is meant by the concept of regulatory space, and how does it advance the aims of this thesis? It is a concept developed from the work of Crouch (1986:180) on political space by which he meant the:-

> *range of issues over which general, universal decisions are made within a given political unit, particularly decisions which are seen by political actors to affect social order*

Crouch (1986) was focused on political space in wider societies and on the monopolisation in liberal political economies of political space by legislature, executive and judiciary as pathways to industrial politics. Regulatory space was thus developed as a concept for assessing the impact of employment regulation (Hancher and Moran, 1989; Scott, 2001; Barry, 2010). It can be defined as:

> *the range of regulatory issues subject to public decision. Proponents claim that its dimensions and occupants can be understood by examining regulation in any particular national setting, and by analysing that setting in terms of its specific political, legal and cultural attributes* (Berg *et al.* 2005:73).

In relation to applicability to this thesis, regulatory space concerns the range of IR issues subject to decision by various actors – either unilaterally or jointly. This has particular relevance to how the process to implement the ICED was agreed at EU, national and subsequently workplace levels. Furthermore, Scott (2001:331) observes that the

> *regulatory space metaphor draws attention to the fact that regulatory authority and responsibility are frequently dispersed between a number of organisations, public and private ... it looks at the interactions of each of the players in the space, and can recognise plural systems of authority*

A number of distinctive conceptual points are important here. First, space, by definition, is open for occupation. The extent to which either party can occupy a space is heavily dependent on their ability to mobilise resources and their capacity to prevent others from occupying the same space. In this context the occupation of

regulatory space is a dynamic relationship shaped and governed by a 'frontier of control' (Goodrich, 1920). This leads to a second related conceptual point: the space can be unequally distributed between actors and there may be major and/or minor participants jostling to advance or retreat their 'frontier'. For example, Donaghey *et al.* (2011) argue how contestable dynamics surrounding the forms of employee voice can chart a path resulting in silence rather than employee participation. Other research indicates that trade unions, as traditional labour market actors, are losing space while other competitive institutions such as employment consultants are expanding their influence (Barry, 2010). Large multinational employers and their representative associations are known examples of institutions that are colonizing regulatory space for voice and participation (Hancher and Moran, 1989, Dobbins, 2008a). A third point is that space is likely to be size-specific, depending on national, sector or enterprise level circumstances. The concept of regulatory space is therefore both multi-level and multi-dimensional, with vertical and horizontal governance factors shaping the capacity for actors to mobilise resources to occupy such space. Employer associations, for instance, have been known to bypass State level institutions and lobby EU policy-makers directly. Fourth, actors may contest regulatory space in defined regulatory arenas: labour market regulations can be viewed as contestable spheres where actors may occupy regulatory space to pursue their own preferences on distinct issues (Hancher and Moran, 1989). The defined regulatory arena for the purpose of this study of ICED and an assessment of whether or not the Directive has had any impact in encouraging employers to share decision-making power with employees through engaging in new or revised consultation mechanisms arising from national regulations. Overlapping these conceptual issues is recognition that regulation can be a highly political process (Streeck and Thelen, 2005, Martinez-Lucio and MacKenzie, 2004). The greater the space taken over by a party to the employment relationship then the higher the probability of achieving desired regulatory preferences and outcomes. Finally, the analytical approach here enables assessment of regulatory change as an ongoing, contestable and moving entity, rather than a static depiction of IR.

Forms of governance regimes are crucial in assessing how and to what extent actors can occupy the regulatory space for employment relations (Sisson, 2007). The power of actors to influence regulations for employee voice is derived less from formal

command and control structures and more from the ability to mobilise resources that wield influence across different institutional levels. Peters and Pierre (2001:131) relate this to an 'enabling' model of governance where the State is less interested in direct legislation and more concerned with promoting policy to encourage institutions (and actors) to mobilise their resources in support of its broad goals. As a result authority has ebbed away from national governments to actors interacting at different sub-national and supra-national levels, thereby creating what Peters and Pierre (2001) call 'multiple centres of power' through vertical exchanges. The implication is that power relationships exist not necessarily between, for example, the EU and a Member government, but more directly between EU institutions and, say, an employer association or union federation with representative interest. In short, the State can be bypassed by actor institutions seeking to influence regulation at its source.

In summary, governance can now be viewed in multi-dimensional ways which involves the use and exchange of power resources between institutions and actors within a political and economic system. The regulatory space concept is therefore a potentially useful analytical tool for answering the main research question of this thesis concerned with the impact and implementation processes of the ICED into employment regulations in Northern Ireland and the Republic of Ireland.

2.7 Conceptual Employment Relations Governance Regimes

By drawing together elements of various different governance types a conceptual employment relations regimes typology is devised. Figure 2.3 illustrates the continuum diagram which is a conceptual illustration of different employment relations governance regime typologies. The multiple forms and patterns of influences from legislation, market conditions and organisational hierarchies have shaped the conceptual typologies depicted below (Campbell and Lindberg, 1991; Hollingsworth *et al.* 1994; Hauptmeier, 2011). There are a number of different criteria used to create the typologies and they are as follows:

Figure 2.3 Conceptual employment relations governance regimes typologies

Conceptual Employment Relations Governance Regime Typologies

Unilateral Regulation

Compliance Regulatory Approach
Overt Employer Power
Informal Employment Relations
No Voice regime
'Bleak-house'

High Regulatory Enforcement
Joint Regulation of Voice & Participation
Formalised Employment Regime
Worker Directors
Agreements on Strategy/Actions

Joint Regulation

Unilateral Regime	Sophisticated Human Relations Regime	Voluntary Pluralist Regime	Regulated Pluralist Regime

• Managerial Imposed Regulation
• No/Minimal employee voice opportunities
• Employer power open & legitimised (bypass or minimise worker rights)
• No negotiation on T&C
• No negotiation on tasks/roles
• Anti-union or non-union

• Managerial Imposed Regulation
• Minimal employee voice opportunities -NER
• Employer power open & legitimised (bypass or minimise worker rights)
• No negotiation on T&C
• Some consultation on tasks/roles
• Unionised or non-union

• Voluntary but wide-spread consultative mechanisms
• Employee voice-NER/Collective bargaining voluntarily agreed
• Employer power mediated by employee reps / voluntary agreements.
• Negotiation on T&C- some or all employees
• Some consultation on tasks/roles
• Unionised or non-union

• Extensive consultative systems
• Regulated employee voice-NER/Collective bargaining
• Employer power mediated by employee reps/or regulations.
• Negotiation on T&C- some or all employees
• Formal agreements on tasks/roles
• Unionised or non-union partnership agreements prompted by I&C regulations

Criteria 1 - Theoretically, each case in this study, or others, may be located as a 'different' governance regime (Edwards 2006a & c; MacKenzie and Martinez Lucio, 2005). Therefore, it was necessary to devise workable types that could accurately reflect each of the case studies arising from the concepts and 'factors' that are discussed in this chapter, especially in sections 2.4 and 2.5.

Criteria 2 - The continuum aims to reflect the possible range of regimes from 'unilateral' to an obvious extreme of 'co-determination' which exist in German or Nordic countries that are reflective of their economic activity, political and constitutional contexts (Wood, 2001; Sisson, 2007: Blyton *et al.* 2011). It was decided that none of the case studies could accurately reflect a co–determination regime. Therefore, the designated typologies used would range along the continuum from those reflecting unilateral to joint regulation influences from Unilateral Regime to Voluntary Pluralist Regime. The unilateral regimes have features of: 'bleak-house' workplaces; no voice regimes; overt employer power and a basic compliance culture with external regulation (Sisson, 1993; Guest and Conway, 1999). Whereas a voluntary pluralist regime is an opposite type and has features of: extensive consultative systems; joint regulation and voice participation throughout all levels in the company; formal agreements about all matters of the employment relationship; unionised or non-union partnership agreements and a voluntary high regulatory enforcement culture.

Criteria 3 - In between the two extremes of the continuum, there are two additional typologies given; Sophisticated Human Relations Regime and Defensive Pluralist Regime. A sophisticated human relations regime was nearer the unilateral end of the continuum and had features of: managerial imposed regulation; no negotiation on terms and conditions of employment; a unionised or non-union NER and an active regulatory compliance culture. A defensive pluralist regime was nearer on the continuum to a voluntary pluralist regime but did not fully reflect all those features but did have: extensive consultation schemes; employee voice through collective bargaining; employer power mediated by employee representation; some consultation on tasks and roles and a high compliance regulatory culture.

Criteria 4 – The different governance regimes conceptually represent and indicate that there are sets of influencing factors creating the 'rules of the game' and patterns of interactions are depicted in each type given (Sisson, 2007; Diedrichs *et al.* 2011). Locating where each case is situated would be an empirical assessment of the influencing factors, such as; unilateral power, no voice schemes, an NER; some consultation on tasks and terms and conditions towards one end of the spectrum, while towards the other end, to collective bargaining; partnership agreements; negotiations on terms and conditions and legal formalised agreements between employers and employees on company strategy and actions (Marchington *et al.* 2005; Samuel and Bacon, 2010). Figure 2.3 is an illustration of the conceptual employment relations governance regime typology which will be used to make empirical assessments of the data reported in Chapters 5, 6 and 7.

2.8 Conclusion

This chapter was concerned with drawing on advances in understanding the nature and functioning of workplace governance regimes. It sought to address the research aim of investigating how employment regulation affected workplace governance regimes. In particular, the chapter discussed the relevance of institutionalism and neo-institutional theory as core conceptual points of analysis for this thesis. It subsequently clarified and more clearly specified different capitalist approaches to employment regulation and variation in the types of workplace governance regimes likely to affect employee voice. The chapter further outlined factors likely to influence the transposition of ICED in voluntarist IR systems such as Ireland and the UK. From this consideration of the concept of regulatory space was presented as a potentially useful approach to advance this study to its next stages.

The next chapter will review debates and empirical evidence on employee voice and address the second part of the main research question on employee voice in companies on the island of Ireland. It will also connect the practices of employee voice and participation, as found in the empirical studies, with the theoretical points made in this chapter.

Chapter 3 – Employee Voice

3.1 Introduction

Employee voice plays a key part in the governance of the employment relationship (Marsden, 2011:1; Heery, 2011:342). Recent legislative developments on ICED, coupled with public policy support for workplace partnership, has re-awakened interest in employee voice. This Chapter will discuss and review the theory and practice of employee voice in advancing the main research question for this thesis; "How has the transposition of the ICE Directive affected employee voice in companies on the island of Ireland?" In doing so the Chapter starts with a definition of employee voice and that is followed by a consideration of its meanings and purposes. The next section will explore rationales given for the existence of voice is discussed under three headings; a) economic and pragmatic, b) ethical and citizenship, and c) governmental and legislative. Next, contextual circumstances and managerial styles for voice legitimacy are presented. This will be followed by reviewing the extent of voice in actual practice. The final part of this chapter is an outline of a composite schema that is designed to address the research questions of this thesis that arose from the literature reviewed in this chapter about voice and the preceding chapter concerned with workplace governance. The proposed schema then offers a framework to structure the data collected and analysis for the thesis.

3.2 Defining employee voice

Literature on employee voice can often be confusing with different terms used to describe similar processes. Employers and employees engaging in discussion about their work in order to get the job done, is a form of employee voice (Heller *et al.* 1998). It is an umbrella term used to capture related practices including employee information, communication, consultation, participation, partnership or negotiation. As Marchington (2007:231) observed;

> *Employee voice appears to be the latest in a long line of terms used to describe employment practices designed to allow workers some 'say' in how their organizations are run; among previous variants are worker*

> *participation,   industrial   democracy,   employment   involvement   and*
> *empowerment*

Given the range of related concepts, employee voice is not a simple or straight forward definition. The term voice is a concept developed from the work of Hirschman (1970) and applied initially to understandings of trade union organised workplaces by Freeman and Medoff (1984) as a model to analyse the exit-voice trade –off in the employment relationship. Hirschman's work has been influential in the field of IR in bringing forward the use of the term voice into research of workplace governance regimes.

McCabe and Lewin (1992) offer a definition of voice as one where employees have an ability to express dissatisfaction, while at the same time it allows for participation and involvement in decision making. Bryson (2004) defines voice in terms of the opportunity for workers to voice wishes and concerns in a two-way communication with management. Strauss (2006:779) describes voice as:

> *a process that allows employees to exercise some influence over their*
> *work and the conditions under which they work*

He further rejects the term 'involvement' as being passive and considers that 'influence' is a more active term. While he puts an emphasis on the term influence he does so to make the distinction between the feeling of having influence and the exercise of actual influence in the workplace (Strauss 2006). Freeman *et al.* (2007) argue that there is evidence that workers want a form of voice that allows problems to be dealt with cooperatively and this could lead to improvement in their firm's performance. Morrison (2011:375) asserts that employee voice is defined as the articulation of speaking- up as a verbal expression for the purpose of improving the workplace and describes it as:

> *discretionary communication of ideas, suggestions, concerns, or opinions*
> *about work-related issues with the intent to improve organizational or unit*
> *functioning*

This definition is problematic for several reasons. First, it implies that all employee voice mechanisms are verbal, and secondly that participation in those practices is discretionary. In addition, it implies voice is constructed primarily, or exclusively, in the best interests of the organisation. This definition lacks an understanding of the contested nature of the employment relationship reviewed in the last chapter. It fails to allow for power relationships that exist at work, the form of hierarchy or the processes of managerial prerogative (Martin 2003). Similarly, it neglects the role of actor agency in creating structures that encourage employee silence at work (Donaghey *et al.* 2011). Indeed, Morrison (2011) seems to imply that employees do not offer resistance or engage in any form of self interest promotion through voice mechanisms to employer authority. Morrison's (2011) contemporary definition is flawed in that it is too narrow and only relates to verbal expression which neglects the symbolism of meetings, the effect of strikes, and the use of modern ICT features such as e-mail or other online activities as forms of voice influence or contestation.

Conceptually then there exists a complexity of interests involved in and variety of definitions of employee voice as a multi-dimensional construct which is a product of external policy and internal workplace developments (Lecher *et al.* 2002; Marchington and Wilkinson 2000; Dietz *et al.* 2010). Voice is experienced in a variety of workplace settings and can range on a continuum from having an actual influence on workplace arrangements via a type of consultation to forms of one-way information download. Particular forms of voice processes and outcomes relate in many instances to contextual factors and the interplay between actors in specific and contingent institutional arrangements in workplaces (Pendleton, 2005). Although individual firms have adopted different HRM practices, voice is a dialectic influenced by a mix of forces within and beyond the boundaries of an organisation (Marchington, 2005). With these issues in mind, the following broad definition of employee voice is adopted for this thesis from Boxall and Purcell (2003:162)

> *a whole variety of processes and structures which enable, and at times empower, employees, directly and indirectly, to contribute to decision making in the firm*

In summary, voice is the latest in a long line of terms to describe employee information and consultation practices in workplace settings. It is an elastic term covering many practices and it is better analysed through understanding workplace governance regimes and their specific institutional structures and processes. This review indicates that to answer the main research question about regulation and governance affecting employee voice, then the various meanings and purposes ascribed by different actors to voice require to be understood and are considered next.

3.3 Differences in the meanings and purposes of voice

Dundon*, et al.* (2004) find four meanings to voice, summarised in Table 3.1. The first is with the expression of individual dissatisfaction by a worker with the purpose of rectifying a problem. Collective organisation may be another way voice is viewed, primarily through trade unions as a counter to managerial power. The third meaning is where voice functions as a process that contributes to improvements in management decision making as a means to improve performance. The final meaning is when voice is regarded as integral to the idea of mutuality expressed or secured through workplace partnerships between workers (unions) and management. The conclusion is that voice is a multi-dimensional construct with complex and overlapping meanings and outcomes, often depending on actor or institutional perspectives

Table 3.1The meaning and articulation of employee voice

Voice as:	Purpose and articulation of voice	Mechanisms and practices for voice	Range of outcomes
Articulation of individual dissatisfaction	*To rectify a problem with management or prevent deterioration in relations*	**Complaint to line Manager – Grievance procedure Speak-up programme**	**Exit- loyalty**
Expression of collective organisation	*To provide a countervailing source of power to management*	**Union recognition Collective bargaining Industrial action**	**Partnership – de-recognition**
Contribution to management decision-making	*To seek improvements in work organisation, quality and productivity*	**Upward problem-Solving groups Quality circles Suggestion schemes Attitude surveys Self-managed teams**	**Identity and Commitment – disillusionment and apathy Improved performance**
Demonstration of mutuality and co-operative relations	*To achieve long-term viability for the organisation and its employees*	**Partnership agreement Joint consultative Committees Works councils**	**Significant influence over management – marginalization and sweetheart deals**

Source: (Dundon, et al. 2004:1152)

Given that there are multiple and competing meanings and interpretations surrounding employee voice, it is important to develop greater specificity concerning possible voice impacts for different actors and across organisational levels (Strauss, 1998; Marchington and Wilkinson, 2005, 2008; Cox *et al.* 2006). One established and validated framework to pinpoint variation in meaning and outcome is the escalator framework by Marchington and Wilkinson (2000, 2005, 2008) reflecting 'depth', 'scope', 'level' and 'form' of voice. Cox *et al.* (2006) further explored the extent of employee influence by uncovering the actual processes and dynamics using Granovetter's theory of embeddedness. Their scheme sought to build on the original escalator idea and measure the extent, depth and centrality of employee influence, which in essence was a means to gauge its institutional capacity within a workplace. The scope of voice mechanisms they asserted moved from the very shallow where management inform employees of decisions made, through to a narrow form where this dialogue about possible decisions takes place until there is a wide scope of almost joint decision making occurring between managers and employees. Marchington and Wilkinson (2005) and Dundon and Wilkinson (2009) further developed the analytical framework for considering the level and form of voice. The

level referred to the place where voice occurs at work group, department or plant levels. The form of voice could be direct forms such as in: face-to-face meetings between managers and employees; written communications and suggestion schemes, or indirect forms such as trade union collective bargaining; joint consultation committees or elected information and consultation fora. A composite figure depicting the fourfold voice analysis schema of *depth, scope, level and form* is depicted Figure 3.1 (below).

Figure 3.1 Escalator of voice through Breadth, depth form and scope
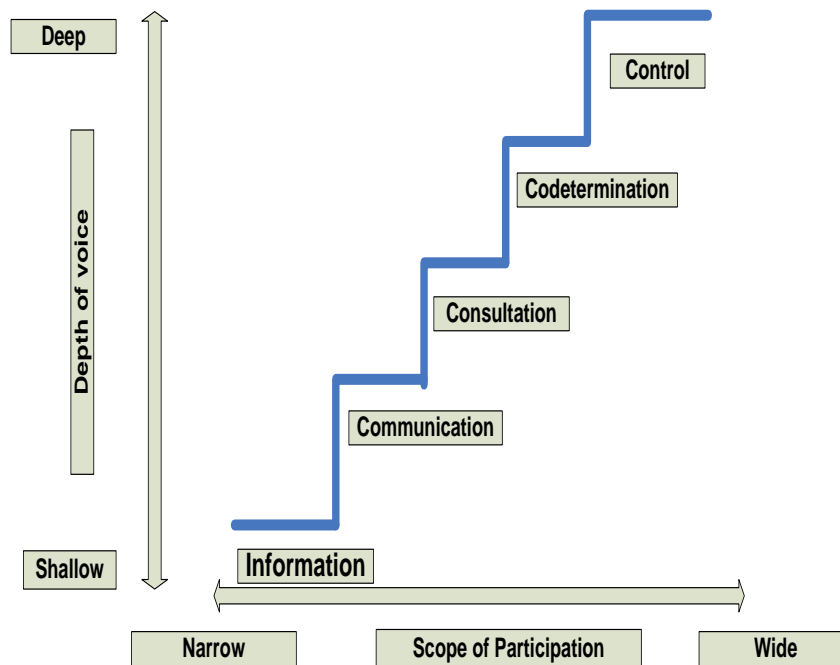
Source: Marchington and Wilkinson (2005b:401) and Dundon and Wilkinson (2009:408)

Employee voice, therefore, is laden with complex meanings and is experienced in a wide variety of employment settings where operational distinctions are apparent in voice forms that constitute a workplace voice schema. Some examples are that voice is experienced through *'indirect'* employee representative practices that can be based on either union or non-union arrangements (Freeman *et al.* (2007). Another example of form is more *'direct'* in nature, involving individual communications, team briefings, quality circles or 'town hall' meetings (Bryson, 2004). An example of the last distinction to be made is *'informal'* voice which can take many forms but tend to

be based on managers giving or receiving information directly in one-on-one situations (Marchington and Kynighou, 2012). An example of the informal approach is 'walk and talk' situations where employees in a hotel setting chat while working in a dining room or during break-times where task and other work related information is exchanged (Haynes, 2005).

There is a differentiation to be made between voice practices and what constitutes a voice form. Voice can range from formal or informal mechanisms that are operationlised through direct and/or indirect channels. Voice forms are a mix between union and non-union forms, representative and non-representative or no voice at the workplace or combinations thereof (Gomez *et al.* 2010). Voice forms are, therefore, constructed either by employers alone or arrived at by negotiation between employers and employee representatives or a mixture of both coalescing together or promoted by legal regulation. Voice forms are also an outcome from the type of governance regime that may exist in a workplace or decided upon at a higher managerial level in an organisation. Increasingly in the Anglophone world management have a greater impact on the shape of voice schemes at organisational level (Boxall and Purcell, 2011).

In summary, there are a myriad of meanings and purposes of voice. It is equally apparent that there are distinctive operational experiences of voice mechanisms from formal to informal, direct and indirect, which comprise a workplace voice scheme. So far in the chapter we have examined definitions, meanings and purposes and operational dimensions of voice forms. What was not considered to this point is an examination of the range of rationales that have supported the introduction or sustained voice forms and this is addressed in the next section.

3.4 Rationale of voice

There are numerous reasons for voice depending on the view of a nation state, the EU, an employer or union, or employees themselves. Following Summers and Hyman (2005) and Foley and Polanyi, (2006) three thematic rationales are discussed here: economic and pragmatic; ethical and social; and governmental and legislative.

3.4.1 Economic and Pragmatic

The history of organising work from the early factory systems to the modern flexible work organisation is one which features many attempts by managers to utilise the indeterminacy of labour power and exert control over the work processes (Harley, 2005). Work organisations are an economic endeavour. At times pragmatic decisions concerning workers are made to suit a particular situation at any given point in time and not always are they based on strict economic rationales. Commons and Meyer Bloomfield in the United States and the Webbs and Hobson in the UK were reformers who promoted the concept of industry as a place of reconcilable differences between workers and management (Jacoby, 1997; Lyddon, 2003). Their general belief was that by encouraging democracy at work would also create the circumstances for better efficiency if there was *'consent of the governed'* in the *'science of participation'* (Jacoby, 1997).

Since the 1980s there emerged another set of management approaches under the rubric of Human Resource Management (HRM) and High Performance Work Systems (HPWS) (Legge, 1995). The claims for HRM and HPWS are principally made in terms of an economic rationale. Advocates posit that there is a substantive link between HR practices which include voice and participation and improved company performances (Huselid, 1995). Some research asserts that HPWS would produce a mutual gains environment of enterprise efficiency and give employees a 'say' in the running of the organization (Kochan and Osterman, 1994).

The literature on mutual gains and partnership (Guest and Peccei, 2001; Walton, 1985; Kochan and Osterman, 1994: Samuel, 2007) indicates the value of participation as job enriching and beneficial to enterprises. For managers, it would appear they support employee involvement practices so long as these do not affect their control function and it adds value by way of higher commitment and motivation to the firm (Mansfield, 1993, Purcell and Georgiadis, 2007). Kochan and Osterman (1994) also assert that at times management led initiatives on participation are not solely for economic gains but to improve working conditions. Nonetheless, in work organisations employees and employers have both shared and separate interests, but each express a mutual survival philosophy of dependence on each other to continue the employment relationship (Fox, 1974). In short there are both economic and

pragmatic reasons in the employment relationship for employee voice in workplace governance.

3.4.2 Ethics and Citizenship

The employment relationship is framed by the society within which it exists (Frege, 2005). An employing firm enjoys a degree of social legitimacy by adhering to customs, laws and accepted ways of treating people at work (Boxall and Purcell, 2011). There is a considerable amount of literature on voice that focuses on the relationship between capitalism, democratic values and ethics (Winstanley and Woodall, 2000, Budd, 2004, Marinetto, 2011). The current business narrative is to seek means to enhance employee commitment and contribution to an organisation (Wilkinson and Fay, 2011). This is not a new narrative but is a contested one in management literature, as Friedman (1970) argued the only social responsibility that a business had was to increase its profits. Such a view asserts that work in a capitalist firm is a private affair based on contractual rights and participatory processes which are not of a higher value than property rights (Frege, 2005). As shown in the previous chapter the contest for control of the regulatory space on employment regulation reflects these competing views of what constitutes social legitimacy at any given time.

It is a feature of democratic society's regulative tradition that employees work under a hierarchical management authority and enjoy restricted democratic rights at the workplace (Hyman and Mason, 1995). The right to be consulted and have a say at work is sometimes referred to as industrial citizenship (Marshall, 1964) or occupational citizenship (Budd, 2011). The argument is a political one rather than an economic rationale, in that employees are human beings with democratic rights (Budd, 2011). Gollan and Wilkinson (2007) have argued employees should not be accorded commodity status to be utilised or deployed according to shareholder value decisions. In short, there are ethical and citizenship considerations for voice many of which can be predicated on governmental and legislative activities which are discussed next as the third thematic rationale for voice.

3.4.3 Governmental and Legislative

Patmore (2011:77) suggests that:

> *governance structured by various forms of regulation is central to employee participation in complex human structures like companies*

In his view there are typically three types of regulation affecting employee voice schemes in an enterprise: agreements reached at sector or at enterprise level between workers and management; collective bargaining agreements at plant or industrial level between trade unions and managers and finally, legal enactment of laws that specify conditions of employment. The latter type is the principal concern here because the ICED has legal authority and thus potential influence on workplace governance and the form of voice scheme at a workplace.

In the broadest sense regulation influences the patterns of events and:

> *any action, institution, or phenomenon that constrains or guides the management of the employment relationship within organisations*
> (Barry, 2010:72).

This is not to suggest that all regulation originating at domestic or supranational level is always and everywhere in the interests of the capitalist class (Blyton and Turnbull, 2004:178). For example, the 'welfare compromise' after World War Two in the UK was a political commitment to full employment, the welfare state and Keynesian economics policies that influenced markets and public expenditure (Gospel and Palmer, 1993, Korpi, 2003). At the same time why would the state want to involve itself in regulating the employment relationship and not let the market decide?

> *The essential answer to this question is that statutory regulation that constrains the freedom of the contracting parties is justified because it counteracts the inequality of the bargaining power which is inherent in the employment relationship* (Dickens and Hall, 2003:129).

Traditionally the Irish and UK systems of IR have been characterised as voluntarist, meaning that the law plays a less prominent role in shaping employment relations (Kahn-Freund, 1954). It has also been described as collective laissez-faire and was essentially supported by employers who were keen to avoid legislation that would constrain their freedom to manage. Likewise, unions preferred voluntarism to prevent hostile court interventions during industrial disputes (Dickens and Hall, 2003). Kahn-Freund (1965) categorised legislative intervention within voluntarist IR systems in three ways. First, is the broad *regulatory* role of the state establishing minimum standards for all employees, for example, a minimum wage or the right for workers to be informed and consulted by management. The second is an *auxiliary* role. For example governments enact laws to engender what it deems to be good employment practices. This could be a statutory code of conduct, or an outline form of the sort of practices that a good employer may introduce (e.g. the default arrangements for employee information within the ICE Regulation). The final legislative role is one of *restriction*, whereby the government deem certain practices illegal (say race or age discrimination) or define sanctions for actors who do not comply with enacted laws (e.g. fines or criminal penalties). Thus there exists a legislative spectrum (Barry, 2010) and a variety of jurisprudence means within voluntarist IR systems that underpin individual voice practices and schemes.

In summary, when reviewing potential rationales in the literature for employee voice multiple considerations emerged, as did economic and pragmatic reasons. This underlines the perpetual dynamic of the employment relationship between employers and employees which features co-operation and contestation with a shared dependence on each other for the continuing existence of the relationship. The operation of democratic capitalism recognises the importance of forms of industrial citizenship which is a subject of tension between freedoms and constraints. Whether one or more of the aforementioned rationales for voice (economic and pragmatic; ethical and social; and governmental and legislative) are evident or is a predominant factor at one time, they are in practice shaped by contextual circumstances of external regulation or workplace developments, which are reviewed next.

3.5 Contextualised circumstances for voice; concepts, style and legitimacy

This section will consider three broad internal rationales for voice and a range of factors that influence choices made which have been identified in the literature on concepts, style and legitimacy. The three internal rationales either individually or combined together provide a link to justifications that have been provided by both managers and employees for particular outcomes of voice in workplaces. These rationales underpin the first supplementary research question which sought to uncover factors that have influence particular outcomes of voice schemes and forms in case study companies. It will begin with a consideration of the two main concepts influencing managerial choice of voice, form and practices.

3.5.1 Competing concepts

There are two main concepts that posit reasons for the introduction of employee voice schemes in workplaces; the 'cycles' of control thesis (Ramsay, 1977, 1983) and 'waves' of involvement thesis (Ackers *et al*. 1992; Dundon *et al.* 2004).

Ramsay's (1977) 'cycles' thesis was an historical critique of economic development to explain managerial control motives for certain phases of voice. He asserted that managers would only allow some form of worker participation on the basis of agreement to new productivity improvements and were of a short-term nature and were then abandoned in better economic cyclical times. He further argued that the real aim of such schemes was to counter shop-floor power through a system of phantom participation.

In a similar vein to Ramsay (1977), Heller *et al.* (1998) refers to manipulative participation, inauthentic managerial tactics that avoid genuine influence sharing. Pateman (1970) identified three forms of employee participation: full, partial, and pseudo forms. Heller *et al.* (1998) further asserts that inauthentic voice forms can create the 'feeling' of participation does not go undetected in a workplace and can in turn creates the 'feeling' of deception which inevitably leads to conflict. Heller *et al.* (1998) analysis is in line with Ramsay's (1977) as he considered some voice schemes

to be lacking honest motives and in turn they may have questionable legitimacy in the eyes of employees.

Ackers *et al.* (1992) produced research on waves of employee participation that fundamentally challenged Ramsay's (1977) cycle's thesis on the ground that it oversimplifies the reason for voice to one of control and neglects other motives. The waves concept was focused on the micro and meso analysis at organisation level and sought to explain patterns of diversity rather than similarity with how they ebb and flow in prominence and centrality (Marchington, 2005:33). Managerial motives for initiating voice schemes can be seen as multi-dimensional in practice and are often internal contradictory variables (Kaufman 2003, Budd, 2004, Wilkinson *et al.* 2004 and Dietz *et al.* 2010). As Fox (1985:136) noted, techniques that seek some form of job enrichment are an element in the emancipation of labour, but dismissing them all as mere window dressing and of no significance to the recipients, is a matter for empirical inquiry rather than deduction from first principles.

However, the cycles and waves concepts are not necessarily in contradiction of one another, but operate at different levels of specification and analysis. The cycle's concept refers to macro-economic patterns in historical context, while the wave's analysis is directed at the meso and micro level of influences at a workplace. It is prudent to consider that one or more voice forms can operate in a workplace and that arrangements wax and wane over time, or that they may have a limited shelf life (Marchington and Wilkinson, 2000). One consideration in how such schemes may change is the role of management preferences, considered next.

3.5.2 Styles

The support of managers at different levels of an organisation for employee voice is of crucial significance (Wood and de Menezes, 2008). The decline in union presence in private sector employments has indicated a shift in the balance of power to employer led preferences and practices associated with individualism and not collectivism (Kessler and Purcell, 2003). Evidence exists to suggest that managerial direct employee involvement practices are very extensive in Europe (Kessler *et al.* 2004). Brannen *et al.* (1976) posited that different positions in the management structure can give rise to particular variations of many practices including that of

voice. Hyman (1997) and Marchington *et al.* (1993) argue that there is often a lack of coherence in management's activities within levels of the hierarchy. Management style or ways of doing something (Legge, 2005) are an important consideration for the operationalisation of voice. Purcell (1987) asserted that management style arose from attitudes, beliefs and constrained choices that are translated into policies. Kochan *et al.* (1986) put forward the argument that the attitudes employers adapt to voice is a strategic choice, which more recently is contextualised against a growing institutional and regulatory environment for voice (Wilkinson and Dundon, 2010).

Legge (2005) asserted management style is reflected as action and strategy in patterns of observed behaviour which can highlight the gap between espoused policy and operational reality. It has been observed that managers may apply rules in an authoritarian or democratic fashion regardless of the espoused policy of a company (Ram and Edwards, 2010). In practice the application of rules can mean an egalitarian or authoritarian style of power where a manager can support different voice forms from one that is democratic in nature and embrace some upward and downward discussion and flow of opinions or one based on control of information flows by the manager only (Scase, 2003). Management style, therefore, is a preferred way of doing something that translates to an operational function that affects the rationale for voice. Importantly, the extent to which style and other methods of action are legitimised is briefly explained next.

3.5.3 Legitimacy

Legitimacy has to some extent been discussed in relation to governance regime formation in Chapter 2 and therefore will not be repeated here, other than to draw inferences to competing concepts and management styles affecting a given voice schema. Legitimacy is a concept of central concern to understanding voice and the choices and actions of managers. It is a social construct which reflects a joining together of beliefs and behaviour of a group (Suchman, 1995) and thus in such circumstances it then possesses a conferred status (Pfeffer and Salanick, 1978) or an acceptable presence in a workplace. Scharpf (2009) further offered that legitimacy is shared beliefs that serve to create voluntary compliance and obligation to even unwanted rules and decisions of the governing authority.

Previous exposition and evaluation in this chapter clearly indicates that the choice of voice can be the result of managerial styles or decision-making actions. Nonetheless new management techniques may require employee commitment and high-trust responses to be elicited from employees (Proctor, *et al.* 1994). The issue of trust is bounded with the concept of legitimacy. In particular the voice form and how it is operationalised in a workplace can support a trust-based environment in which employees are given the opportunity and skills to make workplace governance decisions (Coyle-Shapiro *et al.* 2002). Equally the voice regime can be pseudo (Pateman, 1970) in nature and more about information download and in such cases employee trust can quickly dissipate (Bruno and Jordan, 1999). Thus under certain contextualised circumstances – for example, where voice regimes reflect low-trust dynamics - there may be a voluntary compliance with managerial preferences but little legitimacy in the eyes of employees (Gollan, 2007).

In summary, internal rationales for the promotion of voice were addressed through the concepts of cycles and waves which question the motives for their introduction. Accordingly there can be multiple factors and influences on the creation of voice forms and practices. The concept of legitimacy raises operational issues about interests, experiences and trust of voice types given the dominance of managerial sponsored involvement mechanisms. Thus a feature of contemporary workplaces is that management styles and choices are a key determinant of workplace governance and voice regimes. The supplementary research questions outlined in Chapter one address these very issues of internal rationales in each of the case study companies examined for this thesis. In recognising these factors and influences, the next section reviews the extent and usage of different employee voice form and practices in the UK and Ireland.

3.6 Employee voice in practice

Ackers *et al.* (2005) noted the twenty-first century has ushered in a new legislative environment for employee voice. The EU Commission has played a consistent role over the last thirty years in promoting the concept of a social dimension to its

activities, achieved sometimes by promoting legislative initiatives aimed at building information and consultation capacity for employees in their work organizations. This was reflected in legislation on collective redundancies, transfers of firm ownership, the European Works Council Directive in 1994 and the Employee Information and Consultation Directive in 2002 (Bercusson, 2002). EU inspired legislative developments have changed the institutional and legislative context for voice in UK and Ireland.

In addition there has been public policy promotion of workplace partnership schemes as a form of social dialogue. In the UK the Blair governments promoted initiatives such as 'Fairness at Work and Partnership' while agreements under national social pact agreements in Ireland created the National Centre for Partnership and Performance to promote workplace partnership. Such workplace partnership schemes underlined the voluntarist nature of Irish and UK IR systems (Dobbins, 2008b). There is a range of literature which suggests employees gain positive benefits from partnerships in areas of employee involvement, communications and job security (Knell, 1999, Guest and Peccei 2001). In contrast both Hyman (1997) and Jessop (2002) consider aspects of partnership were tied to specific moments of time, including strategic restructuring initiatives to deal with a crisis in contemporary capitalism. Workplace partnerships are also considered to present serious challenges to independent union organisation and an obstacle to worker mobilisation (Kelly 1998, Taylor and Ramsay 1998, McBride and Stirling 2002).

Ireland and UK are representative of two main current trends in employee voice arrangements in LME's and in Anglophone countries (Freeman *et al.* 2007). In private sector employment trade unions is no longer the "default" option for worker voice in any of those countries (Boxall *et al.* 2007:207). Evidence from the UK indicates that this trend commenced with the Thatcherite reforms where significant institutional and political support was given for the expansion of employer choice of voice and that was combined with deregulatory legal measures on trade union activity (Willman *et al.* 2006). Even with national bargaining and social partnership in Ireland from 1987, the tide of decline was not stemmed on union membership. In 1994 44% of all employees were union members but in 2009 this figure has declined to 34% of all employees (CSO, 2010). In Britain union density has fallen from 28.6%

in 1995 to 23.7% in 2010 (Achur, 2010). This has led to largely decentralized systems of IR where the process and much of the debate concerning employee voice is principally concentrated at enterprise and workplace levels (Terry, 2010:275).

Table 3.2 - Trade Union Density Levels – Britain and Ireland

Britain (1)	Year	Density	Density Decrease
	1995	28.6%	
	2010	23.7%	1995-2010 = 4.9%
Ireland (2)	Year		
	1994	44%	
	2011	34%	1994- 2011 = 10%

Sources: (1) Achur (2010); (2) CSO (2005; 2012)

There is a decline, therefore, in union presence with the consequent reduction in indirect forms of voice and the rise in direct forms of employee voice (Roche and Geary 2005, Purcell and Georgiadis 2007). Direct voice is not collectivist or representative in form (Marchington and Wilkinson 2000). It can be described as a method of individual contact between a manager and an employee such as at an appraisal or a small group of employees and their manager meeting to deal with task based issues of team work, quality control or work (Rollinson and Dundon 2007). Gomez *et al.* (2010) characterise direct voice to be largely a non-union phenomenon although some union representation is possible. Direct voice is seen as being associated with lower levels of employee involvement but cannot be considered an alternative to trade unions or works councils (Fenton-O'Creevy and Wood 2005). There is also evidence that organisations are using more than one method or channel to inform and consult within workplaces (Gospel and Willman 2003). It has been observed in various studies such as WERS (Millward *et al.* 2000) and Irish workplace surveys (NCPP, 2004 and 2010) that direct forms of voice are the dominant form in Irish and UK workplaces. That chimes with the view that direct voice is more prevalent in workplaces in Ireland and the UK and they are a feature of assertive proactive management approaches to their chosen method of consulting employees (Kessler and Purcell, 2003).

The WERs survey (Kersley *et al.* 2006); Dundon *et al.* (2006) and NCPP surveys (2004; 2010) indicate a range of voice regimes and types in UK and Irish workplaces on a continuum from one-way information downloads to forms of consultation. They can be categorised in two ways: direct information versus consultation. Direct information schemes include electronic mailings, newsletters, staff briefings, suggestion schemes, project groups and employee appraisals. Consultation schemes include collective bargaining, joint consultation bodies, I&C fora, EWCs, partnership bodies, attitude surveys and town hall type meetings.

The implementation of the ICED into the laws of Ireland and the UK presented an opportunity to create the capacity and structures for building and sustaining employee voice regimes. However, the legislation in both jurisdictions created an elective right for employees to I&C and has largely given the initiative to the employer on choice over consultative structures, or indeed whether to respond to the legislation at all (Hall *et al.* 2007). Additional layers of EU legislation have added a new influencing agenda with its political pressures and new actors who have transformed Irish and UK IR systems since the 1970s (Hyman, 2010). Both jurisdictions have consequently increased individual employment rights, although

> *the EU has little capacity to shape collective industrial relations, and the actual enforcement of individual rights is largely dependent on national regulatory institutions* (Hyman, 2010:75)

Such legislation as the ICED can be described as institutional underpinnings for employee voice but Taylor *et al.* (2009) consider them to have aided the increase of direct participation methods and softer forms of regulation on voice to avoid stronger European variants

In summary, the contemporary context for voice is characterised by the significant influence of EU legislation while there has been a marked decline in union presence with the subsequent rise of employee sponsored direct voice methods particularly in private sector organisations. Nonetheless, there is evidence that there is more than one method or channel of information and consultation in workplace voice forms and

practices. Concurrently, the creation of new elective voice rights for employees through ICED regulations adds another dimension to the efficacy of voice forms.

3.7 Integration of Governance and Voice chapters

From the discussion in Chapter 2 on workplace governance regimes, and the issues and dimensions of voice and choice in this Chapter, an evaluative framework on the next page has been devised to advance the conceptual and empirical aims of this thesis. The framework is based around five specific criteria from the aforementioned literature analysis. The framework is adapted from Heery (2010; 2011) and relates to the research questions concerned with the impact of regulation in cross-border companies on the island of Ireland and the factors that have influenced the particular voice outcomes. The five criteria on which the framework is derived are explained next and shown in Table 3.3 over the page.

Table 3.3 - Evaluation framework

Criteria	Key features	Dimensions
Governance regimes	Governed by dominant politics at any given point in time of a state. VoC – LME, CME have different modes of market and regulation will determine the role of firms, trade unions and the nature of the employment relationship	Extent to which property and shareholder rights are promoted differentially over stakeholders resulting in hierarchical managerial structures; different governance regimes from unilateral to joint regulation ones
Firm as interest actor	In the LME economies of Ireland and UK, firms exercise political agency to defend their economic power base in attempting to influence evolving political agendas, both domestically and at EU levels	Extent to which firms actively lobby and influence voice regulation (Bullock, Vredeling) and ICED
Voice form	Historical contextual and contested circumstances that give form to the overall voice scheme, from direct (collective bargaining), indirect (individual), informal and no voice	Schemes can be assessed by examining their; 'scope', 'depth' and 'breadth'
Voice practices	The emergence, form and extent of voice practices which are a combination of different practices that can affect choices and overall form of voice experienced by employees	Practices include; collective bargaining, I&C fora with extensive or limited remits, direct involvement or indirect involvement, employee surveys, town hall meetings, NERs, etc.
Balancing interests	There is legitimacy in employees and employers pursuing their own interests at workplace level through voice schemes either employee contested or employer sponsored ones. Yet voice has both potentially productive and threatening dimensions for both parties	Competing and balancing processes can develop in either *de jure* (H&S, ICED, etc.) or *de facto* (collective bargaining, NER, quality circles, etc.)

Criteria 1 – Governance regimes – Workplace governance regimes operate at multi-levels and are constructed through overlapping relationships in economic activities and employment relations. Additional influences on workplace governance regimes are; the law, markets, hierarchies and associations (Campbell and Lindberg, 1991; Hollingsworth *et al.* 1994; Hauptmeier 2011). In essence the variety of capitalism that exists be it LME, CME or other forms has an overarching determining factor on the nature of firm coordination and modes of employment relations.

Criteria 2 – Firm as interest actor - The VOC approach is too narrow and a more complex or really-existing model is of a firm not a passive institution taker but one that has the ability to exercise agency and create hierarchical workplace governance (Nash, 2011). Institutions give effect to the employment relationship and provide the 'rules of the game' which in turn effect individuals, organisations and governments and can be the essence of a governance focus in workplace studies (Sisson, 2007).

Criteria 3 - Voice schemes - Employee voice plays a key part in the governance of the employment relationship (Marsden, 2011) and voice regimes are a reflection of workplace governance (Gomez *et al.* 2010). There exists a complexity of interests and a variety of definitions of employee voice as a multi-dimensional construct which is a product of external policy and internal workplace developments (Lecher *et al.* 2001; Marchington and Wilkinson 2000; Dietz *et al.* 2010). Managerial style and choice are major determinants of the voice forms adopted in workplaces (Purcell, 1983; Legge, 2005; Wood and de Menezes, 2008). Broadly we have observed earlier in this chapter that there are six types of voice regimes: union; non-union; representative; non-representative; direct schemes and no voice workplaces.

Criteria 4 - Voice practices and mechanisms - the definition of voice used in this thesis is one that focuses on the emergence, form and extent to which employee voice processes either directly or indirectly empower employees in the decision-making structures of workplace governance regimes (Boxall and Purcell, 2003). There are different manifestations of voice and what practices mean to actors and whether such schemes can improve organizational effectiveness and employee well-being (Dundon *et al.* 2004). Marchington and Wilkinson (2005a) and Dundon and

Wilkinson (2009) developed an analytical framework to consider and evaluate voice types and how they exist and operate in a workplace through their depth, scope, level and form. This framework was adopted as a useful research toolkit to categorise and understand voice in case study workplaces.

Criteria 5 – Balancing interests – It is legitimate for employees to seek to advance their interests and seek advantageous voice regimes and voice types against other social actors and stakeholders (Heery, 2011). Employee voice appears to be 'Janus faced' to employers; as both a potential to increase business performance and perhaps a threat to employer prerogative. Yet there is evidence of a desire by employers to involve employees in decisions on business development (Macleod and Clarke, 2009: NCCP, 2010). However, management remains the key determinant factor in what type of voice forms and practices exists in workplaces amid a continuing representation gap (Purcell and Hall, 2012). Collective bargaining, as opposed to direct forms of employer sponsored systems, has been shown to be a process of effective employee representation that balances competing interests (Heery, 2011). Nonetheless, the various preferences of employers and employees on voice are played out daily as a normal way of working in workplaces.

3.8 Conclusion

This review has summarised some of the more salient points associated with research in the area of employee voice. This evaluation has shown that employee voice under its various guises is an old idea and an enigmatic construct (Glew *et al.* 1995). The chapter has considered various rationales for voice; methods of assessing depth, scope, level and form of voice; the competing concepts of cycles and waves in legitimising managerial preferences for a given voice scheme, along with a review of changing practices used by firms. It is evident there will be moments and contextual factors when workplace managements may place particular emphasis on one policy rather than another in response to employee pressure or external regulation.

An evaluation framework was subsequently synthesized from the aforementioned literature discussions (Chapters 2 and 3) in order to address specifically the research

questions on which this study is based. It put forward five criteria to assess the role of regulation on the employment relationship and on employee voice in particular. Combining this chapter and the last one has provided the theoretical base from which the study was launched. The next chapter will outline the methods used to construct and implement the collection of data. It will also explain the various strategies that were used and those that were considered and not utilized on grounds of appropriateness and/or suitability.

Chapter 4 – Research Methodology

4.1 Introduction

The previous two chapters have offered a review of literature on employee voice and the utility of neo-institutional theories when considering the governance of the employment relationship. The focus of this study is the influence of legal regulation from ICED on patterns of employee voice in workplaces on the island of Ireland. Analysis has shown that there is a dichotomous approach to employee voice between its economic utility and democratic justifications. The theoretical gaps set out at the end of Chapters 2 and 3 highlighted an absence in existing knowledge on the role of governance and employment regulation on employee voice schemes. This chapter outlines why an in-depth qualitative case study methodology was selected as the most appropriate method to answer the research questions outlined in Chapter one. Herein is an explanation of how this study was conceived, designed and executed drawing on the lessons of the 'Vasa' (Maxwell, 2005). The first section of the chapter sets out the research purposes that were derived from a review of literature and the research questions that frame the study. Section 3 outlines the researcher's philosophical perspective, the strategy employed and an explanation of the research instruments deployed. This is followed by a brief explanation of the research ethics relevant to this study. The chapter ends by considering some of the known limitations of the research methods used.

4.2 Research Purposes

This research work is structured around a research problem arrived at from a review of literature on employee voice and governance of the employment relationship. An overarching research question and three supplementary questions were formulated to structure the research objective and address each assumption posited. The wording of the questions was informed by Eisenhardt (1989) and Yin (2009) on the appropriateness of asking 'what', the 'how' and the 'why' type of questions in building theory and exploring social phenomena of real experiences. A rationale for

each of the research questions is given next followed by the specific question. The main research question is as follows:

Main Research Question: "How has the transposition of the ICE Directive affected employee voice in companies on the island of Ireland?"

The main research objective is to shed light on what is not known about the role of differing governance regulation and its effects on employee voice in companies operating in both NI and ROI where there are different legal frameworks that can affect workplace governance. Thus the main research question is an overarching one that encapsulates the complexity of the broader issue. In addressing the main research question three very specific supplementary questions were devised following a review of the literatures in Chapters 2 and 3. In this way the answers to each supplementary question will provide a structured and systematic approach to building knowledge and gathering information to answer the main research question. Each supplementary question is briefly explained.

Supplementary Research Question 1: What has been the impact of ICED in cross-border companies on the island of Ireland?

The first supplementary research question is focused on the need to understand how ICED was transposed in both jurisdictions. This is because ICED has been transposed with slightly different regulatory emphasis in NI by the UK government from the regulations in the ROI by the Irish government even though a single company may have operations in both jurisdictions. As ICED provided for the first time a regulatory general framework for informing and consulting employees in Ireland and the UK, it does have potential to have significant impact on the conduct of governance regimes and in voice schemes and practices in companies. It was important, therefore, to explore and understand what were the dominant factors influencing these processes for variances, sequences and the particular activities engaged in and effectuated in workplaces. In particular the question seeks to explore the impact on policies, practices and any specific adjustments that have occurred as a result of external regulation.

Supplementary Research Question 2: What factors have influenced the particular outcomes of voice schemes and practices in the case study companies?

The second supplementary research question is concerned with factors affecting ICED created or influenced voice outcomes. The principal factor here is the path dependent role of voluntarism in both jurisdictions and the influence voluntarism has in decision-making and workplace hierarchies. In particular this question is concerned with how managers and employees in union and non-union settings conceptualise, experience and operationalise voice since the introduction of the new regulatory voice framework. The ICED regulatory frameworks are slightly different in each jurisdiction and as such they give rise to variations in the approach to voice schemes and practices in the respective locations either side of the border.

Supplementary Research Question 3: Who occupies the regulatory space for employee voice in workplace governance regimes?

The third supplementary research question arose from consideration that much of the literature on voice has tended to consider outcomes in terms of unitary and pluralist frames of reference, from collective bargaining to a rights-based identity (Hauptmeier, 2011). There has been no attention paid to the role of governance regimes on the construction and legitimisation of voice schemes at workplace levels. To this end the values and beliefs that sustain governance regimes need to be subject to scrutiny as to their role in socially legitimizing voice schemes at work. The device of regulatory space, as discussed in Chapter 2, also allows for the exploration and measurement of laws such as that of the ICED within the confines of workplace governance regimes.

The next section will consider research theories and perspectives and will conclude with the researcher's main philosophical beliefs and the phenomenological paradigm adopted in the study.

4.3 Research Theories and Perspectives

Guba and Lincoln (1998) assert that an issue facing any researcher is that of selection of paradigm in order to be sure that it informs and guides his or her approach. A paradigm is a basic set of beliefs that guides the actions of a researcher (Guba, 1990). It contains a researcher's epistemological, ontological and methodological premises or interpretative framework as 'all research is interpretative' (Denzin and Lincoln, 2005:22). In essence a philosophical perspective was adopted for this study that was appropriate and reflects the researcher's assumptions on how to regard society and science. Thus the researcher regards society to be rational with broad patterns of economic, cultural and political relationships with which people lead their lives and that 'no social action, at however mundane a level, takes place in a social vacuum' (Watson, 2012:7). The researcher's view on science involved taking either an objectivist or subjectivist perspective.

The objectivist perspective is very much a classical approach with its roots in the natural sciences which would not be suitable for the study of people and institutions in the social world. It also could not arrive at Weber's (1947:88) notion of: "interpretative understanding of social action in order to arrive at a causal explanation of its course and effects". Accordingly nomothetic methodologies support a natural science approach, a deductive systematic testing of hypotheses that predict and explain behaviour but which was deemed too limiting for this study (Burrell and Morgan, 1979).

The subjectivist believes that the researcher cannot be separated from what is being studied or observed. The use of ideographic methods offered a more suitable approach for this study of lived experiences. Ideographic methods focus on getting inside situations and through empirical observations of participants in their everyday settings allows for the development of theory based on inductive methods (Gill and Johnson, 2002). The principal consideration was to adopt an approach that allowed for the investigation of real experiences of workers and managers at work and not one that simply described it. Turner *et al*. (2009*)* best describe this aim as one that has the ability to capture the rich texture of everyday social processes. Strauss and Whitfield (1998) consider that there are two approaches to research that are suitable

for industrial relations studies; a deductive one which seeks to test theories and inductive one seeks to develop theories.

There are two main philosophical aspects of scientific enquiry – ontology and epistemology (Stainton-Rogers, 2006). Ontology is a process that questions the nature of the world, what things are and their being in the world. It also raises questions about the nature of reality of the social phenomena being investigated (Denzin and Lincoln, 2008). There are different ontological assumptions, for example positivist and constructivist. An adherent to positivism sees the world as separate from human existence or the researcher's role within the research and is something ordered and systematic. While constructivist ontology considers human encounter in a literal fashion through meanings such as the symbols people use to think and communicate, language being a prime example (Stainton-Rogers, 2006). Epistemology is the study of the nature of knowledge its form, acquisition and communication. Similarly there are positivist and constructivist approaches to epistemology which largely reflect similar approaches given above for ontology.

The ethnographic approach offers the possibility of only obtaining qualitative data and a version of the world true only in its own terms (Hammersley, 2002). In practical terms ethnographers require a considerable expenditure of time spent in observation as in a longitudinal study. At the other extreme of the research continuum is grounded theory (Glaser and Strauss, 1967; Glaser, 1998), rooted in the anthropological tradition of embedding researchers within their studied world and where prior empirical work is abandoned and theory developed often at the end of fieldwork. Charmaz (2008) contends that grounded theory is a flexible mode ideally suited to advancing social justice inquiry in the 21st century including studies of worker involvement. Grounded theory is less used in industrial relations research in recent years (Kelly, 1998) and does not lend itself as a means of analysis in practical as a method for this study given the constraints of time and access to participants.

In summary, the researcher views science as an ongoing process of discovery rather than an absolute with a definite end (Gummesson, 1991) and seeks to understand how the social world 'works' by building a body of knowledge and theory followed by rigorous examining of propositions (Watson, 2012). In conclusion, Table 4.1

summarises the researcher's main philosophical beliefs and the phenomenological paradigm adopted in the study. They are subjectivist which focuses on meanings and events to explain ideas through induction from data with an understanding that social action does not happen in a vacuum and is pursued through a research strategy that utilises different views of phenomena and purposive in-depth investigation methods.

Table 4.1: Researcher's Philosophical Approach

	Features of Phenomenological Paradigm
View of Society	Subjectivist
Basic Beliefs	The world is socially constructed The researcher as observer is part of what is observed
Researcher	Focus on meanings Seeking to understand events or actions Develop ideas through induction from data Understand that no social action happens in a vacuum
Preferred Methods	Using a research strategy that uses multiple methods to develop different views of phenomena Purposive samples of in-depth investigation

Source: Adapted from Easterby-Smith et al. (1991)

4.4 Research methodologies in industrial relations research

IR research traditions vary internationally with a large proportion of US research identified with quantitative work while the UK is evenly balanced between quantitative and qualitative approaches reflecting a stronger sociological tradition (Frege, 2005). Both Irish and UK IR research has tended to be inductive. Some important examples of large scale ethnographic studies include Flanders' and later Ahlstrands' work at Frawley, and Lane and Roberts' study of the strike at Pilkington's (Ahlstrand, 1990; Flanders, 1964; Lane and Roberts, 1971) all using long-term observation. Such an approach could provide detailed data, but was not an

option for this study given the geographic spread necessitated by examining cross-border companies.

Ackers and Wilkinson (2003) have suggested that the use of qualitative case study in industrial relations research has waned since the mid 1980s being replaced with a growing interest in econometric methods rather than one based on the tradition of the individual interview in sociology. Large scale surveys have an important value in social science research as they offer breadth to the existence of certain phenomena in a given group or how they vary across cases (Flyvbjerg, 2006). The growth of large data sets such as WERS and NCPP workplace surveys has not however eclipsed the enduring interest in case studies as witnessed by Brown and Wright (1994), Kersley *et al*. (2006), Taylor and Bain, (2002), Dobbins (2008b), Hall *et al.* (2010).These studies all highlight the potential value of using both quantitative and qualitative techniques and indicate that the large-scale surveys are best iterated with in-depth fieldwork in order to refresh questions from case studies. Bryman (2008) also notes an increasing rise in mixed methods research in social sciences and humanities which combines qualitative and quantitative approaches. The research questions given above required the adoption of specific strategy and methods that would examine differing workplace governance regimes and their impact on voice forms and practices. This study did utilise mixed methods of qualitative and quantitative research instruments but the main findings reported later in the study were obtained in case study interviews.

4.5 Case study approach as a research strategy

A case study approach is ideal here as the "raison d'être of case study is deep understanding of particular instances of phenomena" (Mabry, 2008:214). As indicated in the literature reviews in the preceding chapters, the employment relationship and employee voice are socially constructed within workplaces and by external legal regulation. Thus how that social experience is created and given meaning (Denzin and Lincoln, 2008) to both employees and managers was a pursuit of some curiosity with the prime goal of obtaining a deep understanding about the complex nature of voice and workplace governance. Moreover, this study seeks to understand what actors perceive about the outcomes of employee voice and how it

plays out in different contexts. In this instance then a qualitative in-depth case study approach was deemed to be the best method of research to explain complex and diverse systems applied in workplaces. As such then:

> *qualitative research is a situated activity that locates the observer in the world. It consists of a set of interpretive, material practices that make the world visible….this means that qualitative researchers study things in their natural settings, attempting to make sense of, or interpret, phenomena in terms of the meanings people bring to them* (Denzin and Lincoln, 2008:4).

A quantitative methods approach would be limiting for this study as it would not elicit personal stories and experiences of social phenomena which are best obtained by the semi-structured interview process. Preparation for interviews while essential often shaped expectations of what structures and communication channels should be important in the research site. But on occasion some of those relationships or information systems were deemed unimportant and thus a line of questioning was of little consequence to the interviewees. The semi-structured interview process provides flexibility to allow the interviewer to build an empathy with the interviewee in a less formal way by facilitating conversation flow and by letting people tell their own stories. The Researcher was at all times mindful that stories told by interviewees needed to be validated against observations, other interviews and any available documentation. Nonetheless, the purpose of the interviews was to allow 'stories' to be told but under guidance regarding the direction of issues under investigation and not leaving it "to case actors to select the stories to be conveyed" (Stake, 2008:136).

A concern for this study was that findings would reflect generalisability within and beyond one setting or unit of analysis where the data was collected. Statistical generalisation or hypothesis testing was not a consideration in order to answer the research questions posed. The most important initial step was to ensure interview access to a cross section of the workforce which reflected a representative sample in each research site. Controls over selection of interviewees and companies were important to the potential analytic generalisations based on the theoretical orientation of the research question.

4.6 Case Design

The process of conducting the initial literature reviews and defining the research questions was shaped by reference to Yin (2009). The next step in the process was to plan and design the case studies, especially the selection of cases and the appropriate research sites. The decision centred on what sort of case study was best suited as there are four main kinds: 'single/simple', 'single/complex', 'multiple simple' and 'multiple complex'. The latter serves to study several cases under the same protocol or design (Kelly, 1999) and given the diverse outcomes expected in different settings, it was felt that a multiple complex case design was suitable and appropriate. This also reflected the complexity of the ICED transposed regulations across two legal and political jurisdictions on the island of Ireland.

The boundaries that define case research needed to be chosen which required deciding upon the research sites and how many cases would be involved. In formulating the research questions a comparative study was envisaged that was based on paired comparisons (Barry and Wilkinson, 2011) one in each of the two jurisdictions of the island of Ireland. Thus in selecting the companies secondary criteria had also to be met: that the companies operate on a cross border basis with workplaces in each jurisdiction; that they have different voice forms (union and non-union, formal and informal) and that the companies operate in different sectors of the economy, all to enhance comparability. The multiple complex case designs would then yield a number of comparative analytic features; cross jurisdictional, cross sectoral, union and non-union and intra-company differences. Those features were the means to understand the operationalisation of ICED and gain a precise view on how voice practices and outcomes that were experienced as required by the research questions posed.

The study commenced in 2008 with a search of the FAME and NEXIS data bases, contemporary newspapers and business magazines to identify suitable case study companies. A number of companies were contacted by telephone and then written to formally with a letter addressed to the head of HR in each organisation. As anticipated the heads of HR were the main gatekeepers to each company. This was followed up by e-mail and telephone contact to confirm their business structure and

willingness to take part in the study. Unfortunately the timing of this activity coincided with economic legacy fallout from the 2008 banking/financial crisis and the consequent severe impact on world and in particular the Irish economies. One company which had previously agreed to take part in the study had subsequently to withdraw due to its merger with a larger company. Other companies were undergoing enforced restructuring involving lay-offs and redundancies and did not welcome external observation or presence at an extremely difficult time for their workforces. Negotiating access was a process of building a rapport with the gatekeepers, providing them with a full and honest outline of the study, and the requirements needed. The university code of ethics for researchers was complied with at all times which meant in reality being transparent and maintaining a continuous dialogue with individuals in each unit of analysis.

It was decided to select three cross-border companies each with a facility in either jurisdiction, meaning six research sites and to also ensure that the companies operated in different sectors of the economy. There was a certain amount of judgement sampling employed as a vital part of the comparative criteria was to have cases from unionised and non-union workplaces. This was a deliberative part of the strategy in order to capture a range of employee voice forms and practices. A key objective was that the study would be built on cases and research sites that would display dissimilarity and similarity across a range of variables and factors discussed as important in Chapters 2 and 3. The companies that were suitable for the study and agreed to participate met these key characteristics and are displayed in Table 4.2. Briefly, RetailCo is a non-union company with operations either side of the border, here called RetailCo North and RetailCo South; ServiceCo is unionised in both North and South, while ManuCo North is non-union and ManuCo South is unionised.

Table 4.2 - Key Characteristics of case study companies

Company	RetailCo	ServiceCo	ManuCo
Sector	Retail	Services	Manufacturing
Sites -NI	Newry	Belfast	Belfast
Sites – Rep. Ireland	Galway	Dublin	Cork
Union –NI	No	Yes	No
Union – Rep. Ireland	No	Yes	Yes

4.7 Data collection and research instruments

There was an element of longitudinal design to the fieldwork which began in 2009 and continued through 2010 for ManuCo and RetailCo and involved multiple site visits in each case. Even though access and participation was agreed with ServiceCo it took until late 2011 to complete all interviews. This was due in large part to an internal operational delay with a senior HR manager authorising and delegating individuals to assist in arranging the logistical processes of whom, when and where. Two principal research instruments were utilised: semi-structured interviews with a total of 79 respondents, and a short survey instrument involving 119 employees across the three case study organisations. Each instrument is further explained next.

4.7.1 Interviews

The data collected in the field was primary and secondary in nature and weaved together to provide a coherent picture of events and practices (Yin, 2009:114). The primary data was collected in a controlled manner by the researcher through semi-structured interviews which are detailed in an interview schedule in Appendix B, other documentary material such as company union agreements and media commentaries were considered to be secondary data. The bulk of the data collected was primary and obtained through 79 in-depth, one to one semi-structured interviews with managers (HR and operational), employees, employee representatives (union and non-union) and union officials as detailed in Table 4.3. Initially case study interviews were conducted with the senior HR manager and other line managers followed by employee and union or employee representatives interviews. External full-time trade union representatives who had dealings with the case companies were interviewed. The latter group included two such union officials reporting on RetailCo

where although the company does not recognise unions for collective bargaining there are individual union members in employment and union officers have represented employees at internal disciplinary hearings.

Table 4.3: Total Number of Interview respondents (NI and ROI)

Company	Managers	Employee Reps (Stewards)	Employees (not reps)	Full-time Union Officers	Dates	Totals
RetailCo	11	6	6	2	2009-2010	25
ManuCo	12	4	6	4	2009-2010	26
ServiceCo	9	6	8	5	2010-2011	28
Totals	*32*	*16*	*20*	*11*		*79*

Prior to all interviews each respondent was briefly informed as to the range and nature of the research. Their willingness to agree to allow interviews to be digitally recorded was obtained in all but a few instances. In those latter cases a comprehensive set of notes was taken by the researcher and written up at the earliest opportunity while the interview was still fresh in the mind. At all times the question of confidentiality was emphasised and reassurance given to respondents. It was also stressed that the research was independent from any bias and no one else in each company would be informed of what was related during an interviewed. Field notes were made during interviews to support understanding of recordings and a pen portrait of each interview made directly after interviews were finished on the day in order to record contemporaneous impressions and feelings about the respondent or interview setting.

The main aim of the interviews was to understand interviewees' level of familiarity with, and experiences and perceptions of their company voice practices and overall voice forms. Invariably a range of opinions emerged from very positive experiences to hostile and dismissive attitudes from elements in all groups; managers, employees and union officers. One technique used was to focus in on one particular matter of ongoing concern in the company, such as a planned or recent re-structuring, and to use respondents' experiences of this topic to open up the issues under investigation. This interview tactic was prompted by the critical incident technique of Flanagan

(1954) understanding respondents' attitudes to a significant recent event. On the basis of those views it was possible to obtain an understanding of dynamic events and how they were handled and this aided an assessment of whether those outcomes chime with espoused company policies on voice. Interviews were tailored according to the company status of the respondent with a different set of questions for managers and employees (See Appendices C and D). Core themes were present in all interviews and a checklist of pre-prepared questions guided the researcher. The iterative nature of semi-structured interviews gives rise to some new issues emerging and also provided the flexibility to explore further empirical information.

The aim of the interviews and of the assessment of secondary source materials in the form of company information was to build an understanding to answer the research questions. This in turn meant devising two lists of conceptual and operational questions that were put to managers and employees in interviews. These questions mainly concerned: background information on the company including its I&C structures their actual practice, scope and extent; management motives and expectations; levels of awareness of the regulations and the effect on their workplace voice forms and practices.

In field research there is an element of ethnography or non-participant observation in all contact events with the case companies and respondents. The researcher did develop some understanding of power structures in each context by the way certain individuals were mentioned or deferred to. Repeated visits to the six research sites helped develop a sense of understanding of the contexts of the phenomenon being studied. Recognition of the physical artefacts that make up each workplace always aids an understanding of work routines and the operation of managerial hierarchies. In this case the Researcher became familiar with how to manufacture of concrete blocks; the reality for retail staff dealing with customers and stock-taking, and, not unpleasantly, what life is like in the pilots' cabin of a Boeing Airbus 320! As Yin (2009) contends:

> For case studies, "listening" means receiving information through multiple modalities – for example, making keen observations or sensing what might be going on – not just using the aural modality (ibid:70).

Combining good listening skills with direct observation did provide important nuanced understandings of the tasks undertaken in real-life situations in the case companies. This did allow for a deeper understanding of employee voice schemes to emerge from both this primary data and the secondary data of documents and other archival materials.

4.7.2 Employee Questionnaire

As noted by Bryman (2008) there is an increasing use of mixed methods research in social sciences and humanities which combines qualitative and quantitative approaches. As indicated above the number of interviews conducted was significant but it was felt for triangulation purposes and to gain additional data that a limited confidential employee questionnaire sample would be beneficial and is reproduced in Appendix E. The main purpose of a questionnaire is to obtain information from a defined population or set of people and in this case it was conducted in each research site (Easterby-Smith *et al.* 1991). The design of the questionnaire was on the basis that quite a considerable amount was known about each research site by way of background, so the focus could be on respondents themselves, their perceptions and experiences and also afforded them the opportunity to make some judgemental opinions.

The employee questionnaire was developed after testing suitable questions with other colleagues and with reference to Locander *et al.* (1976) on sampling methods. The primary aim of the questionnaire was to obtain the views of employees on how management communicates and consults with employees. Previous validated questions from WERS and NCPP surveys were examined and adapted to suit this study. The questionnaire began with factual data on the employee i.e., age, how long in employment, position and whether or not a union member, etc. The next two sections were constructed to seek opinions on various statements regarding: the use of I&C methods; the kinds of issues covered in various voice forms; the effectiveness of voice practices and how much influence respondents believed they had on a range of work related issues and the impact on their job and levels of commitment. It was decided to use a multi-item Likert-type scale (Oppenheim, 1992; Bryman and

Crammer, 1994) in which respondents were presented with voice-related statements, with which they could agree or disagree on a five point scale. In the final section of the questionnaire a page was added to encourage respondents to make additional comments about employee information and consultation.

The employee questionnaire was distributed in each six units of analysis, which will be referred to hereafter as the research site, by employees who had previously been interviewed for the study in their capacity as employee representatives. They gave an undertaking that only employees and not managers of any grade would complete the survey. An additional feature was that each survey was accompanied by a stamped addressed envelope for return to the researcher directly, thus ensuring anonymity and confidentiality. The questionnaires were analysed using SPSS software without any need to use sophisticated regression methods. The number of questionnaires returned was 119 and details of response numbers from each research site is given in Table 4.4.

Table 4.4   Numbers of employee questionnaire respondents

RetailCo South	RetailCo North	ManuCo South	ManuCo North	ServiceCo South	ServiceCo North	TOTAL
22	15	25	12	21	24	119

4.7.3 Pilot and testing of questions and techniques

A pilot testing both interview questions and methods was facilitated during the course of work in a larger project in early 2009. It allowed the researcher to test at an early stage some prepared research questions which emerged from desk research and through non-participating observation of other interviews. Many of the themes explored by the larger project were similar to those of this study. The pilot interviews were conducted with two employees and two managers in two companies which are not those reported on in this thesis. The experience was extremely useful for developing interview techniques such as making respondents feel at ease and on tactics for pursuing issues that arose. The data that emerged from these interviews was coded and analysed and provided the researcher with an opportunity to reconsider and amend themes and interview questions. Two issues emerged from the

pilot, i.e., the lack of precision in the pilot question formulation and the importance of establishing an orderly flow to semi-structured interviews in order to cover all relevant themes with respondents. Both issues were amended in the final draft of interview questions and were reviewed again in a planned review after the first ten interviews were completed in two case companies. This was done as a stock-taking review to analyse the data collected with a view to reconsidering the effectiveness of questions and techniques. The outcome of this later review was a clear realisation that some respondents were very time constrained and emphasised the necessity of ordering the questions more effectively for each respondent.

4.7.4 Relating research questions to fieldwork

At the end of Chapter 1 the central research questions were identified, all focusing on the role of governance regimes mediating the impact of employment regulation in particular that of the ICED and voice generally. Fieldwork was conducted with the aim of obtaining specific data to answer the research questions. Outlined in tabular form in Table 4.5 is how the main research themes were operationlised in the semi-structured interviews with managers and employees and in the employee questionnaire. The table is constructed to demonstrate the linkage from column one (research questions) across to column five (employee questionnaire); the connections between each of the four research questions, their main themes and the specific questions asked. Those questions are detailed in Appendix C, D and E and were asked in interviews of managers, employees and in the employee questionnaire.

Table 4.5 Operationalisation of Research Questions

Research Questions	Employee Questionnaire (Appendix E)	Employee Informants (Appendix C)	Managerial Informants (Appendix D)
How do different governance regimes affect employee voice in companies on the island of Ireland?	Q13, 14	Q8-37	Structures Q9-39
What has been the impact of ICED in cross-border companies on the island of Ireland?	N/A	Q58-68	ICED – Q 49-66
What factors have influenced the particular outcomes of voice schemes and practices in the case study companies?	Q16-22	Q69, Q1-7, 12	Q67, Q1-8,
Who occupies the regulatory space for employee voice in workplace governance regimes?	Q8-12	Q13-37	Q40-48

4.8 Data Analysis

Detailed and systematic data analysis was undertaken. As soon as interviews were completed field notes, observations and pen portraits of each interviewee were written up. The next task was the long and laborious transcribing of interview recordings which was completed on a continuous basis through the data collection and for a period thereafter. Secondary data which was mostly company documents were subject to content analysis to corroborate and augment evidence from other sources (Yin, 2009).

Using what the researcher felt were the strongest interviews, a gradual picture began to develop of what were then deemed to be the most relevant for the research objective. This entailed reading and re-reading transcripts and fieldwork notes and seeking to indentify key issues and relationships between events. A form of code book was developed with particular parts either highlighted or marked by symbols. All interviews were listened to on a number of occasions to achieve a high level of familiarity with individuals and the research sites. The next stage was to rigorously

assemble all data for each research site and cross reference emergent issues and themes into a set format allowing a within case analysis. A similar task was conducted for each of the three case companies and comparisons between them and across themes. The results of this process are reported by case company separately in Chapters 5, 6 and 7. In essence the process of data analysis was sorting the 'wheat from the chaff' and extracting what the researcher felt were the most relevant pieces of data following the rationale and objective of the research question, i.e. to seek out patterns of influence on voice in each research site from the differing governance regimes and establish in each who occupied the regulatory space created by the ICED.

4.9 Ethics

The research was conducted in an open and agreed manner with all participants. The research aims were communicated both verbally and in writing to case study companies before fieldwork began as shown in Appendix F. The ethical standards set out by NUI Galway for researchers and the code of conduct for recipients of the Irish Research Council PhD fellowship were adhered to at all times.

4.10 Limitations to study and establishing data validity

There are of course criticisms with the case study approach which have been largely on methodological and epistemological grounds often focussing on one main fault that case studies are "too impressionistic' in the interpretive liberties they take and too aggressive in the range of subjects they presume to address (Harvey, 2009: 15). While often stated this criticism represents more a disagreement regarding analysis rather than methods. Collecting and analysing evidence case studies is based on the essential premise that one is seeking to make sense of reality as relayed by respondents and that in any event "each method has its advantages and disadvantages" (Yin, 2009: 6)

Leaving aside the 'paradigm wars' and battles over hard science and soft science, case studies have five main misunderstandings or over simplifications (Flyvbjerg, 2006: 221). The most compelling argument for the case study method was an

understanding that there are strengths and weaknesses in this method for all social scientists and there is no one best way. In the instance of this study the balance was tipped in favour of case study given the particular research questions being posed; the lack of control over the events and access to individuals, but in particular because it was a real-life contemporary issue needing to be explored. This should not in any way be considered a total rejection of other methods or seen as a lack of understanding about potential faults in the case study method. Deciding to use case study was a considered choice of the best method for this study. Flyvbjerg (2006:242) makes this point very well

> *Good social science is problem driven and not methodology driven in the sense that it employs those methods that for a given problematic, best help answer the research questions at hand*

One of the ways to address those methodological issues was through a process of continuous validation of the chosen methods by the researcher in conjunction along with the thesis supervisor and also through friendly but not uncritical adversaries in my postgraduate community. This was combined with constant examination of external and internal validity through examining multiple sources of evidence and triangulation (Fielding and Fielding, 1986) i.e. collecting information from a diverse range of people and settings; using a variety of methods such as documentary analysis, personal observations and comparing interview notes with others in the same organisation. Maxwell (2005:79) makes the case that the researcher is the research instrument and their eyes and ears are important tools in making sense of what is going on. Thus there was a multiple indicator approach to the validity and specification of data collected.

There are other factors that were considered that may limit the study and they were:- reliability, authenticity and credibility of the research. The research design and strategy employed were based on tried and tested taxonomic designs aimed at validating measures that would define the concepts in the research questions and ensure that the research sites specified was appropriate for the study.

According to Patton (2002) the application of a process of data triangulation enhances evaluation and validity and he indicates that there are four types of data triangulation: data sources (data triangulation); different evaluators (investigator triangulation); perspectives on the same data set (theory triangulation); and methods (methodological triangulation). The term triangulation is a loose analogy with navigation and surveying as a method of establishing a map position using landmarks and various maps references to fix a positional place when all collasece together (Hammersley and Atkinson, 1995: 231). In essence triangulation of the case studies was used as a systematic process using the multiple sources of data collected and testing facts against one another, to arrive at conclusions or perspectives that were supported by more than one source. At all times the data collected was confirmed using a triangulation of methods and sources and at times going directly back to participants.

The application of triangulation methods in this study were employed as a validity test on data collected as an effective means that was

> *Essential to the process of ruling out validity threats and increasing the credibility of your conclusions* (Maxwell: 109)

Multiple sources of evidence collected were a critical methodological design and strategy in providing multiple measures of the same phenomenon in order to enhance validity and credibility. As Yin (2009: 117) states

> *....case studies using multiple sources of evidence were rated more highly, in terms of their overall quality, than those that relied on only single sources of information.*

4.11 Bias

In the planning and conducting of the study there was a constant alertness to the researcher's bias or preconceived notions about the subject and the need to ensure

that this would not have an impact on the reliability or the accuracy and precision of data measurement.

4.12 Conclusion

There were some problems encountered during the data collection but mainly of securing access and on a few occasions interviews were postponed by respondents at the last minute. Overall this study was an attempt to achieve greater understanding of the role of regulation on employee voice space in companies on the island of Ireland. The main reason the case study was chosen was it was considered the best suitable method for examining workplace experiences of voice and regulatory impact. The strategy to seek comparative indicators from companies with cross-border operations, intra economic sectors and within company analysis has added to the range of data of this multi-level research study. The semi-structured interview process was invaluable in unearthing a rich textural analysis (Turner *et al.* 2009) of workplace experiences of voice schemes. These research instruments have allowed well conducted and controlled case studies to test and refine theory and for generalisations to be made from the data.

From here this work goes on to outline the data gathered during the research phase starting with, in the next chapter, the empirical findings in ManuCo**.**

Chapter 5 – ManuCo

5.1 Introduction

This chapter commences with a brief review of the main features used to characterise the governance regime and voice schemes for ManuCo. From this, an examination of the possible factors influencing the governance regime and voice outcomes are examined and described in accordance with the conceptual continuum schema discussed in Chapter 2 (Figure 2.3) and the voice evaluation framework given in Chapter 3 (Table 3.3) and are described in the following order:

i.) *Governance Regimes* - includes possible external influences from state and EU polity, market and regulation which may determine those mechanisms of power and authority that are exercised, maintained and enforced.

ii.) *Firm as interest actor* - considers that firms in the LMEs of Ireland and UK exercise political agency in external policy making and then interpret hard and soft regulation internally.

iii.) *Voice forms* is a consideration of the circumstances that have given rise to and perpetuate different forms of voice including indirect (e.g. collective bargaining), direct (e.g. individual), and informal voice scheme forms.

iv.) *Voice practices*. This includes a consideration of the breadth, scope and depth of voice practices in each case.

v.) *Balancing interests*. Describes the legitimacy of workplace governance and voice forms, how they are experienced and constantly re-made as a normal part of everyday work life.

The aim of this chapter is to report on research findings in the two research sites of ManuCo North and ManuCo South and begins with a report on the governance regime and overview of voice in ManuCo.

5.2 ManuCo: Governance regime and voice overview and summary

From the governance typology defined in Chapter 2, ManuCo allows its companies (in this case ManuCo North and South) to vary their own governance regime operations. The company has purposely created a federalised structure with local

managers taking responsibility for all employment relations policy. Their code of business conduct document states that:

> *Each operating company is responsible for managing all aspects of its employee relations e.g. pay pensions, hours of work, local code of conduct, agreements with unions, discipline, recruitment, promotions etc. These should be in accordance with the local legislation and custom and practice.*
> (Code of Business 2012:18)

ManuCo has a growth strategy of continuous acquisition of existing businesses which are managed in similar fashion by ManuCo North and South. Both are holding companies which co-ordinate business operations in their respective jurisdictions, ManuCo North has 37 subsidiaries and ManuCo South has 17 subsidiaries (Fame, 2012). The individual companies appear to exist with three features. One reflects the historic growth through acquisitions of parts of the group and the maintenance of a familiar trading name. The second feature is functional in nature; each company conducts specific types of work activity, such as block-making or construction. Lastly, the third feature appears protective in nature; each company is a limited liability company or a legal vehicle to ring-fence potential financial losses within that company.

The directors of ManuCo North and South reflect the managerial structure of their company: the CEO, finance director, HR director and divisional directors. All financial matters of each company from quotations to contract negotiations come under the remit of the finance directors group. Similarly, the HR directors are responsible for remuneration, employee relations matters including health and safety for every employee of all ManuCo North and South companies. Thus there is a very centralised and tight managerial structure controlling a local federal type structure as shown in Figure 5.1.

Figure 5.1 ManuCo North and South Management Structures
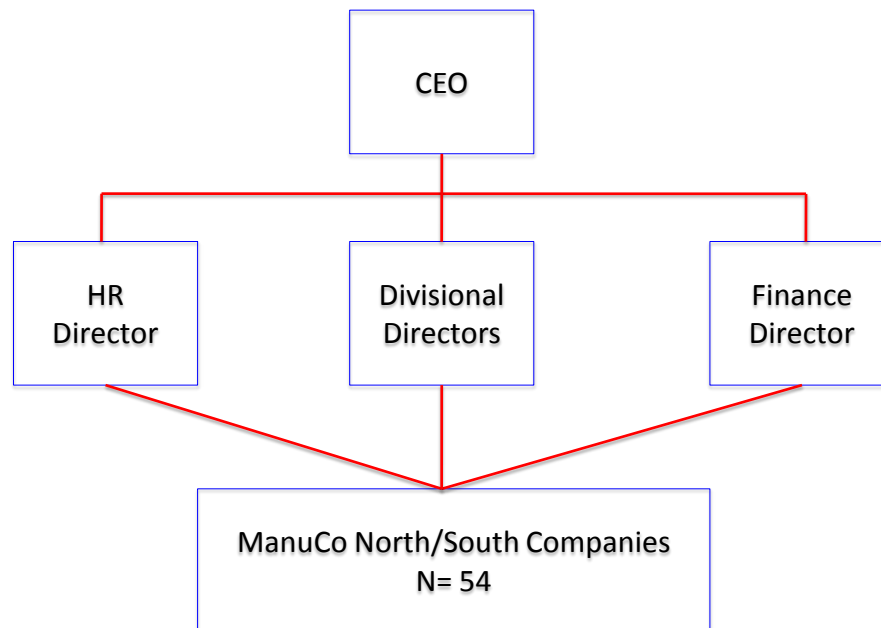
In contrast to the managerial structures, the governance regimes in ManuCo North and South are very different. On the Governance regime continuum in Chapter 2 (Figure 2.3) ManuCo North falls at one extreme as a unilateral regime. There are currently no collective bargaining arrangements in ManuCo North and the management appear to promote non-union workplaces. There is a prevalence of direct involvement voice practices while terms and conditions are decided unilaterally by management. Meantime, ManuCo South operates a governance regime that could be located in the middle of the governance continuum in Chapter 2 (Figure 2.3) effectively a voluntary pluralist regime. The company has extensive collective bargaining arrangements with unionisation estimated to be as high as 80-90% of the workforce. Consequently there are embedded practices of consultation and negotiation with trade unions on terms and conditions of employment, performance of tasks and roles.

5.2.1. Governance Regime: ManuCo North

ManuCo North was created in 2004, although the company had purchased and developed companies in NI since the early 1980s. ManuCo North is located in

Belfast with some affiliated companies in sites around NI. It acts as a holding and coordinating structure for ManuCo's companies in NI employing until recently some 750 people in three divisions, construction, materials and specialist underground equipment. The governance regime of ManuCo North can be placed on the conceptual employment relations continuum as a unilateral regime.

The severe financial crisis that commenced in 2008 had a major affect on the trading position of ManuCo North. Subsequently, there has been a series of redundancies amounting to approximately 400 employees losing their jobs through a series of mergers and closures of sites in NI. This has led to a pursuit of work contracts in Scotland and the South of England. A series of redundancies were effectuated without prior consultation, with never sufficient numbers at any one time to trigger collective redundancy regulations, and announced in meetings of small groups of those affected. All redundancies were affected within the minimum legal time-scales on terms set by management.

There are no formal I&C voice forms in ManuCo North. During the research the company stated that at one time in the past less than 2% of employees were union members according to their check-off system. Meetings between employees and managers tend to be issue specific or *ad-hoc* in nature as one manager explained "meetings only occur when something happens" (Manager 2*).* A HR manager reflecting on such meetings said that there was no developed picture of consultation with employees and that:

> *Personally I think the word 'consultation' is a misnomer, it is very much communication....consultation implies that there is a party with information, there is an opportunity to give feedback on that information that the feedback is listened to and as result decisions are made or taken. That does not happen here.* (Manager 1)

 Management demonstrate a preference for non-union workplaces. An example of this policy is the acquisition of a brick-making site in Fermanagh that was partially unionised. The site was closed and the work moved to a green-field site where the terms and conditions were lower than in the previous site. This was achieved with the

management initiating new work practices and rota arrangements and employees who wished to transfer to the new site were offered the new arrangements on a 'take it or leave it bases'. Those who did not wish to transfer were given a non-negotiable redundancy package. In essence the closure and transfer of the operation was achieved without any consultation with employees or unions within the minimum legal timescale. Further, management made it very clear that they would not recognise unions for collective bargaining purposes in the new site. An employee from the old unionised site took a case to a local employment tribunal in an attempt to preserve former pay and conditions and have them applied in the green-field site. The claim was lost and the same employee faced internal disciplinary hearings which resulted in his dismissal from the company. One union member (Employee 5) who only agreed to be interviewed off-site said that:

> *The new management do not want any union members on the job....just keep demanding more flexibility from us and pay us less all the time. I am afraid to go fully on record as they (management) are anti-union through and through.*

 A HR manager was asked to outline how the company worked or dealt with unions across their operations. That manager went on to make the case for working without unions as a means to reduce costs and speed up decision-making. He further indicated that terms and conditions of employment were "localised" and not subject to any form of negotiation with employees and this was confirmed in interviews with other employees. The HR Manager cited an example of an acquired unionised site where employees had six page long contracts of employment. These were replaced with a standard generic two-page one. The replacement contract did not specify in detail all work conditions but did provide a mechanism for lay-offs and how redundancies could be achieved rapidly:

> *From letter to going out the gate, four to six weeks –maximum time spent achieving change* (Manager 1)

In essence the example indicates the ability of managers to interpret legal regulations and impose them in a unilateral manner in the workplace. There was no documentary evidence of 'official' industrial action or strikes in the company over the past twenty-

five years nor did any evidence emerge during the research interviews, in contrast to ManuCo South.

In summary, the governance regime in ManuCo North is one reflecting a unilateral regime with no evidence of internal restrictions on employer power. Overt employer power is evidenced in three ways: in closing unionised sites without consulting unions and creating non-unions ones; affecting redundancies within the minimum legal timeframe and the absence of any form of negotiation on terms and conditions. I&C practices are informal and this was readily admitted by managers who viewed consultation as a "misnomer" something which "doesn't happen here" and meetings are held with employees only "when something occurs". There are no indirect forms of voice practices and little voice opportunities for employees except for *ad hoc* situations at the invitation of managers. Thus the governance regime at ManuCo North can be placed on the conceptual employment relations governance regime continuum as discussed in Chapter 2 (Figure 2.3) as a unilateral regime.

5.2.2. Governance regime: ManuCo South

ManuCo South is the 'mother-ship' of the MNC that has become ManuCo. It has approximately 1,500 employees in its operating companies in ROI across three divisions: cement manufacture; construction; and materials manufacture. It has a long history of good employment relations and collective bargaining. Unionisation is estimated to be around 80-90% of the workforce with 17 unions recognised for collective bargaining purposes. The company provides and supports sports and social clubs in Cork and Dublin for use by employees, former employees and their families. By and large industrial peace has prevailed in ManuCo South since the late 1970s. A few long and bitter strikes had punctuated events over the previous years which seemed to have had the effect of re-setting the governance regime axis at periodic intervals. An item that did cause considerable difficulty in relationships happened in 1997. ManuCo tried to ignore the request to form a EWC from the main union, Services Industrial Professional and Technical Union (SIPTU). The matter was referred to the High Court in Dublin, only to be withdrawn after agreement to establish a EWC. The subsequent elections held for the two EWC employee places were hard fought with pro-management and pro-union slates of candidates. There

had been some unofficial and local disputes but essentially relations between management and employees' was good. Relationships between unions and management remained antagonistically cordial with regular referrals of disputed items to the industrial relations machinery of the state for either arbitration or conciliation. One union official described the stable relations between unions and management as due to "more top class management than adversarial style, compared with other companies" (FTO 1).

The management structure of the company is made up of a CEO plus a board of directors including finance and HR directors as displayed in Figure 7.1. Most of the directors were newly appointed in late 2009, in particular the CEO and the HR director. The HR director is responsible for all employment relations and Health and Safety (H&S) matters in the company. At larger sites there are HR managers who report to the HR director, while at smaller sites, the site manager is responsible for all HR matters. There is a national (ROI only) level negotiation committee comprising management and representatives of all unions. This body is responsible for agreeing pay and conditions for all employees, including lay-offs and restructuring. It meets on an *ad hoc* basis as issues arise. A shop steward felt that meetings were only held to communicate decisions or at the behest of some unions reacting to some event or issue and said:

> *You get the sense that decisions are already made at a higher level, then the unions are told. Unions don't have real influence, say if new machinery or work practices come in. There is no real participation.* (Employee 3)

Although the HR director felt that such a statement did not reflect the reality of I&C in the company, but importantly he put the emphasis on 'communication' and said:

> *Information and consultation is not only around because of unions. It's here because it's the right thing to do. You cannot run the business the size of ManuCo South without a good flow of communication.* (Manager 3)

In the period of the research the company was experiencing a severe downturn in trading in all its divisions. The company began a major reorganisation of their

structures and facilities. In essence old trading names were amalgamated into a single company name and structure while localised ordering systems were replaced with a centralised administrative/call centre in a green-field location. The broad outlines of the reorganisations were agreed at national level with the group of unions and local implementation arrangements were to be agreed thereafter.

However, the new management team in ManuCo South were determined to assert their authority and have put all existing agreements on pay and conditions up for re-negotiation in light of the diminished trading position of the company. More defensive union actions have taken place in response in order to protect jobs and conditions, including an unofficial work stoppage and the first prolonged strike in over thirty years lasting six weeks. A manager insists

> *We are not against unions they are part of the fabric of this company and at times make my job easier. What we are doing is trying to claw back excesses given to workers in the good times so that we can compete and survive today and going forward (Manager 2)*

In summary, the governance regime in ManuCo South would be situated as a voluntary pluralist one on the governance regime continuum in Chapter 2 (Figure 2.3). There are recognised trade unions that are counter-balanced by an increasingly assertive new management team. The dynamic of company re-organisation has presented an opportunity for management to assert their authority by attempting to unravel long standing employment policy arrangements. Union reactions to proposed changes in pay and conditions have resulted in work stoppages and strikes; voluntary pluralism in action.

5.3 ManuCo: Firm as Interest Actor – overview and summary

In the Irish Times 'Top 1000 Companies' in Ireland ManuCo was rated in the top ten companies on the island of Ireland every year. Both ManuCo North and ManuCo South are active members of the two leading business organisations: CBI in Northern Ireland and IBEC in the Republic. There are many instances of the CBI and IBEC lobbying, criticising and attempting to influence their respective governments'

proposals on changes to economic or employment policy over the years including ICED (Dobbins, 2008; Purcell and Hall, 2012). CBI describes their organisation as:

> *UK's top business lobbying organisation. Our unmatched influence with government, policymakers and legislators means we can get the best deal for business- at home and abroad.* (CBI, 2012)

IBEC describe their mission as:

> *IBEC will promote the interests of business and employers in Ireland by working to foster the continuing development of a competitive environment that encourages sustainable growth, and within which both enterprise and people can flourish.* (IBEC, 2012)

Their active influencing and lobbying work is also conducted in the corridors of the EU from their respective lobby offices based in Brussels were their respective positions on ICED was made known to the EU official and elected representatives. Both ManuCo North and South are active in protecting their firms' interests in their political arenas and have attempted to maintain or retain their respective and different *status quo* in light of ICED regulations. In ManuCo North a HR manager (1) felt that ICED was 'social stuff' was not needed and created "excessive consultation that would affect speed of decision-making". The HR Director felt that CBI lobbying on ICED had acted to "protect the way we work" which resulted in the maintenance of managerial prerogative and provide the legal ability to ignore ICED regulations. While ManuCo South also acted to protect their existing voice practices, they did so in a form of joint regulation by agreeing with unions to ignore the ICED regulations as a manager (1) felt "they 'were doing it anyway". In summary, ManuCo North and South are active in political lobbying to advance their firms' interests and the following will indicate the manner in which they approached ICED and actions as interest actors.

5.3.1. Firm as Interest Actor: ManuCo North

The HR director in ManuCo North is a very active member on various bodies of CBI in NI including its employment affairs committee with specific responsibility for the ICED. Other directors are similarly active leaders in other business fora in NI including those of the construction industry and engineering sectors where they have, or held, positions as President or Chairperson. The HR director explained that their company was seen as a leading employer and they take their responsibilities very seriously in:

> *Helping to create a good modern business atmosphere in NI through regular engagement with NI government and their departments on all aspects of the economy and employment policies through CBI and other business fora* (Manager 1)

The HR director was asked if ManuCo North had any initial concerns with ICED or had taken a role in shaping the CBI approach. He revealed that there had been considerable "concern" with the proposed Directive in the company and a decision was taken to ensure their views were known in CBI. He felt that the CBI social affairs committee, of which he was a long-term member, had put together good arguments reflecting their position which was to "protect the way we work and the ability of businesses to run their business affairs without outside interference". He also said that the final 2002 Directive was "basically okay for business but not needed in my opinion" (Manager 1). When asked about the impact of the ICED on the work of ManuCo North in terms of changes to their policies or activities, a HR manager said:

> *That legislation was badly worded and it didn't really give clear guidance. There is nothing practical in this social stuff. Legal side of things is a difficulty. Because the speed of decision making is affected by excessive consultation (HR Manager)*

In summary, ManuCo North would appear to be very active in many business fora in NI and managers interviewed appeared very conscious of its position as an agent in the wider local political process. The company's management had acted in the ICED process as interest actors to protect a work environment where management

prerogative appears as a dominant feature of the workplace. This was also evidenced by their involvement in CBI which they view as a key business actor that influences and shapes the business environment in NI and at EU level.

5.3.2. Firm as Interest Actor: ManuCo South

ManuCo South enjoys the privileged status of a major Irish business success story and is regularly consulted by government departments and agencies on a broad spectrum of issues. Directors and managers of the company are active in leadership positions of IBEC committees, professional and business fora and many local chambers of commerce. The directors of the company have served on boards of government agencies for many years. A manager described their role in outside bodies as:

> *part of the tradition of our company for managers to provide leadership and be involved in all sorts of bodies that influence the workings of the Irish State* (Manager 3)

Managers of the company were asked about their role in IBEC with regard to the ICED. According to the HR director they made their position on ICED well known through IBEC committees; they had no real problem with the general outline of the ICED. He outlined how, as part of an IBEC lobbying campaign, they met local members of parliament in Cork and Dublin to emphasise that Irish law and regulations should reflect closely the provisions of the ICED even though as a company, "we wouldn't have gone through a process of having to put in place arrangements to comply with the information and consultation directive" (HR Director 2). Another manager gave a personal observation on ICED:

> *going back to what IBEC did when this was coming in....everyone was thinking Armageddon is on the way. But I don't think Armageddon has come. It hasn't had a major effect on us here because we were doing it anyway* (Manager 4)

Both union officers and managers were asked if they discussed the need for a new body or different arrangements arising from ICED regulations. One union officer said the ICED regulations are weak and viewed as a potential complication in their relationship with ManuCo South, and went on to state:

> *there was nothing in ICED for us and it would have added a distraction from real employee voice and that is collective bargaining* (FTO 2)

A HR manager related that there was a brief discussion with the national union group but "they (unions) were not interested and frankly neither was we, item noted –move on! (Manager 1).

In summary, the exchanges between managers and unions on the ICED is indicative of a form of joint regulation and demonstrates how the interests of the actors, managers and employee representatives, can coalesce around a single issue and create a form of firm interest action on a particular issue. Other evidence given above indicates ManuCo South is an active political interest actor in the political system in the ROI.

5.4 ManuCo: Voice form – Overview and summary

Voice forms in both companies differ considerably as does the employees' assessment of the schemes as to their breadth and scope as indicted in Tables 5.1 and 5.3. Voice forms in ManuCo North are direct involvement in nature and the breadth of issues communicated tends to be constrained by management choice. By contrast, voice forms in ManuCo South are predominately indirect and conducted through union agreed schemes. The multi-forms of voice schemes cover all aspects of work in ManuCo South. Thus schemes here tend to have considerable breadth of membership from all employees, are deeply embedded in the organisation and cover a wide scope of issues. In both companies there are regular an active meetings regarding H&S issues however in ManuCo North there appears to be no means by which employees can exert pressure or make management respond to ideas or suggestions in this area, save reporting matters to government agencies for investigation.

Table 5.1 is compiled from ManuCo North and South employee responses to Question 12 in the Employee Questionnaire[5] (Appendix E) which sought to know how often employees views were obtained on six separate issues: future plans; staffing and redundancies; staff numbers, work practice changes; H&S; and pay. What is striking about the responses is that employees in both companies rate only H&S as an issue about which they are 'always or often' consulted. To all other issues the responses have been heavily rated as 'never or rarely' with the exception of ManuCo North employees of whom 37.5% feel they were 'often' asked about staffing or redundancy issues.

Table 5.1 'Scope' of I&C issues at ManuCo   (n= 48-49)

'Scope' of I&C issues asked:-	Always		Often		Rarely		Very Rarely		Never	
	North	South	North	South	North	South	North	South	North	South
Future Plans for the Company	0%	5%	12.5%	3%	12.5%	24%	25%	10%	50%	58%
Staffing Issues, including Redundancy	0%	3%	37.5%	7%	12.5%	15%	0%	22%	50%	52.5%
Staff Numbers	0%	5%	12.5%	3%	25%	7%	0%	26%	62.5%	60%
Changes to Work Practices	0%	12%	25%	10%	25%	15%	25%	25%	25%	47.5%
Health and Safety Issues	12.5%	52%	25%	41%	12.5%	15%	25%	7%	25%	27%
Pay Issues	0%	2%	12.5%	0%	12.5%	10%	25%	25%	50%	62%

Table 5.2 on the next page is a compilation of employee responses to Question 13 in the Employee Questionnaire (Appendix E) regarding the breadth of I&C mechanisms used by management in ManuCo North and South. Employees were asked to account for levels of management use of eleven separate I&C mechanisms – did they use them 'always or often' or 'rarely' or 'very rarely or never'. In ManuCo North the twice yearly newsletter and notice boards were the main features used 'always or

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[5] The calculations used to draw tabular figures in this and the subsequent chapters 6 and 7 are compiled from responses to the Employee Questionnaire are 'rough' in nature. The sizes of the responses in each of the case study units of analysis were quite small and individual questions received varied levels of completion. The numbers of responses received are shown at the top of each table. Nonetheless, they do provide additional employee views on aspects of employee voice and are valuable to include them in the reported data.

often' while suggestion schemes and workforce meetings were 'rarely' used: quality circles and the EWC were 'rarely or never' used as methods to inform employees. The responses in ManuCo South however indicate that multiple forms of voice practices are used to varying degrees with notice boards considered the practice most often used. The responses indicate across the range of practices a strongly held belief by many employees that management do not use any practices for I&C.

Table 5.2 'Breadth' of I&C mechanisms at ManuCo (n= 39-49)

'Breadth' of I&C mechanisms Used:-	Always		Often		Rarely		Very Rarely		Never	
	North	South	North	South	North	South	North	South	North	South
Works Committee	0%	5%	0%	3%	0%	10%	0%	18%	0%	66%
EWC	14%	5%	0%	3%	14%	6%	14%	13%	58%	75%
Union	0%	29%	29%	21%	0%	24%	0%	16%	100%	31%
Team Briefings	0%	17%	12.5%	12.5%	37.5%	23%	0%	2.5%	50%	57%
Quality Circles	0%	5%	0%	2.5%	25%	5%	30%	17.5%	75%	57%
Attitude Surveys	0%	5%	5%	2.5%	37.5%	2.5%	12.5%	16%	50%	77.5%
Suggestions Schemes	0%	11%	11%	8%	62.5%	16%	25%	5%	12.5%	68.5%
Workforce Meetings	0%	20%	0%	15%	83%	20%	0%	5%	17%	55%
Notice Boards	12.5%	64%	75%	35%	12.5%	18%	0%	8%	0%	11.5%
Newsletter	12.5%	19%	87.5%	12.5%	0%	10%	0%	10%	0%	62.5%
E-mail	43%	8%	42.5%	5%	14.5%	10%	0%	7.5%	0%	75%

5.4.1. Voice form: ManuCo North

Direct forms of involvement appeared to be the most prevalent form of voice though there was evidence of some collective bargaining in the past. One supervisor said that he would hold weekly 'briefing' or 'tool-box' meetings with charge hands regarding current work. However regarding whether these meetings included discussions on wages or changes in work conditions he declared " Absolutely not,

these briefings are all about the jobs in hand" (Manager 3). A HR manager (2) said that there was ongoing encouragement for employees to participate in suggestion schemes or to make individual approaches to managers to improve health and safety or performance. Where employees raise issues which he views as not contributing to improved organisational performance he would ignore those. Only ideas that reduce costs or improve productivity would be considered otherwise if the employee persists in being vocal then "we end up in tribunals".

ManuCo has a European Works Council (EWC) attended by an elected 'employee' representative from ManuCo North who is nonetheless a senior administrative manager with a particular view on disseminating information to employee constituents in ManuCo North:

> *You need to ask yourself, what do they need to know? Lots of the information is highly confidential. We must be very, very careful of what is portrayed to staff.* (Manager 2)

In all the interviews conducted in ManuCo North, with the exceptions of the HR Director and the EWC representative, no other employee displayed any knowledge of the existence of the EWC or its role. One employee (4) on learning of the role of the EWC expressed some surprise at the existence of such a body and asked if it was "for ordinary employees?" In Figure 5.3 outlining the voice schemes and practices, the EWC relationship is depicted as tangential to those of most employees of ManuCo North and is indicated in the figure as a broken line.

In the absence of any discernible forms of unionisation, employees tended to raise individual issues with relevant line managers. Representative works committees were created only for specific issues such as those regarding production or H&S. They had a variable lifespan with a haphazard structure including no coherent means of election or nomination; 'representatives' were simply handpicked by management. The company was highly praised by the employees for the provision of training and equipment in the area of H&S. The ManuCo world-wide H&S alert system informs all their companies of accidents and contains photographs and possible H&S solutions. This system was known by all the employees interviewed. One employee

related an incident of how a colleague was sent to work on a site with a machine and believed that the area designated by the contractor was unsafe. This was followed up immediately by a visit from an Operations Manager and a HR executive who agreed with the employee about the unacceptable risk.

One HR Manager also made this point very well by stating:

> *We know about all kinds of structures you could have in place but from an employer's point of view, what is the benefit? I know about the cost that would arise from them. The structures that we have in place are negligible.* (Manager1)

5.4.2. Voice form: ManuCo South

The main form of voice in ManuCo South is through collective bargaining and union representation as depicted in Figure 5.4. The agreed structures are a two way flow; from the company directors through the national union group to local union structures and on to employees. Information and views flow back via the same route. The off-line I&C fora of the EWC and H&S and quality circles, as depicted in Figure 5.4 emerged from, and feed into, the main voice form in the company.

There was some concern expressed after the official announcement of Irish Services and Administrative Centre (ISAC) by some employees and stewards over the re-organisation changes that union power was being eroded. One full-time union official was asked to comment on this assertion and stated that:

> *I have heard that one a few times. The company's business has 'tanked' and if sensible ideas come from the management to turn things around, it would be foolish not to look at them. I worked for many years here and some of my family and neighbours still do. I want to be positive and preserve jobs and our union has put some great ideas for growth to the company.* (FTO 2)

The same union official made the point that while the new management team are assertive and are demanding changes this was a normal part of their interactions with

each other; they are just "putting it up to us as unions- nothing new there!" (FTO 2). Again, a feature of all the interviews in ManuCo South was the high recognition and respect for the work the company does on H&S. One employee remarked:

> *In ManuCo companies they will watch every penny and challenge you on every piece of your travel expenses, but when it comes to H&S training and equipment no expense is spared. Our shop steward is more likely to tackle people on H&S before our supervisor does.* (Employee 4)

In contrast to ManuCo North everyone interviewed in ManuCo South knew or had heard about the EWC; many could name the representatives. There are two employee representatives from ManuCo South on the parent company EWC, both of whom are SIPTU shop stewards and extremely active part-time union activists in the company. In interviews, both stewards reported several EWC related communications they made to members, to their constituents, the company group of unions and to other full-time union officials. They both believe that the EWC has potential to become a better forum for I&C, as one said:

> *There is a lot of consultation on health and safety, numbers of employees (staffing) throughout the group, and stuff on sales and profits/financial information. But Irish unions sometimes raise issues at the EWC e.g. redundancies that affect more than 10% of the workforce in one or more countries* (Employee 2)

The 'employee' representative for ManuCo North on the EWC, who held a senior managerial position, commented on the work of the two ManuCo South EWC representatives at the EWC and said:

> *These guys are very militant they would be well versed on the rights and wrongs....they are great guys but they ask some very awkward questions sometimes* (Manager 2*)*

5.5 ManuCo: Voice Practices – overview and summary

Figure 5.2 shows a list of eleven voice practices and shows which are in operation in each ManuCo company according to questionnaire responses and interviews. The practices include both direct and indirect I&C forms; EWC and trade unions being indirect forms while direct forms take the forms of one-way information flow via being e-mail and notice boards. All eleven practices are utilised in ManuCo South but only seven of these are used in ManuCo North (See Figure 5.2 below). Those practices not used in ManuCo North tend to be collective ones or indirect forms thus confirming a predominance of direct forms.

Figure 5.2 – List of Voice Practices found in ManuCo

ManuCo North	Yes(Y) or No(N)	ManuCo South	Yes (Y) or No (N)
PRACTICES	*USED*	PRACTICES	USED
Works Committee	N	Works Committee	Y
EWC	Y and N	EWC	Y
Trade Unions	N	Trade Unions	Y
Team Briefings	Y	Team Briefings	Y
Quality Circles	Y	Quality Circles	Y
Attitude Surveys	Y	Attitude Surveys	Y
Suggestions Schemes	Y	Suggestions Schemes	Y
Workforce Meeting	N	Workforce Meeting	Y
Notice Board	Y	Notice Board	Y
Newsletter	Y	Newsletter	Y
E-mail	Y	E-mail	Y
TOTAL PRACTICES = 11		TOTAL PRACTICES = 11	

Voice practices in ManuCo North are principally conducted through direct involvement practices from management. In many ways voice practices are utilised in ManuCo North as a one-way form of information distribution by management. In contrast the range of voice practices utilised in ManuCo South while they may appear to be same in name are underpinned by a different governance regime that has strong collective bargaining. Thus voice practices in ManuCo South are largely two-way forms of I&C.

Table 5.3 'Effectiveness' of I&C mechanisms at ManuCo   (n= 30-45)

Perceived 'effectiveness' of I&C mechanisms:-	Very Effective		Effective		Neither Effective Nor Ineffective		Ineffective		Very Ineffective	
	North	South	North	South	North	South	North	South	North	South
Works Committee	0%	23%	0%	23%	100%	17%	0%	7%	0%	53%
EWC	0%	14%	0%	14%	100%	14%	0%	26%	0%	46%
Union	0%	55%	0%	42%	100%	20%	0%	10%	0%	34%
Team Briefings	0%	32%	80%	26%	20%	15%	0%	2.5%	0%	50.5%
Quality Circles	0%	14%	25%	14%	75%	21%	0%	11%	0%	54%
Attitude Surveys	0%	3%	17%	3.5%	83%	35%	0%	7%	0%	54.5%
Suggestions Schemes	0%	10%	35%	11%	65%	40%	0%	3.5%	0%	45.5%
Workforce Meetings	0%	41%	50%	27%	50%	12%	0%	9%	0%	37%
Notice Boards	0%	46%	75%	41%	25%	33%	0%	9%	0%	11.5%
Newsletter	12.5%	41%	87.5%	41%	0%	7%	0%	7%	0%	45%
E-mail	60%	30%	40%	30%	0%	6%	0%	6%	0%	58%

Employees in both ManuCo North and South were asked how effective they perceived eleven voice practices to be in their employment (Question 14 of Employee Questionnaire – Appendix E) by rating those practices on a five point scale; 'very effective'; 'effective'; 'neither effective nor ineffective'; 'ineffective'; and 'very ineffective'. Responses are as shown above in Table 5.3. E-mail, newsletters and notice boards were rated as the most effective practices in ManuCo North. While the EWC is rated strongly as 'neither effective nor ineffective' most of the managers and none of the non-managerial employees interviewed knew of its existence. The responses in ManuCo South highlight multiple forms of practices and a strong range of opinions, but particularly high numbers found most practices to be 'very ineffective' with the exception of the union. Indeed the union, notice boards and the newsletter are rated as the most effective practices.

5.5.1. Voice practices: ManuCo North

Employee voice is practiced in ManuCo North mainly through direct involvement schemes. Managers take the lead in all aspects of transmitting information including if and when employees are informed and this is illustrated in Figure 5.3. Here there is a direct line between management and employees indicating direct communication or involvement as the main voice mechanism in the company.

Figure 5.3 ManuCo North Voice Schemes
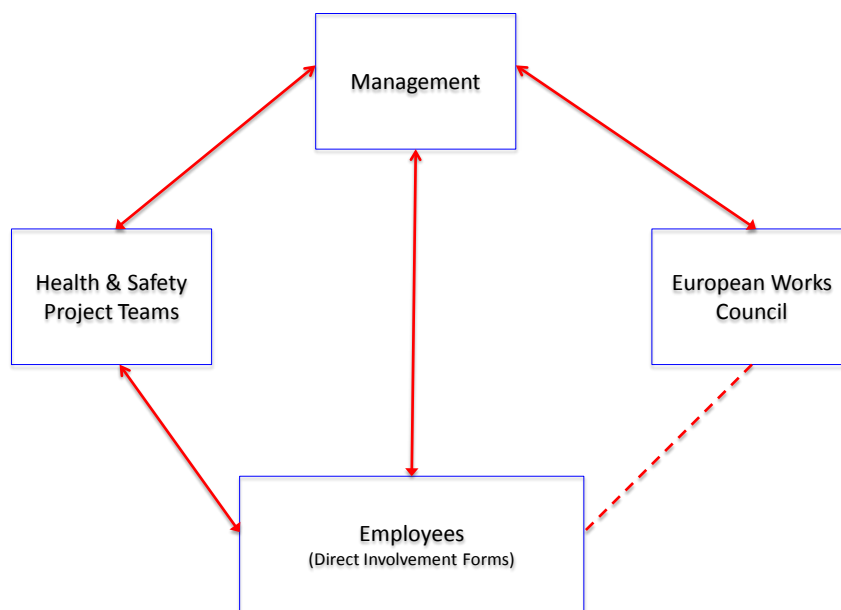
The following two examples demonstrate how daily working conditions were altered, once unilaterally and once by direct voice. One ManuCo North subsidiary is engaged in support research for construction works. Employees in this company sometimes need to be on site to test materials thereby requiring staff to work outside their 'normal' hours (8am-5pm) with overtime rates of pay applied from 6pm onwards. The manager of this company decided, without any form of consultation, to reduce the overtime bill and replace outside 'normal' hours work with a flexi-time scheme. This scheme allowed staff to 'bank' hours worked outside of normal hours to be taken as paid time off rather than receiving overtime pay. An employee (3) said:

> *He just decided the overtime payments were costing too much and announced that flexi-time would start....there was a bad feeling among people with positive and negatives some thought that okay we can get time off with our families....but lads were mounting up so much flex time that they could not get the time worked up off*

The same employee was asked if there had been any discussions between management and employees about the changes in overtime before it was announced, he said: "no way, that's not how it is done here". The outside 'normal' hours work arrangements were subsequently altered again by that manager after a few weeks because of the build up in flexi-time entitlements and re-introduced overtime payments for work done after 10pm only. Thereby the company saved money and made overtime payments to employees from 10 pm and not 6pm as it was previously. The second example is the re-organisation of the plant and transport department. There were 35 employed in this area and the trading situation for the group had diminished from previous years. The management held a general meeting of all staff in the canteen and announced that there would be seven compulsory redundancies. A supervisor interviewed was asked was he or anyone else in the company made aware in advance of the contents of the announcement. He replied: "not to my knowledge" and went on to explain*:*

> *We all could see there was no work and lots of plant idle in the yard and the top boys made a decision and announced it and that's how things are done here.* (Manager 3)

Another employee interviewee agreed that there was no advance warning was given about the announcement and said

> *That was typical around here. We all wish there was some way they would involve us in the company like a consultative group or something and stop springing surprises like that- we should be treated like adults.* (Employee 4)

He further outlined how all staff was put on protective notice from the date of the meeting until they would individually receive a letter informing them whether or not

they were selected for redundancy. Those redundancies were implemented within six weeks from the date of the announcement in the canteen.

ManuCo North periodically organise suggestion schemes for employees to submit ideas on particular topics to be considered by management. There is an internal newsletter called 'Northtalk' that is compiled by the HR team on a twice per year basis and is seen by many of the interviewees as the main vehicle of communications about developments in the company. One employee (1) said that "Northtalk was good for spreading news of company contracts and personal achievements", while another employee (3) said she: "did not pay much attention to it".

5.5.2 Voice practices: ManuCo South

The voice practices in ManuCo South are best characterised as defensive pluralist in nature. The strong presence of unions and detailed agreements on all aspects of working conditions reflect a pluralist workplace. Nonetheless, the management of the company do not want to appear to be weak or to roll-over at every union demand. This has been reflected in disputes in the past such as that surrounding the establishment of the EWC and in the re-organisational processes (ISAC) underway since late 2009 as outlined below. The voice schemes in ManuCo South are illustrated in Figure 5.4 over the page which indicates a range of voice practices in the company.

Figure 5.4 ManuCo South Voice Schemes
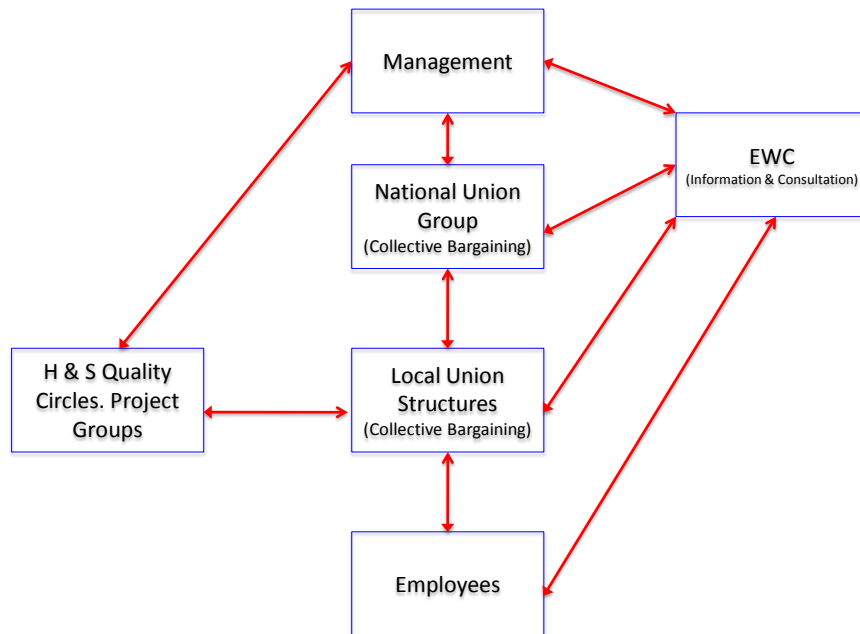
An example of management and unions' agreement on workplace change was the decision to create ISAC a centralised ordering and administrative centre on a green-field site near Dublin. The planning process for ISAC began with an expected opening date of late that year or early the following year. The business case reasons for ISAC revolved around the ability to increase efficiencies and better uses of ICT on a single site rather than replication in six sites dotted around the country. At the national union group meeting management informed and agreed with unions a number of changes including creating ISAC. There were three large and three smaller administrative centres/ordering/sales centres; the larger ones were two in Dublin and one in Cork. All employees could transfer or apply for jobs in ISAC. However, implementation involved making around 400 employees redundant as many could not move homes or work in the new centre: this element was to be agreed locally.

A full-time official from Mandate who represented a large portion of administrative employees in Cork explained the background:

> *the company have been banging on about an ISAC type place for the last 10*
> *years and everyone was aware of it. Yes they are using the downturn to get*

> *ISAC through, but it makes business sense in this day and age. At a national union group meeting this was agreed and reported to our memberships (FTO 3)*

It took a period of 18 months to negotiate the redundancies involved in creating ISAC and the benefit packages for employees. A HR manager found it extremely painful to process his colleagues' redundancies some of whom worked for the company for up to 40 years:

> *I was told by the new HR Director that this was happening. I have worked with the stewards for the last 18 months to get everyone into discussions on their package and organised classes on CV's, got Social Welfare in to talk about making claims and even found a tax loop-hole that was of benefit regards the redundancy payment. So I find it strange that anyone believes they were not informed.* (Manager 3)

In many circumstances during the process of change in workplaces there can be moments of frustration and anger evident in managers and employees at various occasions. The opening date for ISAC and the date when administrative and sales staff could apply for jobs were treated as a closely guarded secret. The new CEO and HR director had instructed that this announcement was to be made firstly to all managers and then placed on company notice boards on a designated date and time. This was to be followed up with a briefing to union stewards and officials. In practice some managers, three who were interviewed, claimed that they let the employees and stewards know as soon as they knew the *"kick off time for ISAC"*. One manager said he:

> *Could not look his people in the eyes and let them find out their jobs were really gone from a letter on a notice board. I had private chats with key people the day beforehand. This whole thing was done very poorly to make a point to the unions.* (Manager 4)

Voice practices in ManuCo South come in multiple forms some direct but mostly through union agreed employee representative fora. The main areas of pay and

conditions are agreed at company level between management and unions. On an annual basis for the past ten years the CEO has held town-hall type meetings around the country for employees to talk about the annual results. The formulation of H&S teams and project teams or quality circles on an ad-hoc or permanent standing basis is agreed locally with unions who mainly nominate employees to serve on those bodies. Increasingly the use of e-mails has replaced notice boards as the main means of communication from management.

5.6 ManuCo: Balancing interests – overview and summary

There is an ongoing balancing of interests in ManuCo South between those of management and employees daily played out in their contested terrain. The role of trade unions in the governance of this company has ensured, at times, that the interests of employees are a major consideration when business decisions are being taken. By comparison there appears to be no such internal institutional constraints on the management pursuit of their own interests in ManuCo North except for those faced by all companies, external regulation and market challenges. The *de facto* existence of strong employee voice is the defining and differing factor in the balancing of interests in ManuCo North and South.

5.6.1. Balancing interests: ManuCo North

Despite the absence of formal I&C schemes and an acknowledgement by employees that work changes are "just announced" (Employee 2), one of the recurring themes that emerged from the interviews was that the company was seen as a good place to work. Jobs in ManuCo North are considered by one union officer: "as highly sought after ones" (FTO 1*).* The pay and conditions in the company shadowed industry agreements such as those from the Construction Engineering Federation. Employees interviewed seemed to appreciate the current tight financial constraints on the company and understood the need for some re-structuring of work arrangements. Managers interviewed reiterated their role as the main providers of I&C and did not see the benefit either strategically or financially in deepening employee voice (cf. Purcell and Georgiadis, 2007). A HR manager summed up their approach with a belief that employees were getting considerable information on the company anyway:

There is lots of stuff in the local papers about the company, its contracts and finances – we are a PLC (Public limited Company) - what else do they need? (Manager 1)

The balance of interests in ManuCo North was very much in favour of the management. At the same time, employees interviewed for this research recognised there was an information and consultation gap in the company. Managers, on the other hand, felt that there was sufficient information available to all employees.

5.6.2. Balancing interests: ManuCo South

ManuCo South is a company in a state of flux brought about by huge growth in the 'Celtic Tiger' era followed by a huge downturn in trading. This is a company that is seen as an industry leader and a standard bearer of good working conditions. Collective bargaining and comprehensive agreements were only reached after regular demonstrations of employee power challenging management prerogative. Therefore, it is not surprising that in an era of harsh and difficult trading the employment relationships in ManuCo South are experiencing some strain. The practical exigencies of company survival are played out against a back-drop of re-organisation and job losses. It would appear it was ever thus, a contested terrain (Edwards, 1979) in ManuCo South. One employee described this ongoing re-making of daily working relationships as "strained at times and, often important information is not communicated" (Employee 4).

ManuCo South reflects a workplace that is highly unionised and normal working life is experienced within an ongoing contested context between management and union members.

5.7 ManuCo: Summary and conclusions

The data outlined in this chapter indicates that employment relationships, voice schemes and practices are experienced very differently in the two research sites of ManuCo and is summarised below beginning with governance regimes. The

governance regimes in ManuCo North and South depict a tale of two contrasting and different regimes. They are best characterised as unilateral in the ManuCo North and a regulated pluralist regime in ManuCo South. While the management structures of both appear similar they operate differently in terms of employee I&C.

As interest actors both management teams in the research sites of ManuCo were keenly aware of the ICED and participated in the lobbying processes on its transposition in regulations in NI and ROI. Their participation in political lobbying indicates their roles as interest actors as they attempted to influence and shape new laws. Yet both research sites decided to ignore the ICED regulations and make no new voice arrangements albeit for different governance reasons. The ManuCo South decision to ignore ICED was agreed with its unions who felt the regulations were weak and a potential distraction in the collective bargaining process. The management in ManuCo South on the other hand appeared to have been content to maintain the voice *status quo* and ignore ICED. In ManuCo North the managers felt that ICED was "social stuff" and consultation was time-consuming and costs money. While the ICED regulations provide a "trigger" for employees or managers, ManuCo North managers seem unlikely to voluntarily engage with ICED.

Voice forms in ManuCo North were predominately of an individualised kind of direct relationships between managers and employees. Indeed the example given above of the company moving to consolidate operations from a unionised site to a newly created non-union one with different and lower terms and conditions of employment, supports the impression of managers preferring a direct form of voice. In stark contrast is the role of trade unions which is deeply embedded in ManuCo South in all aspects of the working lives of employees. The example given of the creation of the ISAC for ROI which took over eighteen months for the management to effect did cause redundancies but those affected received a negotiated competitive compensation package, while those in ManuCo North received minimum payments and notice.

Voice practices and schemes are tightly controlled by management in ManuCo North and this is reinforced by a process of de-unionisation which may indicate a preference for non-union or direct forms of voice. There is no voice on virtually all

work related matters except some limited voice on H&S matters: there is a voice gap in the workplace. In contrast, ManuCo South has a form of joint regulation through collective bargaining and an array of employee representative voice schemes. This is amplified by the manner in which redundancies are handled and processed. In ManuCo North, employees are made redundant in the minimum legal time frame of four to six weeks, while their colleagues in ManuCo South engage in negotiations that lasted up to 18 months before redundancies become effective and then achieved higher redundancy packages than were originally on offer.

The balancing of the legitimate interests of managers and employees pursuing their different objectives in the workplace is played out in two very different jurisdictional and governance regime contexts. It would seem that managers' preferences in how they deal with competitive challenge interests hold more sway in the daily work organisation and the shifting axis of the employment relationship in ManuCo North. This would appear to be the normal experience for ManuCo North employees but is not the experience of employees in ManuCo South whose normality is a working experience where they are consulted by management before decisions are taken concerning their work.

The next chapter is a report of data collected in RetailCo.

Chapter 6 – RetailCo

6.1 Introduction

This chapter commences with a brief review of the main features used to characterise the governance regime and voice form for RetailCo. From this, an examination of the possible factors influencing the governance regime and voice outcomes are examined and described in accordance with the conceptual continuum schema discussed in Chapter 2 (Figure 2.3) and the voice evaluation framework given in Chapter 3 (Table 3.3) and are described in the following order:

i.) *Governance Regimes* - includes possible external influences from state and EU polity, market and regulation which may determine those mechanisms of power and authority that are exercised, maintained and enforced.

ii.) *Firm as interest actor* - considers that firms in the LMEs of Ireland and UK exercise political agency in external policy making and then interpret hard and soft regulation internally.

iii.) *Voice forms* is a consideration of the circumstances that have given rise to and perpetuate different forms of voice including indirect (e.g. collective bargaining), direct (e.g. individual), and informal voice scheme forms.

iv.) *Voice practices*. This includes a consideration of the breadth, scope and depth of voice practices in each case.

v.) *Balancing interests*. Describes the legitimacy of workplace governance and voice forms, how they are experienced and constantly re-made as a normal part of everyday work life.

The aim of this chapter is to report on research findings in the research sites of RetailCo North and RetailCo South and begins with a report on the governance regime and overview of voice in RetailCo.

6.2 RetailCo: Governance regime and voice overview

Along the governance typology defined in Chapter 2, RetailCo could be located as a sophisticated human relations regime, defined as including the following dimensions: managerial imposed regulation; minimal employee voice opportunities; an NER as described in Chapter 3 that is a managerial created employee forum; explicit employer power that is open and seen as legitimate in the workplace and which can

bypass or minimise statutory worker rights; no negotiation on terms and conditions of work but some or limited consultation on tasks/roles and functions as a non-union company. RetailCo is a UK based MNC head-quartered in the south of England with a unified sales, ordering and sophisticated HR systems which function in a uniform manner in each store across the entire company. The managerial structure of RetailCo is hierarchical in nature and is depicted in Figure 6.1 which shows: a CEO and Directors at the top; at the next level are Divisional managers; followed by the next level the regional managers and finally the store manager. There were eight stores in ROI and nine in NI each employing approximately 750 – 800 employees in each jurisdiction.

RetailCo has an elaborate integrated NER which was revamped in advance of the transposition of ICED into Irish and UK laws. The NER was crafted to create an indigenised legally compliant version of an employee forum with the ICED laws. The structure of the NER mirrors the hierarchical structures of the company with stores at the base, then the regional, divisional and national (UK and Ireland) fora. Managers at the various hierarchical levels ensure its function and operation. The company does not recognise trade unions: all terms and conditions of employment are both set and adjusted unilaterally by Head Office management. There are attractive pay and bonus packages that are above market rates: many employees tend to stay with the company. Management have a paternalistic style in the company reflective of 'welfare capitalism' (Jacoby, 1997): open-door policies; informality in manner of addressing one another; and a harmonisation status throughout with everyone wearing the same company uniform while on the shop floor or attending external company meetings. In essence the company is very strong on creating its own internal cultural brand of working practices and attitudinal influences at RetailCo.

Figure 6.1 RetailCo Managerial Structure
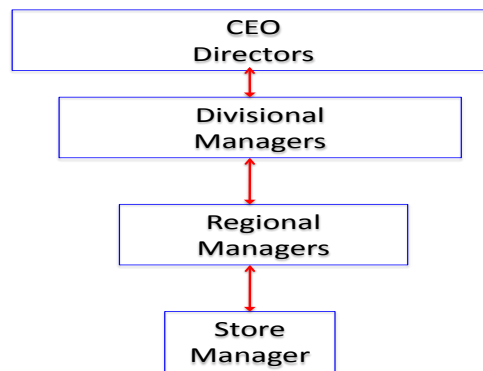
There are two main forms of voice in the company; direct involvement and the NER structure. Direct involvement is strongly encouraged and practiced by management in all aspects of their work. Employees are always advised to bring suggestions or matters of concern to their line manager in the first instance. The NER is known as '*Bottom-up'* and is illustrated in Figure 6.2. The structure is organised around information flows from: the national forum (UK and Ireland); the six divisional fora[6]; to regional forum (Ireland) and then to each store forum. It functions with time-tabled interlocking and sequential meetings. For example each store forum meeting is held before the regional forum meeting and the regional meeting held before a divisional meeting, etc. Meetings at all forum levels are attended by equal numbers of managers and employee representatives. Thus a store forum will be attended by the store manager and other managers. Regional meetings are attended by regional management, divisional management attend divisional meetings and the CEO and directors will attend the national forum. Store employees elect or nominate three or four representatives onto a store forum, who nominate an employee representative to a regional forum. Each regional forum nominates an employee representative to the divisional forum who nominates an employee representative to the national forum. In theory, and in practice, an item can be tabled by any employee or their representative at a store forum and it can then be referred through '*Bottom-up'* structures for discussion by national forum members.

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[6] Ireland is part of the Scottish and Northern England Division

Figure 6.2 RetailCo NER -'Bottom-up' structure
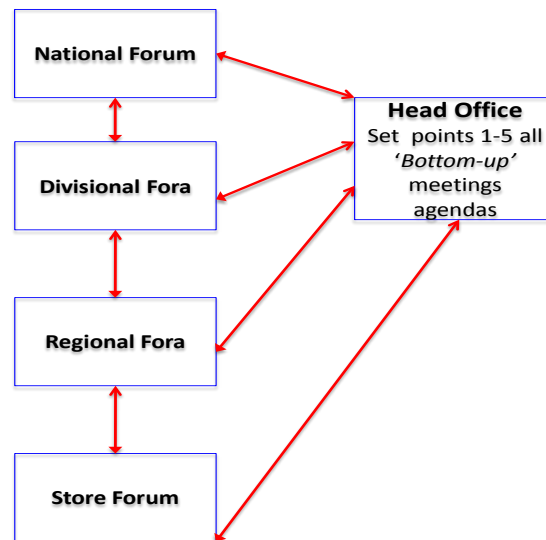
The creation and operation of *'Bottom-up'* is reflective of a non-union workplace. HR managers and executives make all the arrangements; take minutes and 'filter' items that are passed up to the next forum in their structure.

> *Generally there is a National Agenda that is set with points 1-5....then there maybe points 6 to whatever for local issues* (Manager 1)

Thus the operation of *'Bottom-up'* meetings are directed and controlled from Head Office which can be described as a framing or an agenda setting approach (Lukes, 1974, 2005). According to management, the purpose of the NER was to create a culture where employees and managers freely exchange ideas and solve problems for the benefit of the company. The management perception is that *'Bottom-up'* is a business forum and a means of sustaining a non-union culture.

> *From its inception it has never been really explicit....we don't deal with trade unions....We engage with employees and we operate the type of culture where we hope employees would not feel the need for joining unions.* (Manager 1)

The governance regime at RetailCo is dominated by management who operate a sophisticated human relations governance regime. This is reflected in timetabling and agenda setting of *'Bottom-up'* meetings at all levels. It is also evidenced in how

terms and conditions of employment are decided, and varied, solely by management decisions.

6.2.1. Governance Regime - RetailCo North

RetailCo North is located in Newry and was established in 1989. There are approximately 70 employees, the full-time employees accounting for 35% of this number and the rest are those on various short or part-time contracts. The hierarchical structure of all RetailCo stores is depicted in Figure 6.3 and consists of 4 tiers: store manager; HR executive (two persons in this case due to maternity job sharing arrangements); trade managers; lead employees and employees. Eight different people have been installed as store managers from the date of opening, two during the two year span of this research. Most in the trade manager grade, however, have been with the company from the beginning and have developed their own power bases in the workplace and have extensive localised knowledge of the marketplace. Thus the store manager turnover rate is an average of one per every 3 years which can create a vacuum at times of transition when a new manager is taking up the post. In such circumstances the ongoing functioning of the business was driven by the HR Executives and the trade manager group. One trade manager related that the "store manager merry-go-round" was probably not helped by the inability of new "young" store managers to understand the local marketplace and then a reliance on the trade managers left some feeling "lost". That trade manager said:-

> *Quite a lot of the staff has been in Newry for 11 or more years....and they know the drill and they are a bit older with the bulk of them 40 or over 50 years old* (Manager 2)

A number of the employees in RetailCo North related that if they wanted any changes in work rota or to move to another work area it was the trade managers rather than the store manager they approached for effective action. One female employee needing light duties while undergoing fertility treatment:

> *I went to the Manager (Store) who was here for 2 years and spoke to him about my issue. I felt he did not even know my name if it wasn't printed on a*

name tag. He told me he would get back to me the following week, which never happened. So two weeks later I told Jim (trade manager) and he had my new rota and duties sorted out that day. (Employee 3)

An important element in the governance regime in each store of RetailCo is the twice yearly store bonus paid to all staff. Each store is treated as a separate cost-centre and was required to achieve 95% profitability in order to qualify for the bonus payments. Items that can affect profitability include; training, maintenance and additional specialist equipment. Financial turnover figures for the store are provided to all staff on a daily, weekly and monthly basis allowing them to monitor the store's overall performance against targets set by the regional manager. This form of financial incentive has acted as a form of peer pressure on employees who would potentially make suggestions on the store operation.

If the store doesn't achieve at least 95% profitability, then you (employees) don't get your bonus. So we are trying to explain to staff that it's not just about achieving standards, or you being present at work every day. Working here is about all that and everything that must be done to make profits. We would be quite open about our P&L accounts. (Manager 3)

Another HR executive spoke about a matter raised at their store *'Bottom-up'* meeting regarding a request for additional staff to be trained to drive the electric pallet truck in order to spread workloads and to speed-up productivity. She said:

I looked at the number of staff trained on the pallet truck and felt there was adequate numbers. So I went to the guy who put the issue up for discussion and told him that a day's training would cost £800 and if that comes out of our P&L we may not get our bonus – that was the end of that item. (Manager 4)

The openness of the store daily turnover figures and the P&L account provides a financial incentive for all employees to work diligently and is also used to stifle potential suggestions and promote conformity by management who may at any time suppress suggestions they claim to have an impact on the bonus.

Figure 6.3 RetailCo North and South Store Managerial Structure
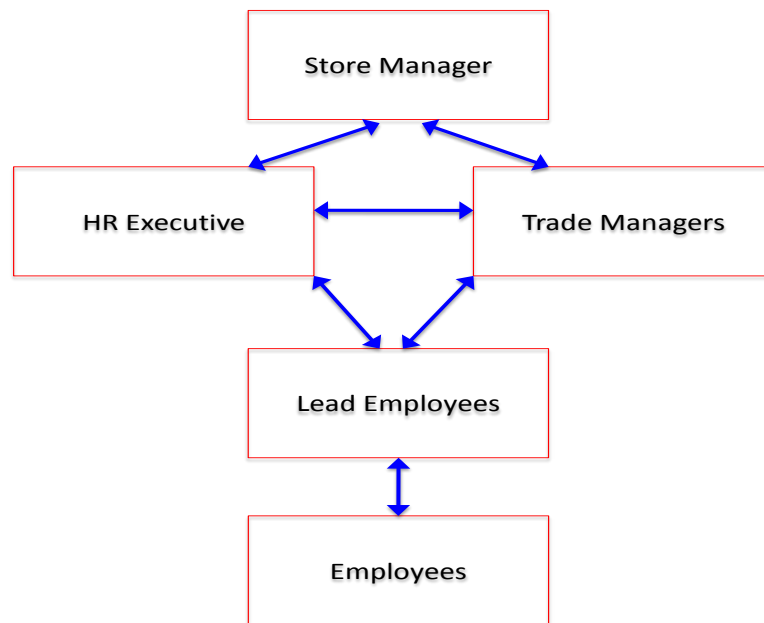
The HR Director of RetailCo outlined company the strategy of creating identical structures throughout the company so that:

> *We could move any store manager to any location and make it work - it is a generic format – just like driving any car that essentially requires keys and degree of skill to drive forward* (Manager 1)

In reality however, RetailCo North employees have not always experienced smooth transitions between managers. One employee recounted examples of different managerial styles, as discussed in Chapter 3, and related how one store manager would not come out of the office, one appeared to be focused only on ways to save money and another mainly spent his day talking with customers.

> *Again it depends on the managers – different managers manage in different ways* (Employee 2)

Thus there are different experiences of managerial styles that affect the governance of the workplace is reflected in employees experiencing apparent inconsistencies in the management of the store.

RetailCo's regional management recently decided to increase the opening times of all stores in NI resulting in many employees working more evening shifts. There was considerable resentment at this move. A number of employees interviewed felt that the extended hours would prove to be futile in terms of increasing store foot-fall and sales.

> *We were just told that the store would open to 9 pm each weekday night and 8 pm on a Saturday. Like, who round here goes shopping for paint or plants at 9pm at night? Nobody does and we have to be here – a total waste of time and disruption to our family lives.* (Employee1)

A manager said that the extended hours were causing difficulties in organising rotas and causing tension with a previously stable group of employees particularly those on the weekend shifts:

> *In my opinion the extended hours were a bad call for this store. Our turnover and footfall has increased by just 1% in the first nine months – not enough to cover additional wages and energy costs. If I was asked, I would have advised against extended opening.* (Manager 5*)*

In summary, RetailCo North is a well established workplace with a stable core workforce but has a high store manager turnover. The dominant unilateral activities of both Head Office and regional management in the governance of the store were very evident. The turnover of store managers meant employees were experiencing different managerial styles and at times the evident power of the trade manager group in determining daily working lives.

6.2.2 Governance Regime – RetailCo South

RetailCo South was established in Galway in 2008 and is their newest store in Ireland. Currently there are approximately 75 employees, 30% of which are full-time, the remainder on various short or part-time contracts. In the first two years of operation, a 'new store package' allowed employee numbers to reach 120. The hierarchical structure of the store is depicted in Figure 6.3 and consists of 4 tiers: - store manager; HR executive; trade managers; lead employees and employees. Most

of the employees were newly recruited to RetailCo South on the opening of the store and this includes the store manager and the HR executive. A small number of employees were transferred, at their own request, from other RetailCo stores.

As a new workplace RetailCo South had not got established patterns of power relationships involving the various managers, as in RetailCo North. Previous work background of the store manager was in catering and the HR executive was in financial services: both outside RetailCo. It became apparent in interviews that the regional management team were extremely active in providing guidance and direction in the 'RetailCo way':

> *The regional team are keen to ensure a new place functions properly, they know what is going on at all times and no bad habits take root in any area* (Manager 3)

The store manager reported adherence to the management and grading structure as set down by the Regional Manager which includes pre-set maximum numbers of full-time staff; the ratio of managerial to non-managerial employees and the numbers on each of five separate pay grades.

> *When I worked in catering there was always the ability to reward extra effort or give encouragement with a few quid more. My hands are really tied by regional in how I run this place with rigid pay levels and that is starting to cause some disillusionment in the place* (Manager 3)

Employees remarked on the rigidity of the staffing and reward structure.

> *Store management is quite flexible about ordinary things but overall management seems very limited in what it can do to help workers due to instructions from above* (Employee 6)

One Lead Employee expressed dissatisfaction with this strict application of regionally set employee numbers and grading ratios as it meant working seven weekends in a row and difficulties getting leave, in one case to get time off for a

cousin's wedding. The same Lead employee when asked if their Trade Manager could ensure a re-balancing of work rotas to accommodate concerns about weekend working and equal workloads said:

> *I tried to talk to 'Jim' (Trade Manager) who said that the Store Manager was unable to manoeuvre around the Regional staffing directives unless he gets a new Lead and that was unlikely in the present climate. He ('Jim') even offered to swap his weekend shifts with me, but I couldn't do that as he needs to see his kids at the weekends.* (Employee 4)

The HR Executive commented on the on-going involvement of the Regional HR Manager in the store's operation. He stated that a formal weekly conference call was hosted by the Divisional HR manager with all store HR Executives. The purpose of the conference calls was to highlight any issues of 'concern' that have emerged in stores. Such issues would then be discussed in the call with the Divisional manager giving direction on how to handle these matters. The second purpose was for the Divisional HR manager to communicate information about forthcoming events, H&S and pay matters. HR Executives meet formally every two months in Dublin with the Regional management team, where future plans and staffing reviews take place.

> *A great help personally, if you are going to Dublin every one or two months, it is a good forum as you can bring up store issues and get advice on how to handle things as there is no one else in HR in this place.* (Manager 4)

The HR Executive also stated that the Regional HR Manager would ring him very couple of days and visit the store at least once per month to discuss staffing and H&S issues.

In summary, RetailCo South is a newly formed work organisation and it is evident that the Regional management team are extremely proactive in setting conditions and monitoring the daily work of this store. In contrast to RetailCo North there was no established or emergent group who would exercise any form of agency outside of the "RetailCo Way". The governance regime at RetailCo South was new and developing but was under guidance control of the Regional management team and displayed all

the hallmarks of a sophisticated human relations regime. While some of the managers displayed frustration at caps on employee numbers and available promotional posts and the lack of freedom to reward individual good work; the research did not find any evidence of local managers circumventing regional management's operational procedures.

6.3 Firm as Interest Actor – overview and summary

Both RetailCo North and South are active members of their local business organisations: RetailCo North is a member of the Northern Ireland Retail Consortium (NIRC) which is a section of the British Retail Consortium (BRC). RetailCo South is a member of Retail Ireland a section of IBEC. Senior executives and former executives of RetailCo are Board members and thus paid employees of BRC and NIRC while managers of RetailCo South are national committee members of Retail Ireland. Retail Ireland is the main trade body representing retailers in the Republic of Ireland and as part of IBEC is a significant component of the largest employer and business lobby in Ireland. The retail sector is Ireland's largest employer, with over 250,000 people employed which is 14.5% of Ireland's total workforce and accounts for over 10% of Ireland's GDP (CSO; 2012). It describes its role as:

> *Articulating policy positions, communicating with elected representatives, or in written submissions to consultations ....Retail Ireland is the only Irish member of Eurocommerce, retail's European trade body. Our members benefit from insight and intelligence on EU developments and how it is likely to impact upon them.... they also help shape retail's European agenda* (Retail Ireland: 2012).

Similarly, RetailCo North is a prominent member of NIRC and active participants in its committees:

> *'....works with its members and stakeholders to maintain the political and industry profile of the retail sector in Northern Ireland, through information sharing, research activity and developing links with key partners, including the Northern Ireland Executive and Northern Ireland Assembly. The NIRC's*

sister association is the British Retail Consortium (BRA), operating in London and Brussels (NIRC: 2012).

Through their association with BRC the NIRC is also part of the House of Commons All Party Committee on Retail set-up in 2010 and whose role is:

To raise the profile of the retail sector's interests and concerns with government ministers, opposition parties and in the wider parliamentary arena (HOC: 2012)

RetailCo North and South are active members of business lobbying organisations in their wider political spaces. Thus there is an emphasis on lobbying by Retail Ireland and NIRC in dealing with local politicians and in attempting to shape the EU agenda for retail.

Our business is retail that is what we do. But we are not isolated from wider society. When we feel the need to make our company's position clear to policy makers in EU, governments and local authorities we do so in tandem with effective business groups with whom we are members. That is a core part of senior managers' work – monitoring the macro business environment. (Manager 5)

According to a HR Manager, RetailCo were extremely aware of the ICED which was published in draft form in the same year they launched *'Bottom-up'* in 1998. He recounted how they followed the deliberations and progress of ICED through EU bodies until it was agreed in 2002. The company decided to revamp *'Bottom-up'* in light of the coming regulatory changes that ICED may bring.

We wanted to be compliant with any new laws and not have anything forced on us by third parties. We already had a good information and communications system with employees that needed a kind of a face-lift to make it a form that we as a company owned and recognised. Frankly speaking all organisations should re-structure and refresh things every few years. (Manager 2)

In summary, RetailCo North and South are conscious active members of business groups that seek to influence and shape political agendas in their respective political arenas in the interests of their company. Their proactive actions to re-vamp *'Bottom-up'* in advance of the ICED being transposed into law in Ireland and UK was a deliberate move to craft their own indigenised legally compliant version and prevent the potential of any other voice forms being foisted upon the company. In many ways it mirrored the approach of some companies who acted to create 'voluntary agreements' to bypass the provisions of the EU Directive on European Works Councils (Schulten: 1996).

6.3.1. Firm as Interest Actor – RetailCo North

When RetailCo North opened in Newry in 1989 there was a very unstable and fraught political situation throughout NI. The company became an effective interest actor combining with other larger retailers in dealing with UK Direct Rule Ministers on such issues as out-of-town shopping parks, planning issues and permitted Sunday shopping hours. The passing of Sunday Trading (Northern Ireland Order (1997) caused internal difficulties in RetailCo North due to the strongly held religious beliefs of some employees. The political situation has changed in the light of the election and operation of the Northern Ireland Executive (Government) which has powers devolved from Westminster for most areas except foreign affairs. Through NIRC, the company regularly participates in contact and lobbying of elected members of the NI Assembly on such issues as for example the proposed plastic carry bag levy.

The company decided deliberately not to become members of the local Chamber of Commerce and Trade. A manager said this was "to avoid getting embroiled in any form of local politics and all the dangers that go with that". The Newry Chamber was affiliated to both the Northern Ireland Chambers and Chambers Ireland and some in the business community would not agree with this dual positioning. Instead RetailCo North became what a manager said was a "don't do" type organisation in response to appeals or applications from local charities or community groups for sponsorship or some form of support. In other words, RetailCo North walked the tightrope of NI

politics by not getting involved locally in the Newry area apart from creating and maintaining relationships with firms in the building trade.

> *The Regional management team in RetailCo do all that contact and lobbying stuff with politicians about planning and plastic bags. Best to leave that stuff up the food-chain in my opinion and that is our instructions and we must abide by them. Local groups can be divided just like the rest of Northern Ireland – so don't be seen to take sides.* (Manager 2)

When asked about the impact of the ICED in terms of possible changes to work practices, policies or activities, the store manager replied:

> *All managers were made aware of the ICE Regulations (ICED) by senior management and through the unit's HR executives. If you ask me what they are, I would not have a clue and would have to look it up in our manual. .It is a law that I have not come across at work and must be pretty useless or toothless.* (Manager 5)

The company did not want to be tainted with party political involvement and it was the Regional management team's role to contact, when appropriate, locally elected members to the Executive, Westminster and the European Parliament:

> *As a UK company we are aware of how some may view us in parts of Northern Ireland. But the role of business is to create with the regulatory authorities a good atmosphere to build jobs and prosperity in the wider society. It's in all our interests to talk to one another inside business fora and then let the politicians know what we think. Call it lobbying it you like but RetailCo has a history of making our views known to the powers that be.* (Manager 6)

In summary, RetailCo North is deliberately not an active interest actor in its community or local political arena due to mainly political constraints on obtaining social embeddedness (Heidenreich:2012) which they pursued instead through product and pricing offerings with customers directly. However, the Regional

Management team of the company is very active in business fora that advance the interests of retailing and specifically their company. One such forum is the NIRC through which they have contact with the NI Government and the three NI MEPs.

6.3.2. Firm as Interest Actor – RetailCo South

The opening of RetailCo South in Galway was conducted with all the local fanfare the company could deploy; the official opening ceremony was performed by the Mayor of Galway City. This is in stark contrast to the operation of RetailCo North which does shy away from local involvement with politicians and community groups. RetailCo South is a member of the local Chamber of Commerce and is represented on IBEC Western Regional Executive Committee and their regional HR Managers Forum. Asked about this one manager said:

> *We are a new store but with household name that needs to make connections across the wider community of the West of Ireland. The Regional Manager is very keen that managers from the store are involved in IBEC, business fora and build links with local charities and community groups so that we become part of the community.* (Manager 5)

Part of the work of managers is to create a positive image for the company outside the store environs. In recent times that has meant supporting with materials the renovation work of the local Rape Crisis Centre and providing sponsorship for local sporting competitions. The HR Executive for the store explained that the company saw its role as not only creating a good impression within the wider community and press but also to be seen as an active participant in the business community. They were well known to lobby and seek to influence the interests of the retail sector in the national political stages both in Ireland and the UK. At a more local level the company supports local IBEC West initiatives on infrastructure and balanced regional development. IBEC West (2012) claims that it seeks to influence political decisions in the interests of the business community and states:

> *IBEC West has lobbied Government extensively over the last number of years to highlight the importance of achieving more balanced regional development. We recently engaged in a consultation process with members*

> *from across the region to identify specific investment priorities that are critical to the future development of the region.*

The local Chamber of Commerce (Galway, 2012) is equally forthright in describing their lobbying role to influence and shape wider political outcomes in the following way:

> *Chamber lobbies locally, nationally and internationally to address and achieve Galway's business goals. We lobby on issues of concern dictated by our members and work with stakeholders to achieve our goals....a member of the Enterprise Europe Network which is an active network of over 600 such business support organisations located in over 50 countries.*

A HR Manager summed up RetailCo's interest actor approach, thus:

> *We as a management team find it hard to devote time to meetings of outside bodies. The company has a strong view that we need to be alert to possible changes that can affect our business and so the work of the Chamber of Commerce and IBEC are essential elements in our management duties.* (Manager 6)

In summary, RetailCo South is a new actor in local business fora but understands its role as an active interest actor in the West of Ireland region to be one of safeguarding and promoting the best business conditions for the retail sector. In contrast to RetailCo North, there are few constraints on its ability to obtain social embeddedness (Heidenreich: 2012) either culturally or in establishing business network connections in its geographical area.

6.4 Voice Form – overview and summary

Voice forms in RetailCo are primarily managerially sponsored and direct in form, either one-way or in the two-way communications of *'Bottom-up'*. The company does not recognise trade unions and it would appear that the NER *'Bottom-up'* is designed and operated by the management as an indigenous I&C house form and as

an alternative to any form of collective bargaining. *'Bottom-up'* is the centre piece of the company's consultative arrangements; its pivotal voice form with employees. The HR Director believed the main advantages for the company in operating a sophisticated and expensive system such as *'Bottom-up'* was that it was more 'consultation than download' that it is:

> *…effective at the level that it avoids trouble.…it is an avenue or a place for venting.…it's not territory where we can be creative and bring up bright ideas.…it's a ritual that is embedded now in how we work. (Manager 1)*

Regarding its usefulness in improving business:

> *If you look at improving business as not having problems, then it does so in some way, it prevents something else from creating that could hinder business, but of its very nature it is quite downloady, business led and we mostly have responses in advance of what questions are. To put the question does it improve business? No.* (Manager 1)

Although one manager related his view that '*Bottom-up*':

> *Tends to bring ideas from people that are not happy with things.…it has got twisted in that it is all about negativity* (Manager 3)

The existence of the company's EWC[7] was unknown to any of the employees except the HR Director who was the Irish employee member. He said he was nominated by the regional manager to this post and he reports back to that manager only on its proceeding. Asked if it was an integral part of other voice forms practised in stores, he said it was not a transnational 'Bottom-up'.

> *It's a transnational forum that meets once per year…it is there to be in readiness in case it is needed to respond to legislative changes that could affect the business. There is no connection with 'Bottom-up'.*

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[7] According to the Database on EWC agreements held by the ETUC it unclear when this EWC was created but there is a speculative date of 2002.

Table 6.1 displays RetailCo North and South employee responses to Question 12 of the Employee Questionnaire (Appendix E). That question sought to elicit the scope of I&C mechanisms i.e., how often employees' views were sought by management on six separate issues: future plans; staffing and redundancies; staff numbers; changes to work practices; H&S; and pay. Regarding H&S in RetailCo South, there are widely divergent views with 54% saying they are 'always or often' consulted against 30% who answer 'very rarely or never' to the same question. The majority responses to other items such as future plans, pay and staff numbers indicate that employees were 'very rarely or never' asked for their views. By contrast in RetailCo North H&S is almost alone with a majority declaring they were 'always or very often' consulted. The majority of employees declared they were 'very rarely or never' consulted on other items such as pay and staff numbers.

Table 6.1 'Scope' of I&C issues at RetailCo   (n= 27-29)

'Scope' of I&C issues asked:-	Always		Often		Rarely		Very Rarely		Never	
	North	South	North	South	North	South	North	South	North	South
Future Plans for the Company	12%	0%	26%	16%	32%	30%	12%	18%	18%	44%
Staffing Issues, including Redundancy	12%	0%	25%	16%	32%	16%	6%	18%	25%	60%
Staff Numbers	13%	0%	21%	16%	32%	16%	13%	0%	21%	68%
Changes to Work Practices	13%	8%	32%	16%	32%	16%	0%	29%	23%	31%
Health and Safety Issues	31%	22%	31%	32%	31%	16%	7%	8%	0%	22%
Pay Issues	14%	16%	21%	22%	36%	8%	0%	22%	19%	32%

Displayed in Table 6.2 are the results from Question 13 of the Employee Questionnaire (Appendix E) for employees at RetailCo North and South. Here employees were asked to rate the breadth or frequency of I&C practice on a Likert scale choosing either 'always'; 'often'; 'rarely'; 'very rarely' or 'never'. It is notable in RetailCo North that notice boards and team briefing are the voice practices most likely to be rated 'always or often' while the majority rate trade unions and the EWC

'very rarely or never' used. The latter finding is not surprising as it is a non-union company and no store employee interviewed had ever heard of the company's EWC. In RetailCo South the Works Council and notice boards are more often selected as being 'always or often' used.

Table 6.2 'Breadth' of I&C mechanisms at RetailCo   (n= 23-29)

'Breadth' of I&C mechanisms Used:-	Always		Often		Rarely		Very Rarely		Never	
	North	South	North	South	North	South	North	South	North	South
Works Committee	25%	49%	6%	15%	51%	7%	6%	7%	12%	22%
EWC	0%	0%	0%	0%	28%	0%	14%	0%	48%	100%
Union	0%	0%	0%	8%	26%	0%	13%	0%	61%	92%
Team Briefings	46%	0%	24%	30%	24%	30%	6%	15%	0%	25%
Quality Circles	0%	8%	0%	8%	42%	8%	7%	0%	50%	84%
Attitude Surveys	13%	22%	6%	16%	50%	8%	6%	0%	25%	60%
Suggestions Schemes	0%	16%	10%	16%	30%	22%	10%	0%	50%	50%
Workforce Meetings	10%	20%	10%	10%	30%	10%	10%	0%	40%	60%
Notice Boards	26%	36%	26%	48%	24%	8%	7%	0%	7%	8%
Newsletter	7%	19%	30%	28%	35%	8%	7%	0%	21%	48%
E-mail	18%	8%	18%	22%	27%	0%	6%	0%	31%	78%

The above evidence would indicate that *'Bottom-up'* is perceived by managers not an aid to improve business performance but as a means of controlling employee voice forms while providing an avenue for 'venting'. The EWC is disconnected from all the voice forms in the company and appears to a vehicle for defence against EU legislation. Therefore, managerial dominated voice forms in RetailCo are very limited in their breadth, depth and scope. Next we consider the experiences of employees of voice forms in RetailCo North and South.

6.4.1. Voice Form – RetailCo North

There are two newsletters published two to four times per year internally by the company; one is called *'Bottom-up'* News and the other is called *'Store Chat'*. There appears to be only a small number of hard copies printed and employees are encouraged to read them online. Employees were asked if they felt that the publications were of value. Of the non-managerial employees interviewed only one regularly read one or both publications while others view them as:

> *…not very exciting newsletters. I read them at work for general stuff like awards and courses and do encourage my staff to read them but most couldn't be bothered (Manager3)*

'Bottom-up' representatives were very critical of its operation. One felt that she had not received any training from the company and her manager was not supportive in allowing time to report back from meetings to other employees. Another said that if an employee came to them with a problem about their manager or in some disciplinary difficulty the representatives "would in no way get involved in representing anyone with store bosses" (Employee 6). *'Bottom-up'* representatives take it in turns to attend regional meetings each year but reported there was no contact with other store representatives outside of these Regional meetings. Each store is expected to have at least one item tabled at regional meetings and it is "usually uniforms or training courses" (HR Exec.). When asked if they felt attending these meetings was useful to get matters raised and hear about new developments, one employee representative summed up that

> *regional meetings are a total waste of space as the 'big boy' (Regional Manager) is prepared and ready, reads stuff out and you don't really get feedback (Employee 4).*

The Store manager and the HR executives all said employees who wanted to raise matters around employment contracts or payments could do so through *'Bottom-up'* or their representative. Terms and conditions were set nationally and:

> *'Bottom-up' is a communication forum and we don't have negotiations with staff on wages. We are paid well enough and employees can take it or leave the place. (HR Manager 3)*

6.4.2. Voice Form – RetailCo South

The newness of RetailCo South voice forms was evident in the interviews conducted in the store with a common refrain from all respondents "we are getting used to how things are meant to work" reflecting the very interventionist role of the regional management team in the daily workings of this store in order that "no bad habits take root" (Manager 3). All employees interviewed were asked about an online 'Blog' the CEO has and where employees can post questions on any matter relating their work and if they participated in it but none had.

> *Tom's Blog (CEO) seemed like a great idea to me when I started a year ago. The last time I looked at it the stuff looked stupid and not real. The answers were always positive types and word perfect - no typos!* (Employee 7)

One *'Bottom-up'* representative felt that most employees did not take the NER forum seriously and refers to an issue regarding heating which is further explored below in 6.5.2.

> *The excessive heating issue was badly handled and killed off any notion among workers that we could get stuff done through the 'Bottom-up' system. For me the notion of a consultative forum for employees has become a facade* (Employee 6).

A representative on the Divisional forum was of the opinion that more training should be provided with which the HR Director agreed:

> *It is minimal the training they get. There is an e-learning module....we ask them to do but there is no development as such other than participation at the meeting.* (Manager 1)

The store manager and the HR executive were asked about the breadth of items that have been and can be raised at *'Bottom-up'*. Both insisted the forum was for day-to-day issues.

> *'Bottom-up' seems to be settling into a routine of cribs about uniforms and trolleys. There is no way we allow any talk about salaries or bonus payments to happen, that's all kind of thing is Head Office pay grade level.* (Manager 3)

6.5 Voice Practices – overview and summary

There are multiple forms of voice practices in RetailCo North and South which are quite similar in both research sites and experienced by employees in similar ways. In practice there are prescriptive forms of voice practices that must be followed in each store and actively overseen by regional managers. Figure 6.3 below outlines a list of voice practices the research has uncovered, considered and observed in the research sites. Primarily the voice practices are direct involvement rather than collective in nature.

Figure 6.4 RetailCo –Multiple forms of voice practices

One Way	Two way	Surveys
• Electronic Media • Intranet • Newsletter • Magazine • Product Bulletins • Town Hall Meetings • Work Group Briefings	• 'Bottom-up' FORMAL • Project Groups-FORMAL • Individual Appraisals-FORMAL • CEO Blog-FORMAL • 'Walk and Talk'-INFORMAL	• Attitude Surveys • Manager Performance Surveys • Suggestion Schemes

The voice practices contained in Table 6.4 are multiple in forms and categorized into three distinct types of practices as employees would experience them. 'One Way' practices include newsletters, e-mails, product bulletins or meetings that are essentially briefings or task allocation events commonly providing information from management on a top-down basis. 'Two Way' practices are experienced by RetailCo employees in both formal and informal settings. The formal settings include: - the meetings of the NER *'Bottom-up',* the annual individual employee appraisal conducted by managers, project groups examining H&S matters and in participating in asking the CEO questions through the CEO intranet blog. Informal two way practices are direct in nature and include 'walk and talk' aisle inspections or approaching managers seeking task guidance or making individual requests. A third category of practices are anonymous surveys such as employee attitude surveys, occasional suggestion schemes concerning possible product promotions and an annual anonymous telephone based survey regarding their manager's performance, the latter conducted by a large UK polling company.

Table 6.3 demonstrates responses from RetailCo North and South employees to the Employee Questionnaire (Appendix E) on the perceived effectiveness of eleven different voice practices which management use to inform employees. Employees were asked to rate the frequency of those practices, 'always'; 'often'; 'rarely'; 'very rarely'; or 'never'. The responses in RetailCo North have elicited very strong 'never' responses in every category with the exception of team or workplace meetings. This is contrast to the responses in RetailCo South which indicate that employees perceived notice boards, newsletters and team briefing to be the most effective practices. The least effective from both sites was unions and the EWC practices, not surprising given the absence of trade unions from the workplaces and no knowledge of the existence of their EWC.

Table 6.3 'Effectiveness' of I&C mechanisms at RetailCo   (n= 14-29)

'Breadth' of I&C mechanisms Used:-	Always		Often		Rarely		Very Rarely		Never	
	North	South	North	South	North	South	North	South	North	South
Works Committee	25%	49%	6%	15%	51%	7%	6%	7%	12%	22%
EWC	0%	0%	0%	0%	28%	0%	14%	0%	48%	100%
Union	0%	0%	0%	8%	26%	0%	13%	0%	61%	92%
Team Briefings	46%	0%	24%	30%	24%	30%	6%	15%	0%	25%
Quality Circles	0%	8%	0%	8%	42%	8%	7%	0%	50%	84%
Attitude Surveys	13%	22%	6%	16%	50%	8%	6%	0%	25%	60%
Suggestions Schemes	0%	16%	10%	16%	30%	22%	10%	0%	50%	50%
Workforce Meetings	10%	20%	10%	10%	30%	10%	10%	0%	40%	60%
Notice Boards	12%	64%	26%	48%	24%	8%	7%	20%	7%	8%
Newsletter	7%	19%	30%	28%	35%	8%	7%	0%	21%	48%
E-mail	18%	8%	18%	22%	27%	0%	6%	0%	31%	78%

6.5.1. Voice Practices -RetailCo North

Employees in RetailCo North experience a range of voice practices which are mainly manager led, direct involvement types and one-way communications. Those formal and informal two-way practices which allow for a limited degree of consultation include 'walk and talk' events and the operation of *'Bottom-up'*. The following are examples of employee experiences of multiple voice practices in RetailCo North. RetailCo arranges for a large UK polling company to conduct an annual anonymous telephone survey of employees regarding their manager's performance, herein referred to as the M20 poll. Each manager gets a telephone number and a code that is distributed to employees who report to them. Employees make a telephone call and answer a series of 15-20 questions. The survey is available on specified dates by dialling the telephone number and entering the code given by a manager which logs

all answers to their manager's account. Questions are answered by pressing buttons on the phone key pad only. The results of the survey are published on notice boards in the employee area.

One long term full-time employee was dismissive of M20 and said it was a "waste of time" and of more value to managers than employees. Another said:

> *You get to express your opinion on management but it doesn't change their behaviour. It's about how the managers are doing. What's the point? Questions like - have you spoken to your supervisor about your role? What is the point it doesn't make any difference. We don't hear anything about them.* (Employee 2*)*

A manager felt that the whole M20 exercise was flawed as "employees will not be honest to avoid upsetting working relationships or creating coolness and they just give marks to make their manager look good" (Manager 2). Another manager said "there is a game with M20 anyway as there is a loyalty issue" (Manager 6). Others consider it a very important part of their voice practices and:

> *one of our really essential means to involve employees in the business and gives them an avenue to flag issues of concern which we act upon* (Manager 4).

All employees interviewed in RetailCo North felt that M20 was not effective and one considered it a "joke" *(*Employee 2*).* The managers in RetailCo North said it was a "Head Office thing" and would not be concerned by a bad report and could comfortably "sort it next time round" (Manager 3).

The HR executives in RetailCo North all insist that *'Bottom-up'* meets at least four times per year and the minutes of all meetings are put on staff notice boards in the canteen area. Yet in the course of several visits to the store over a two year period this researcher found only two sets of minutes displayed; one for each year. The elected or nominated employee members circulate sheets asking employees for items to be raised at meetings and this allows employees to anonymously put forward items

for discussion. Before the agenda is circulated, employee representatives would screen all issues with the store HR executives to preclude "personal type things or one-on-one stuff about managers" (Employee 4). At least one manager felt that:

> *'Bottom-up' is used mostly to communicate out company directives and information to employees. The Regional HR Manager said at a recent meeting that there should be more employee engagement in 'Bottom-up' to drive improvements. But it is hard to get reps never mind engagemen*t! (Manager 5)

Employee representatives felt were not given sufficient time to report back from meetings and were under constant pressure from their managers to get on with their work. A HR executive said that this was not the company approach to *'Bottom-up'* representatives more an individual manager's approach when there was no cover, as all managers are told they must get leave to "do their *'Bottom-up'* duties". None of the employee representatives were elected and one described how she felt "obliged" to do it as no one else would do the job.

The store is a large DIY type warehouse in which there was a major issue with the heating system for 2-3 weeks over two consecutive winters. The issue was placed on the agenda on the store *'Bottom-up'* forum and sent on to the Regional and Divisional forum as it required additional expenditure and was bound in with a national maintenance contract. The recurrence of the breakdown in the heating system in 2011 caused all employees to sign a 'collective grievance form' that was sent to the Regional Manager. One employee said that:

> *The 'shitty' heating here was well talked about in all meetings in the store and put right through the whole 'Bottom-up' system. No action was taken and it was absolutely freezing here, even customers asked how we could work in such conditions. Nobody listens to us workers and then managers scramble around when things go wrong.* (Employee 4)

While another said:

> *'Bottom-up' is a bit of a joke and useless. Many have raised the poor selection in the vending machines for years and there is no change. Other issues raises included the uniforms and trousers for women. People with experience are not listened to year on year and their experiences from previous seasons are ignored.* (Employee 1)

6.5.2. Voice Practices – RetailCo South

The voice practices in RetailCo South are the same as those in RetailCo North and are best characterised as mainly direct but multiple in number. The new management team are guided at every juncture by regional managers in the daily operation of the store. It was striking that each of the managers interviewed had seen or spoken with a regional manager recently or at least do so on a weekly basis. The varieties of voice practices in RetailCo South are illustrated in Table 6.3 and are the same as those in RetailCo North.

RetailCo South is a new store and management view *'Bottom-Up'* as an important part of employee involvement, a point emphasised by regional and store managers:

> *Our employee consultation arrangements centre on the proper functioning of the 'Bottom-up' fora from store to the top national forum.* (Manager1).

In yet another incidence of problems with the heating system, this time with excessive heat in a showroom area, both managers and employees viewed the ensuing events as a "'*Bottom-up'* failure". Employees complained directly to store managers about the excessive heat in the showroom part of the store. The matter was tabled and discussed at store, regional and divisional *'Bottom-up'* meetings. Managers agreed to remedy the problem but said they needed first to get agreement from the landlord of the building. Still the excessive heat problem persisted for many months until an employee reported the matter to the local Health and Safety Authority, who visited the store within days and issued an enforcement order to have the problem addressed. Action was taken within two weeks and the problem resolved. A HR Executive "was surprised it took so long to get sorted. It happened a bit too late for people who would have liked it sorted much sooner, everyone passed

it along, but it did eventually get solved (Manager 1). One of the *'Bottom-up'* representatives felt that management were not communicating to employees about their tackling of the issue of excessive heat:

> *It was sad that it was reported to an outside body. Something had to be done to get it moving. People needed to see a response and to see action and that was not happening. This has reflected badly on the whole 'Bottom-up' thing – a shame really!* (Employee 6)

Responses to other issues were mixed. While there were no difficulties with local managers getting raincoats issued to those working in the gardening section, there was some disillusionment regarding the aforementioned heating issue, and also, for female employees, regarding the ill-fitting trousers supplied as part of their uniform. As a result some were "totally cynical about 'Bottom-up' and this 'supposed' to be listening management who really feel for employees, but really take no action" (Employee 5).

Manager views on their own ratings in the M20 poll varied between North and South. Each manager interviewed in the South said that a low rating from M20 was not welcome. One previous manager left the company feeling undermined when his poor rating was posted with all the other reports on notice boards. Employees, however, thought "it was good to be able to comment" but others were suspicious that it was not confidential worried their comments could be traced back. One employee said:

> *Our manager got a good rating because we did not want to 'piss her off' and it seemed important to her. (Employee 7)*

RetailCo do not recognise trade unions for the purposes of collective bargaining, but some employees are members of the shop workers' union Mandate, in an individual capacity. Managers in the store are aware of this and concurrent with the research an employee was facing a disciplinary action and was represented by a full-time trade union officer at the hearing. A manager commenting on alternative sources of employee voice coming from trade union activity said:

> *We do not recognise unions – full stop. We comply with the law and good practice on 'friends' at hearings. We operate a good shop here and we know the few that feel the need to run to unions and they are usually the moaners anyway. (HR Manager 2)*

In summary, the voice practices in RetailCo South are managerially dominated. The examples given of the ineffectiveness of *'Bottom-up'* in dealing with a major in-store issue of excessive heat appears to have created both cynicism and disillusionment about the effectiveness of the central employee consultation arrangement in the company. The M20 survey is new to the employees and is taken seriously by managers, in contrast to those in RetailCo North. It would also seem that employees do not consider M20 as an effective means of sharing information with management.

6.6 Balancing Interests – overview and summary

The legitimacy of employees pursuing their interests on a collective basis through trade unions was not accepted in RetailCo. The culture of the company is very much shaped and constantly crafted by management to create the appearance of open consultative structures with multiple forms of employee voice. RetailCo is a company where management is a deliberately domineering influence in the daily work of its employees. Yet there are some examples of a contested terrain in the workplaces of RetailCo North and South. The *de facto* absence of a strong independent employee voice in RetailCo is a defining factor in the ongoing balancing of interests that is played out each working day in this company.

6.6.1. Balancing Interests – RetailCo North

The ability of the company management to unilaterally make changes to work practices and payments is resented by some employees in RetailCo North. Two items emerged from interviews with non-management employees that will highlight workplace contestation and some low level resistance.

The first matter was the decision by the company to change the terms of the main store bonus paid in February of each year. This change meant that only employees with almost full attendance records regardless of approved, genuine or certified absences due to illness actually qualify for the bonus. One employee said:

> *We really depend on this bonus money and see it as part of our wages. We learned about the change from the Store Manager at one morning work briefing and details were then put on notice boards. The only answers we have got back are – money's tight and we all need to work harder – full stop!(Employee 8)*

The second item that emerged was the merging of job roles and the non-replacement of full-time staff. Receptionists had left the company requiring each work group to take it in turns to answer the phone and staff the customer service desk. One employee related:

> *We are expected to do our own job and then parts of others for no extra money and all we get is grief from our own boss for not get tasks done. I resent being taken for an idiot. Now I just wait to be told what to do and not use my experience to work ahead or sort problems before they happen.* (Employee 4)

Managers understood there was a degree of resentment at changes in the February bonus, opening hours and job sharing.

> *Our business income has declined sharply in this recession. We needed to make adjustments to get more from what we have and even if we had talked it through with staff before hand, we would still have taken the same course.* (Manager 5)

6.6.2. Balancing Interests – RetailCo South

Employees in RetailCo South are experiencing a very direct regional management team who seek to install what they consider are good work practices in the RetailCo

manner. While all the non-managerial employees interviewed expressed various views on their workplace they all agreed it was a good place to work. There is a wide span in the age profile of the employees, some have been tradespersons and or worked in other companies both local and MNCs. One employee said that he liked his work and the shifts suited his lifestyle, but was frustrated at changes made without some notice or consultation which he attributed to "abysmal management skills" (Employee 7). Other employees felt that store managers were very limited in what they could do on their own imitative without regional management approval.

A change was made in the payment of the store profitability bonus which caused some employees to feel they had to work harder to be entitled to get the payment. Additional performance indicators like aisle tidiness and product knowledge were acknowledged by a HR Manager to be a means of promoting up-skilling through NVQs ultimately getting more work from employees. Employees on the other hand felt it was:

> *....disheartening with all these changes in bonuses and performance stuff. It feels like they are constantly moving the goalposts and when we mention it to managers you are made to feel like a moaner. (Employee 9)*

One employee expressed the opinion that:

> *You have an opportunity to voice an opinion, but whether any heed is taken of it is another matter. It's a good place to work and that means following the line the managers draw for you. (Employee 2)*

6.7 Summary and conclusions

The data outlined in this chapter indicates that employment relationships, voice forms and practices are experienced very similarly in the two research sites of RetailCo. The governance regime is best characterised as a sophisticated human relations regime with evidence of unilateral management practices especially the setting and varying of terms and conditions of employment. *'Bottom-up'* was revamped to incorporate the main elements of the ICED in advance of specific UK or Irish legislation, thereby creating a pre-existing I&C structure and one that was

crafted and indigenous to RetailCo's existing harmonising form of organisational culture.

RetailCo perceives itself to have a role as interest actor in national and local levels to advance its interest. The company was very aware of the proposals and agreement on the ICED and made a considered decision to craft their own indigenised employee information and consultation forum before it was made law in Ireland or the UK. It was, therefore, a defensive action to protect their work culture. There are multiple voice practices and forms with the NER *'Bottom-up'* as their central construct. This also indicates the importance management attach to providing multiple ways of cascading information through the organisation and the emphasis on employees' surveys being another means to obtain information from employees. There is an antipathy to allowing the formation of any form of union or otherwise collective independent employee voice. Voice practices in RetailCo are at best described as weak in terms of effectiveness for employees as shown by the heating problems. Some managers have contended that while *'Bottom-up'* is elaborate and expensive to operate, it is useful as an avenue for allow employees to 'vent'.

There is a working normality in RetailCo where the management interests have first priority and the balance for employees' interests is provided for by status harmonisation features in the company. Indeed, the working conditions that employees experience are generally seen as good which is reflected in high employee retention rates and an array of flexible working contracts are available. The next chapter is the a report of data collected in ServiceCo.

Chapter 7 – ServiceCo

7.1 Introduction

This chapter commences with a brief review of the main features used to characterise the governance regime and voice forms for ServiceCo. From this, an examination of the possible factors of influence on making and modifying of the governance regime and voice outcomes are examined and described in the following order:

      i.)   *Governance Regimes*, including the possible external influences from state and EU polity, market and regulation which may determine those mechanisms of power and authority that are exercised, maintained and enforced.

      ii.)   *Firm as interest actor*, how in the functioning of the LMEs of Ireland and UK, firms exercise political agency in external policy making and interpret hard and soft regulation internally.

      iii.)   *Voice form*, including the circumstances that have given rise to direct (e.g. collective bargaining), indirect (e.g. individual), and informal voice scheme form.

      iv.)   *Voice practices*, specifically those experienced by employees in workplaces and how to assess their scope, depth, breadth and form.

      v.)   *Balancing interests*, describes the legitimacy of workplace governance and voice forms, how they are experienced and constantly re-made as a normal part of everyday work life.

The aim of this chapter is to report on research findings in the two research sites of ServiceCo North in Belfast and ServiceCo South in Dublin and begins with a report on the governance regime and overview of voice in ServiceCo.

7.2 ServiceCo: Governance regime and voice overview

With reference to the governance typology defined in Chapter 2 (Figure 2.3), ServiceCo can be placed at a voluntary pluralist regime. In practice the regime in the company is characterised by on-going conflictual management-union relationships with central wage setting mechanisms, constant use of IR third parties and no

compulsory redundancies. The company moved from employing approximately 6,500 in 2001 to 3,400 in 2012. There is, therefore, a regime framework of continuous interaction, communication and negotiation between managers and unions at all levels through jointly agreed regulated bodies.

The company was created by the Irish government in 1936 to forge air links with the world for the new Republic. The company was a national carrier funded and directed by various Irish governments and Ministers on its strategic developments and functioning of its governance regime. The development of the European single economic market with deregulation of state industries and services has also led to a deregulated air transport market emerging in the EU from the late 1990s. These changes were significant on two fronts for the company: the EU put strict limits on the availability of public funding for the company and its business macro-environment was transformed with the growth of 'no-frills' airlines and a consequent steep reduction in ticket prices. The operational and governance structure of the company is outlined in Figure 7.1. It indicates a structure that flows from the top where are the shareholders, to a Board of Directors, to the Executive Management Team who manage the three operational divisions, Air, Ground and Office.

Figure 7.1 - ServiceCo Operational and Governance Structure

Company Operational and Governance Structure
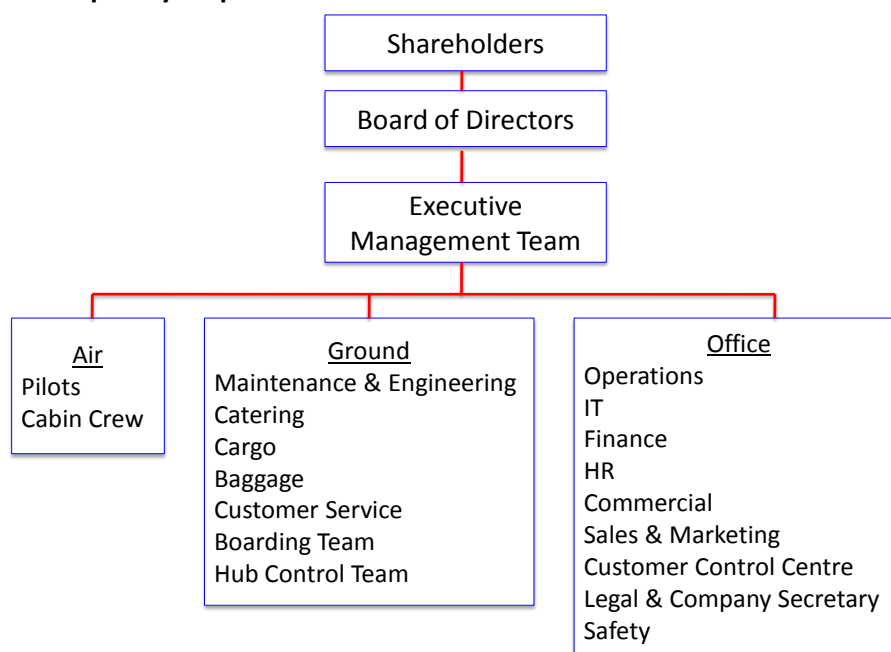
The company was 100% state owned until privatised in 2006 which has had dramatic influence on the company's governance regime and employees. There are four major shareholders of the company in 2012: the Irish state with 25.1%; Blueline (rival airline) with 29.8%, an individual with 3.8% and a Middle Eastern airline with 3%. Blueline built a secret shareholding in the grey market in the company at the time of the initial public offering and has launched three unsuccessful attempts to purchase control of the company. In effect the company is under siege from its main competitor in Ireland since privatisation which has had direct impact on company operations. A UK Competition Commission report on this matter supported ServiceCo's view that Blueline is weakening it and could influence major strategic decisions of the company (UK Competition, 2013). Blueline is an active shareholder and has issued High Court proceedings on interpretations of company rules and through public statements criticising the running of the company. One senior manager described the situation as:

> *Blueline is damaging the interests of our shareholders, disruptive to the good management of the company and a costly distraction to the reform programmes of the company* (Manager 3)

The governance regime at ServiceCo is a voluntary pluralist one with an embedded tradition of trade union representation. Before the company was privatised there were four worker directors on the Board of the company and a EWC was established in 1996. At the time of privatisation employees acquired 14.2% of the company shares through an Employee Share Ownership Trust (ESOT) which was to be mainly paid for by bank loans. The company agreed with the trustees of the ESOT to pay off the share purchase loans and individually distribute shares to members of the ESOT in 2011. Thereby was ended the possibility of a major collective of employee shareholders influencing company decisions via the legal avenues available to publicly listed company shareholders.

Even before privatisation in 2006 the company had been undergoing major restructuring in an effort to maintain profitability in the light of EU decisions to deregulate the industry. Various Irish governments have promoted competition

policies and instructed ServiceCo to cede certain routes to Blueline. Immediately following privatisation senior management unilaterally presented a 'Continuous Improvement Plan' with an aim of achieving €20m cost savings. This plan was rejected by unions who then faced the prospect of wage freezes and compulsory redundancies. A conflictual period of IR ensued and ended in resolution by means of the intervention of both the Labour Court and the Social Partnership major dispute resolution group the National Implementation Body. The management drive for work practice changes and cost savings eventually culminated in an agreed management and union major reform plan herein referred to as 'NewField'. This was achieved after a series of negotiations with trade unions and the involvement of the labour relations machinery of the ROI state. There have been a number of hostile, and failed, takeover attempts by Blueline which pose a potential threat to the continuance of the governance regime at ServiceCo. Blueline is characterised as a renowned anti-union, litigious company who pursue profitability in a relentless fashion in all aspects of its operations. (Oxenbridge *et al.* 2010)

The shadow of a Blueline takeover has caused considerable unease in the company and has been used as a 'stick' by management in negotiations on 'NewField' programmes. There have been defensive actions such as the pilots of the company combining to buy a separate shareholding. Simultaneously, the macro business environment for ServiceCo has been very challenging forcing huge changes in work practices some with a considerable amount of mimicking of 'no-frills' practices common now across the entire industry. The governance regime at ServiceCo is dominated by voluntary pluralist practices of managers and union representatives in the daily working lives of approximately 3,400 employees in the company.

7.2.1. Governance Regime - ServiceCo North

ServiceCo North is based in Belfast and comprises approximately 60 employees and opened in late 2007. It was the first non-ROI base for the company. The decision to open the Belfast base was announced first by management and subsequently agreed with unions on foot of guarantees brokered by the LRC. It was agreed that localised, or lower, terms and conditions would be on offer for all employees in the Belfast base but such conditions would not affect Dublin based pilots seniority rights for applying for new positions or membership of the traditional defined benefit pension

scheme. Management wanted lower wages than those in ServiceCo South and to create a cost efficient base with a restricted form of collective bargaining where only a small range of issues could be negotiated upon. As one HR manager said:

> *Belfast was to operate at a lower cost base than Dublin in terms of salaries, pensions and that included the buying in of ground services. We did not want legacy conditions and costs here.* (Manager 4)

The governance and operational structure of ServiceCo North is outlined in Figure 7.2. There is a base manager and a senior administrative employee, effectively the executive management whose function is to manage all administrative functions (both air and office) of the base. The base manager oversees the operation of the employment relationship for all employees. Other employees work in the air division and are cabin crew and pilots. All ground services at the airport are purchased from an aviation supply company whose employees wear ServiceCo uniforms at ticket and check-in desks. The base manager reports to an executive manager in the Dublin head office and liaises with other sections of the executive management operations.

Figure 7.2 ServiceCo North Governance Structures

Northern Ireland Management & Employee Representatives Structures
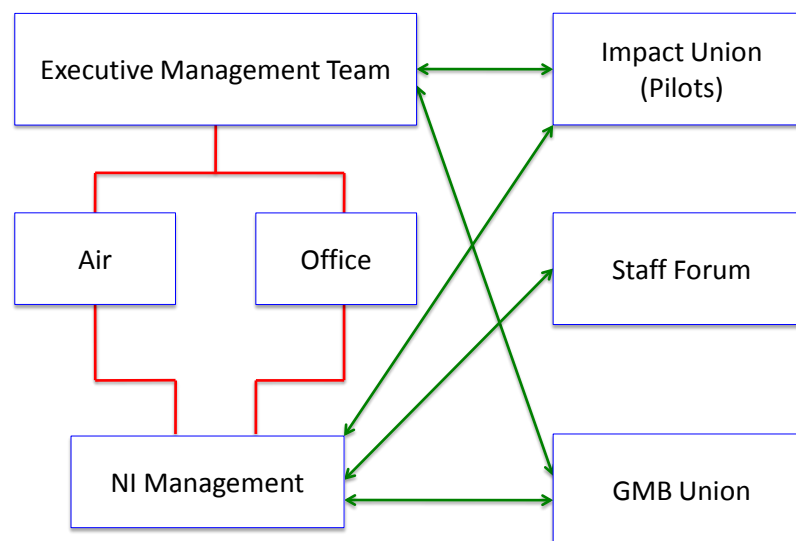
Recognition of two trade unions in ServiceCo North has proved to be an ongoing contested issue. Yet, the company has not demonstrated any intention of wanting to operate a non-union operation in Belfast, as one HR Manager said:

> *Union recognition has never been an issue of concern in the history of ServiceCo and we feel it is better to have a form of organised employee representation as in such circumstances agreements made tend to stick   the pace* (Manager 4)

The pilots are represented by Irish Airline Pilots Association which is an autonomous section of the mainly public sector union IMPACT. The union has refused to sign and accept the terms of the restricted collective bargaining agreement offered by management. One pilot said:

> *Management wanted us to only talk to them about rosters, some safety issues and wages. In effect they do not want us to be consulted on a whole range of issues concerning our work and we will not accept such a document. (Employee 5)*

In practice there is a wider form of collective bargaining between pilots and management. The following two examples indicate how this has played out. With a focus on costs management decided that bottled water and sterile wipes would not be available free to pilots during flights. The pilots union made the case that both these items were essential and management conceded the cases. Both of the conceded items were outside the initial terms of the collective bargaining on offer. Management subsequently related that they conceded on both items to the pilots as they were "inconsequential in money terms" (Manager 3*)*. In another case the pilots asked for more substantial in-flight meals to be provided to them and this was also conceded on H&S grounds. Incrementally the pilots are expanding the range of items on which they bargain collectively with management even in the absence of a formal written agreement.

Cabin crew employees initially joined the Irish public sector trade union IMPACT. SIPTU the only other union covering cabin crew in ServiceCo were precluded from recruiting them under sphere of influence agreements with other unions in NI.

IMPACT had no members in NI and had to register with the trade union Certification Officer to be permitted to represent employees in ServiceCo North. During the course of the research all employees left IMPACT and joined the GMB union due in the main to a perceived lack of effective service from union officials based in Dublin. The GMB are seeking a formal collective bargaining agreement with the company which has not as yet been conceded. GMB and the company base manager and a HR manager are in regular contact on issues. Despite the inter-union changes, cabin crew asked for the provision of funds to hold social events as there were none allocated to the base from head office and this was agreed to by management.

There was no provision by the management for any form of employee/management forum in ServiceCo North in the setting up of the base. Both pilot and cabin crew employees met and agreed to approach the company regarding to the creation of a joint forum so that "all items can be aired and questions put to the managers on developments" (Employee 7). Management agreed that such a forum could exist and they would co-operate fully in making it an information and consultative albeit non-union arena.

> *We didn't plan for such a joint forum as we did not want to create representation layers and let things get complicated. We have tried this forum and it works for us* (Manager 4).

In summary, the governance regime in ServiceCo North is a voluntary pluralist one, albeit new and showing signs of settling into a pattern of regime re-negotiation such as the creation of the staff forum. One of the original objectives of the management was to have a restricted list of items that would be the subject of collective bargaining. It would seem that the pilots have demonstrated an ability to have an expanded form of collective bargaining that pushes aside preset boundaries initially created by management. In a similar fashion cabin crew employees have shown that they can obtain additional funds for social purposes from the company through their union.

7.2.2. Governance Regime – ServiceCo South

ServiceCo South in Dublin is the Head Quarters of the company and has over 85% of its total number of employees at this base. There is a long established tradition of collective bargaining on all issues in this and the Republic's other two bases in Cork and in Shannon. Since the privatisation of the company in 2006 there has emerged a more professional and newly recruited group of managers in the executive management team who have largely replaced all previous managers at this grade by 2011. The current CEO is a West European national with considerable international industry experience who started in the company in 2009. Thus the executive team in the company were not brought up with ServiceCo "in their blood", as one manager (2) commented.

Figure 7.3 ServiceCo South Governance Regime
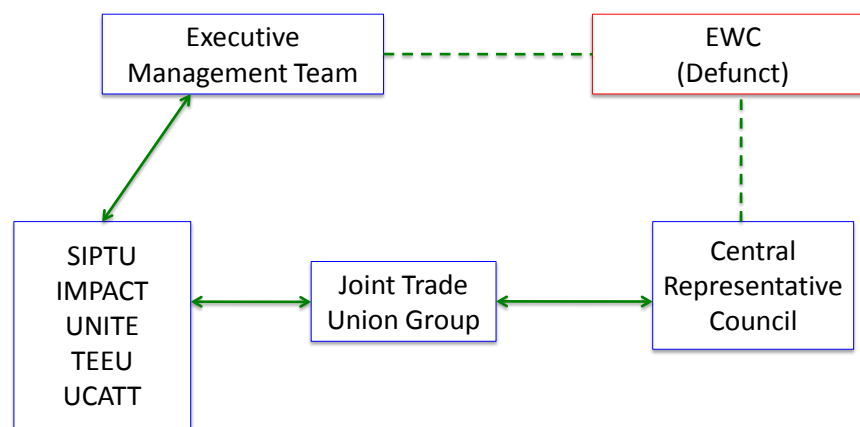
The governance regime at ServiceCo South emerged through a series of high profile industrial battles and subsequent settlements over many years. The structure of the regime is displayed in Figure 7.3 and demonstrates the central importance trade unions have in the structure. There are two joint union bodies. One is the Joint Trade Union Group where all unions and their full-time officers meet regularly and agree or do not agree common approaches. The second joint body is the Central Representative Council (CRC) and is comprised only of ROI employees. It is a

business forum which is comprised of nominated employees on a proportional basis to union strengths; a full-time Secretary who is an employee nominated by the unions and executive managers. The CRC meets monthly to consider business reports on the operations of the company and no IR matters can be raised or discussed at this forum. There is a sub-committee of the CRC called the Business Renewal Committee that meets at least once per month. That committee has employees from all unions and members of the executive team including the CEO. It is governed by strict rules of confidentiality, more so since privatisation to comply with stock market regulations, which can mean that information is withheld from union officials and other employees on occasion.

Together, each of the five unions in the company represents approximately 92% of the workforce and each have the right to pursue their own separate collective bargaining agendas with the executive team. The EWC is called ServiceCo European Central Representative Council and is in existence legally but in practice it is defunct, through lack of interest on the part of both unions and management. The 'NewField' restructuring programmes is bringing major changes to employees work practices and along the way to concluding the agreement there were many threats to take strike action by different work groups. The programmes were aimed at achieving savings in the region of €97m through voluntary redundancies and efficiencies in work practices that included outsourcing some HR functions. Implementation of new cabin crew rosters of 850 hours per year was agreed by a margin of 97% in favour in ballots by the two unions involved. However, IMPACT members felt that the implementation of new rosters through a new automated 'bidding' system was causing unfairness and they took strike action for two and half weeks. The dispute was resolved with the intervention of the LRC and a commitment by the company for more training time on the automated 'bidding' system. An employee reflecting on the strike said:

> *Unfortunately, I feel that it is a 'them' and 'us situation. I get the feeling that management don't like us.* (Employee 8)

One of the features of the governance regime in ServiceCo South is an established practice of line manager resistance to approaches from shop stewards and as one

manager said "we need to always be ready for the fight"(Manager 6). One shop steward described their regular contests with managers as defensive in nature but also as a means to make improvements in work practices and to get information

> *Lack of real communication and operations' managers' keeping important information to themselves or at a certain grade level is frustrating. It leads to mistrust on employees part and lots of silly rumours circulating.* (Employee 8)

A senior HR manager observed that over the years in ServiceCo there had been many disputes at line management/operational level that ended up in referrals to the IR dispute machinery of the state and commented:

> *When we scoped out 'Newfield' we discovered many of those disputed operational matters that took weeks in conciliation or the LRC and which managers won were not even implemented on the ground* (Manager 2).

The governance regime in ServiceCo South is one where management and unions contest and co-operate within a voluntary pluralist framework. The institutional features of employee information and consultation such as the CRC, the Business Renewal Committee and the Joint Trade Union Group Union ensure there are a systematic platform and a functioning form of robust pluralist contests. The example given above of the practice of line manager resistance to shop steward approaches could reflect a system of pluralism at the top of the company and perhaps evidence of unitarist efforts by line managers at the bottom. ServiceCo's macro business environment is an on-going major challenge in which to continue as a viable business operation and that pressure is not lessened with the presence of a major shareholder who is a hostile rival company. Therefore, both market and shareholder pressures are constant major prescient influences on the functioning of the governance regime.

7.3 Firm as Interest Actor – overview and summary

As a former nationalised company and the Irish government holding around 25% of the shares in ServiceCo, the company has been a prominent actor in transport and

tourist service sectors in ROI for many years. Previously, the Chairman and other Directors of the company were appointed by various Irish governments through the Minister for Transport and thus the board's membership often reflected party political allegiances. ServiceCo has a tradition of linkage through the Ministry of Transport into the consultative and legislative corridors of Irish governments and by extension into the EU Commission. The relationship with past governments witnessed some direct interference in the operational policies of the company. One government ordered the creation of a new company that would offer aircraft maintenance on the world market as an industrial development policy that became an off-shot of ServiceCo. Another government instructed that a fledgling company called Blueline get given access to specific passenger routes in order to grow competition in the sector.

The Irish government has a vested policy and financial interest in the continued existence and viability of ServiceCo. This was seen very clearly in their statements during the hostile takeover attempts of the company by Blueline in which they rejected the offer as a poor share price offer and that such a move would be bad for competition in the long term. ServiceCo is, therefore, a well politically connected company and many senior executives and board members have, and do, serve on government bodies and commissions.

7.3.1. Firm as Interest Actor– ServiceCo North

ServiceCo faced a heritage dilemma when deciding to open an operation in NI being a former arm of the Irish state which many NI unionists regarded with some suspicion. In commercial terms ServiceCo North had to create for itself a unique selling point and pose a challenge to other companies in that sector in NI. The strategy to make ServiceCo North a successful operation was agreed by head office and had two main platforms. Firstly, the company had to ensure that its offering was continually adjusted to meet consumer demands on such matters as routes, choice of airport and pricing. The second platform of the strategy is of concern to this thesis and that was to integrate the company in to the membership of business fora of NI and become as one manager described it:

Active players in bodies such as the Belfast Chamber of Commerce, NI tourism, CBI and generally putting ourselves about and looking for good advertising and business networking opportunities (Manager 5)

A manager of ServiceCo North had become a member of the CBI NI infrastructure committee that lobbies the NI and UK government on proposals to improve facilities and access in and to NI. He described the role in the CBI committee as:

It is important that all opportunities are taken to have an influence on airport access and policies and this CBI committee regularly briefs the policymakers and is consulted by government. (Manager 2)

The base manager related how he attends quite a few business forum meetings. Senior management from head office attend many events including award ceremonies and other events they have sponsored including obtaining the right to be a major sponsor of a renowned sports team. ServiceCo North is becoming a 'player' in the NI business scene with high profile advertising of events and linkages in the transport and tourism areas. A senior manager from head office felt that they were making an operating profit and establishing a business profile and said:

We spoke with a few business consultants in NI before going there and we retain their services on advice in case we inadvertently cause local problems in terms of pay, other employment issues and current affairs (Manager 2).

That same manager further contended that:

We are considered by some to be outsiders who want to be insiders in the NI business scene and over time that will change. We need to be able to air our views on policy and taxation in business groups who can represent our views (*ibid*)

ServiceCo North is making its presence felt in NI through active participation on business bodies as they aim to establish a network for their company as an interest actor.

7.3.2. Firm as Interest Actor – ServiceCo South

ServiceCo South was an integral part of the Irish state's transport and tourism policies and seen as the 'flagship' carrier for the country for many years. The company's relationship with the government has changed since privatisation but it remains well located within the political corridors of power. A senior manager related that in a previous role her job was part of the liaison group with the Transport Ministry which necessitated providing reports on passengers, routes, balance sheet and other reports. She further explained:

> *My role was to liaise in all statutory matters and those of concern with the Department. They (Department) had a reciprocal duty of providing us with all sorts of cross- Departmental discussion and policy documents on competition rules, environment, transport and anything else they felt we should know about. They would ask for our views and then pass them onto the relevant civil servants.* (Manager 7)

In many ways ServiceCo South was part of the civil administration of ROI, although those liaison linkages are not currently as formal as previously. The existence of the government share holding and Ministerial nominees on the Board in the company does, however, indicate the continued existence of particular government interest and channels of communication. A senior manager commented on the changing nature of the relationship with the government saying "we are no longer a semi-state public sector outfit and do not receive preferential treatment any more from politicians" (Manager 2).

ServiceCo South senior managers are involved in a wide range of business fora including IBEC where they have been members of the various policy committees that attempt to influence government policy. The IBEC Transport Committee made a submission to the Irish government on the future of the aviation industry (IBEC,

2012) which was of vital concern to the interests of ServiceCo South. The IBEC Transport Committee describes their role thus:-

> *We interact regularly with policy makers in government departments, state authorities, the European Commission and with regulators to communicate our position on the strategic transport policy issues of interest to business* (IBEC, 2012).

ServiceCo is a fully fledged private company with shareholders and is listed on various stock exchanges. It has, however, not completely left the control of the Irish government although legal frameworks relating to stock market rules mean that the Transport Ministry no longer has a day to day role in the company. The adaption to its role as a private sector company has seen ServiceCo become more active in IBEC and in other tourism industry groups because

> *Transport (Ministry) is no longer our point 'man' on all regulatory developments and IBEC is a good vehicle to promote our views to policy-makers here and in the EU* (Manager 5).

7.4 Voice form – overview and summary

Voice forms in ServiceCo are rooted in a long-standing custom and practice of management and the unions working together, even in the most difficult of situations, to find and agree solutions for the benefit of the company. The various fora in the company exemplify the existence of a form of joint consultation that has permeated its forms and practices of voice. The dominance of collective bargaining forms by necessity means that there are regular contests between management and unions about all aspects of work conditions and practices and these have resulted in strikes and other forms of industrial action in the past. During the course of this research there was such a strike by cabin crew IMPACT members of but other unions did not participate in this action. One employee said:

There are always industrial relations issues here and that goes right across the grades from the pilots to the cleaners with plenty of referrals to the LRC or Labour Court (Employee 6).

In such circumstances the robust nature of the voice forms have been well tested over the years as the company has changed course many times to meet rapidly evolving market and regulatory challenges. The right, therefore, of employees to challenge management actions and decisions through agreed procedures is an embedded feature of voice forms in the company.

In Table 7.1 are displayed responses from ServiceCo North and South employees to Question 12 of the Employee Questionnaire (Appendix E). That question sought to elicit the scope of I&C practices, specifically how often employees were asked by management for their views on six issues: future plans; staffing and redundancies; staff numbers; change to work practices; H&S: and pay. It is striking that the aggregate score for ServiceCo South to this question reaches a very high rate of 76% of respondents who believe that management 'rarely', 'very rarely' or 'never' ask for their views. The scenario is different in ServiceCo North, where respondents achieved an aggregate score of 50% who believed that management 'rarely', 'very rarely' or 'never' ask their views but 50% believe that they are 'always' or 'often' asked. The two aggregate scores present quite a contrast between the opinions of employees North and South with very negative perceptions in ServiceCo South and with half of the respondents in ServiceCo North reporting they are 'always' or 'often' consulted.

Table 7.1 'Scope' of I&C mechanisms at ServiceCo   (n= 30-31)

'Scope' of I&C issues asked:-	Always		Often		Rarely		Very Rarely		Never	
	North	South	North	South	North	South	North	South	North	South
Future Plans for the Company	18%	8%	32%	0%	18%	16%	32%	24%	0%	52%
Staffing Issues, including Redundancy	18%	8%	44%	8%	22%	16%	11%	24%	5%	44%
Staff Numbers	18%	8%	22%	8%	32%	0%	18%	31%	10%	3%
Changes to Work Practices	24%	8%	34%	16%	18%	8%	18%	16%	6%	42%
Health and Safety Issues	34%	0%	18%	8%	18%	16%	30%	16%	0%	60%
Pay Issues	18%	8%	18%	16%	36%	8%	22%	16%	6%	44%

In an interview given by the CEO (Wall, 2011) in response to another workplace survey that was conducted for management at around the same time, similar outcomes to those given in Table 7.1 from employees in ServiceCo South was reported. Those results were described by the CEO as managers having lost touch with employees due he felt in part to suspension of management training programmes for over a decade and the CEO stated:

> *It seems that over the past years, part of our management has lost touch with what managing people is all about…….we speak more than we listen, we do not appreciate or stimulate opinions and we are very vocal especially when things go wrong* (Wall, 2011).

Table 7.2 'Breadth' of I&C mechanisms at ServiceCo   (n= 23-31)

'Breadth' of I&C mechanisms Used:-	Always		Often		Rarely		Very Rarely		Never	
	North	South	North	South	North	South	North	South	North	South
Works Committee	0%	10%	26%	0%	27%	10%	26%	10%	26%	70%
EWC	0%	0%	0%	0%	32%	20%	8%	0%	60%	80%
Union	6%	16%	19%	40%	37%	16%	19%	8%	17%	20%
Team Briefings	30%	0%	17%	9%	17%	9%	12%	27%	24%	55%
Quality Circles	0%	0%	8%	0%	16%	0%	16%	10%	52%	90%
Attitude Surveys	0%	0%	0%	0%	24%	0%	16%	10%	60%	90%
Suggestions Schemes	0%	0%	8%	0%	24%	0%	24%	10%	44%	90%
Workforce Meetings	0%	0%	32%	33%	23%	0%	15%	8%	23%	59%
Notice Boards	40%	7%	30%	56%	12%	0%	12%	7%	6%	30%
Newsletter	40%	30%	30%	30%	6%	30%	12%	0%	12%	10%
E-mail	25%	30%	12%	40%	25%	20%	19%	0%	19%	10%

Displayed on Table 7.2 are the results from Question 13 of the Employee Questionnaire (Appendix E). Here employees were asked to rate the breadth or frequency of usage of certain voice forms on a Likert scale choosing either 'always'; 'often'; 'rarely'; 'very rarely' or 'never'. It is notable that in ServiceCo South that 54% believe that the union form is 'always' used while only 25% believe that is the case in ServiceCo North. Interestingly the use of notice boards and newsletters is heavily rated as 'always' or 'often' used according to both sets of employees in ServiceCo North and South and both strongly indicate that suggestions schemes are 'very rarely' or 'never' used. In the next section is a report on the operation of voice form in ServiceCo North.

7.4.1. Voice form – ServiceCo North

As a new base ServiceCo North moved from a start-up operation towards an established workplace with emergent patterns of workplace behaviour and a specific workplace culture. The intention of senior management was for this base to have a form of collective bargaining that would be restricted to a narrow range of issues. It is a small workplace with approximately 60 employees and that has lent itself to an emerging degree of informality and a ready accessibility of management to employees. The structures detailed in Figure 7.2 demonstrate the existence of two-way forms of formal voice with the staff forum, the pilots union and the GMB union. A senior HR manager explained that one of the key objectives of the head office management had been to create a new style and approach that would be:

> *… legacy free from all the traditional Dublin stuff where workers see their managers as someone who is out to do them. Belfast was to be a fresh start run cost effectively and hopefully IR incident free* (Manager 4).

As detailed in Table 7.2 there is a breadth of nine different forms of voice in ServiceCo North. 8% reported 'always' using suggestions schemes but there was only one of these relating to a one-off issue regarding social activities and so cannot properly be considered an ongoing management-employee voice form. Notice boards and team briefings are the voice practices used most often. It was, however, matters arising from discussion at team briefings and then followed through by trade unions with local management that led to the agreement of a staff forum although the staff forum is a non IR body and is open to all staff regardless of union membership.

There are two main forms of two-way voice and they are the staff forum and union collective bargaining in ServiceCo North. At the outset the aim of management had been to create a workplace where every employment relations or operational matter was not subject to collective agreements and procedures. In fact it was the atmosphere of informality that led employees to seek a formalised structure where managers and employees could engage in discussions and have items openly aired.

> *Small group informality is fine as it goes, but some of us found that word of mouth stuff was just unprofessional and we wanted a forum with minutes taken and answers were given to questions that were raised* (Employee 2)

Senior management agreed to the creation of a staff forum on the basis that it was a 'business issues' committee and no IR issues could be raised or discussed. The local base manager was relieved at the establishment of the staff forum:

> *I no longer had to ensure that each employee was spoken to about issues, there is enough on my plate and now we have a formal setting for me to give information and test the water on impending developments*

The two unions in ServiceCo North adapted different approaches to collective bargaining. The pilots union which represents about ten employees refused to accept the restricted terms of the collective agreement on offer from management and continued to pursue all items of concern with management with some success as related above. The majority of the employees were initially represented by the IMPACT trade union until all left and joined the GMB union. There was a great deal of dissatisfaction with IMPACT

> *The full-time officer was based in Dublin and was hard to get in contact with they provided us with poor service. On some occasions we were left to talk to local and senior management on our own. They (IMPACT) did not seem to understand how things worked in NI*. (Employee 6)

The management 'officially' do not recognise GMB for collective bargaining but have allowed them a membership check-off mechanism from wages. A GMB officer reported that their relationship with ServiceCo managers was developing incrementally with local agreements on issues such as break times but they were experiencing some resistance to recognising them for "big ticket items such as those on wages and hiring policies" (FTO 5).

7.4.2. Voice form – ServiceCo South

Long established voice forms based on collective bargaining agreements are the main forms of voice in ServiceCo South. They are detailed in Figure 7.3 which indicates direct lines for individual unions' own direct relationship with the company; the combined unions' forum is a joint union group body and then the CRC which is composed by employee proportionately by size of union membership and equal numbers of senior managers. As already stated above in 7.2.2 the CRC is not an IR body but a business forum made up of senior managers, including the CEO, and union representatives who are not full-time union officers. It is, nonetheless, a potent voice form in the company dealing with confidential business and financial information. Both employees and managers believe the CRC meetings are very open in terms of asking questions of management or employees about their work. One manager who regularly attends the CRC said:

> *I love and loath those meetings. I love them because all sides talk frankly about what needs to be done for the future of the company and a consensus often emerges. I loathe them when someone grills you on your section's performance* (Manager 7).

An employee representative who served two terms on the CRC also felt that the meetings were very positive and said:

> *In the CRC employees ask the CEO and his senior managers to account for themselves and when they waffle, as previous CEO's did, they get told that to their faces in no uncertain terms.* (Employee 9)

An employee who was a shop steward for over 15 years believed that the CRC was an effective forum for exchanging information and where managers listen:

> *The CRC works as a serious committee where real discussions take place with managers and I have often seen items agreed in the CRC that became company policy* (Employee 6)

The other main two-way voice form in the ServiceCo South is the individual relationship between unions and management. It is best to describe these as typical defensive pluralist employment relationships voice forms. Most unions are craft or occupation specific only representing those in specific jobs such that engineers are represented by the TEEU and pilots by IALPA; IMPACT represents cabin crew and a small number of administrative staff and SIPTU, the largest union, represent a wide range of grades from catering, ground crew to senior managers. It is not unknown for an individual union to call a strike or pursue some other form of industrial action such as non-cooperation with some administrative function. During this research the pilots were involved in a long running dispute over Summer time rostering arrangements and this was resolved after strike notice was issued and involvement of the LRC to bring about a solution. According to one pilot employee

> *It seems that the only way to get line managers to engage in solution making is to issue strike notice and have a big public hoo-hah and then get a deal that needs monitored, reviewed after a time and then fight publicly all over again* (Employee 7).

In ServiceCo South voice forms are mature, two-way forms robust, if not defensive in nature, at the level of line managers. While at the senior level there appears to be more trust and scope for finding common ground on most occasions. Thus there appears to be an almost dichotomous relationship experienced by employees between their line managers and senior managers in their everyday workplace routines.

7.5 Voice practices – overview and summary

The range of voice practices in Service Co reflects the institutional nature of a company with traditional collective bargaining arrangements. The mainstay of two-way communications is through day-to-day dealings between trade union stewards and line managers which are governed by top-level agreements reached with senior managers and senior stewards and full-time union officers. All committees and project teams are jointly agreed and have both management and union representation. An example of this was the development of the cabin crew automated rostering system. Employees had complete involvement throughout the process from the

project scoping out, to when the software was tested and amended before it went live. There was, however, a dispute on this new technology that led to a strike. The exception is the Board of Directors of the company who delegate the senior management team to conduct all day to day operations.

The company has employees who work on various tasks on a 24 hour basis which necessitates a range of voice practices. In Table 7.2 there is a list of eleven voice practices that emerged from the research. Those practices ranged from union activities to team briefings and usage of notice boards. Employees who completed the Employee Questionnaire (Appendix E) were asked in question 14 to rate which particular voice practices they believed were 'very effective or effective'; 'neither effective nor ineffective'; or 'ineffective or very ineffective' and those results are given in Table 7.3.

Table 7.3 'Effectiveness' of voice mechanisms at ServiceCo   (n= 14-31)

Perceived 'effectiveness' of I&C mechanisms:-	Very Effective		Effective		Neither Effective Nor Ineffective		Ineffective		Very Ineffective	
	North	South	North	South	North	South	North	South	North	South
Works Committee	17%	28%	17%	42%	32%	15%	17%	0%	17%	15%
EWC	0%	0%	10%	20%	30%	40%	30%	20%	30%	20%
Union	0%	18%	23%	73%	23%	19%	31%	0%	23%	0%
Team Briefings	21%	13%	44%	50%	14%	24%	7%	0%	14%	13%
Quality Circles	0%	25%	10%	0%	36%	25%	27%	25%	27%	25%
Attitude Surveys	0%	20%	10%	0%	36%	40%	27%	20%	27%	20%
Suggestions Schemes	8%	25%	17%	0%	33%	50%	14%	0%	25%	25%
Workforce Meetings	8%	0%	46%	55%	23%	44%	8%	0%	15%	0%
Notice Boards	40%	0%	40%	60%	5%	40%	5%	0%	10%	0%
Newsletter	20%	10%	45%	40%	14%	50%	7%	0%	14%	0%
E-mail	25%	33%	25%	23%	16%	44%	25%	0%	9%	0%

A striking difference emerges between South and North 91% of ServiceCo South respondents rated their union as 'very effective' or 'effective'. In ServiceCo North this figure was 23% compared to the 64% who rated 'union' as ineffective; possibly indicative of the perceived poor performance of IMPACT. Similarly the positive ratings given for the effectiveness of Works Committees is only 33% in ServiceCo North but a high of 72% in ServiceCo South. Yet the majority in both research sites perceived overall effectiveness of one-way practices such as notice boards and newsletters as highly effective.

ServiceCo was beginning to explore new forms of voice practices such as webcasts and creating individual websites for pilots and cabin crew employees. Those new practices were at a planning stage during the research. One new form of voice that emerged during this research was the CEO holding town-hall type meetings with all

departments. This was a practice that no other CEO had used in the past preferring to delegate dissemination of information to line managers. The CEO open forum meetings were agreed in the CRC and the response from employees was mixed.

> *It was good to see the boss in our workshop giving a speech with no slick PR type   presentation and taking questions from the floor and even getting into a bit of 'barney' with some of the more militant union types* (Employee 9).

Another employee was "not impressed with this stuff ... it's just another way to say 'things are bad' and we need more cuts or changes in work practices" (Employee 6).

In summary the voice practices of ServiceCo appear to be associated with trade union agreed processes, and are those perceived by employees to be the most effective in the Questionnaire (Appendix E). The emergence of the new practice of town hall meetings by the CEO is adding another dimension to employee voice practices and we will next examine the voice practices in ServiceCo North.

7.5.1. Voice practices – ServiceCo North

With the exception of a small number of pilots all the other employees in ServiceCo North were newly recruited to the company when the base was opened in Belfast. Some had worked in other companies in the sector and a few of those had long service in other major companies. One impression that emerged from the respondents was an expectation that ServiceCo would behave as a good employer. One employee said:

> *I applied to work with ServiceCo North for family reasons and they have a good reputation in the business for looking after people and good training* (Employee 1)

It was the employees in ServiceCo North that initially drove the idea of creating a staff forum. A manager commenting on this development felt that:

> *… while there some surprise in head office at the request there was no hostility from the senior management team (Manager 4).*

The staff forum has developed as an official arena for a two-way form of voice practice for all employees but it has not fully developed into the type of committee that the CRC is in ServiceCo South, albeit neither discusses IR issues. The range of issues discussed is expanding with presentations from the CEO and other senior managers on business and financial reports which include question and answer sessions from any employee who wished to attend.

The small size of ServiceCo North does mean that there is a certain amount of informality in exchanges between employees and management. Employees can and do make individual arrangements with management in relation to working times.

> *I needed to attend some medical appointments over a period of weeks and asked the base manager directly for changes to my rosters and he agreed, even though our contracts stated this was not possible* (Employee 8).

That experience supports a view expressed by other employees that local management were responsive to employees' needs compared with a remote head office whose newsletters and other communications were deemed not relevant. One employee said:

> *The head office newsletters are all about Dublin or Cork and we rarely get a mention. There were a few items we raised at the staff forum that needed approval from Dublin and it takes so long for them to get back to us* (Employee 2).

A manager in ServiceCo North expressed the view that:

> *Head office want us to run a tight cost effective ship, so any added costs – even for good reasons tend to be pondered on for some time and sometimes that suits us just fine* (Manager 1).

In addition to the voice practices given there is the ongoing representation by two unions to management on a whole range of items. The examples of collective

bargaining given in 7.2.1 also demonstrate effective unionised voice practices in operation. These were on such items as the pilots union not agreeing to a restrictive list of collective bargaining issues but still managing to negotiate items in previously forbidden areas such as the provision of meals. A view held by those interviewed was that head office are totally focused on keeping cost to a minimum which can delay any decisions that require new funds.

7.5.2. Voice practices – ServiceCo South

When the company was privatised the existing antagonistic pluralist employee voice forms remained intact with the exception of worker directors on the board of the company. Both the company managers and union representatives that participated in the research highlighted a belief in the importance of both sides working together to find solutions to the biggest issue facing them, survival. It is probably best to categorise voice practices in two ways: high level ones and operational level ones. The high level ones are those which take place between senior managers and senior stewards alongside full time union officers on major items such as pension fund deficit, pay and restructuring proposals. One union officer described the high level meetings as:

> *There is respect and trust on both sides but there are always two conflicting agendas – theirs and ours and when we do a deal it sticks* (FTO 3).

The operational level voice practices are on the ground exchanges between union stewards and line managers. It is at this level that most of the conflict between management and workers occurs and where it is also often resolved particularly in recent years. One of the main factors to emerge in the research was the constant threat felt by managers and employees by the influence of Blueline as a potential full owner and as their biggest competitor.

> *Everyone in ServiceCo is aware of the need for profitability and that we take all necessary steps to avoid the 'Man in the Blue house' taking over* (Manager 3)

The 'Newfield' restructuring plan was agreed to by ballot of union members. Nonetheless, many issues surrounding the actual implementation of the plan have created disputes that have required outside mediation from the LRC to resolve. In one case an administrative function was to be transferred to another company to save money. The employees concerned reacted strongly against the move and forced union officers to attempt to block the change which they did not manage to achieve but obtained amelioration in the form of additional training and re-deployments for those not taking a voluntary redundancy package. One employee felt that "…being told you are being outsourced and no longer required does have an impact on your belief in the union and the company" (Employee 7).

The operational level voice practices can be described as defensive in nature. In many cases it involves disputes about line managers' interpretation of work practice agreements and about the individual manager's style. One steward believed that his union workload was primarily about protecting workers and largely revolved around:

> G*etting line managers to understand agreements and helping them to manage implementation without causing a strike. In my opinion some of the managers need to learn to manage people and not always think in terms of processes* (Employee 6).

7.6 Balancing Interests – overview and summary

Employees in ServiceCo are experiencing a company undergoing fundamental change brought about by privatisation and the challenge of surviving in a highly competitive industry. Their major challenge has been actual survival and there has been a series of restructuring plans resulting in the loss of almost half the workforce in the last decade. The company is currently profitable and in the process of making long-term plans which one manager described as:

> *The light at the end of a very long tunnel and this will hopefully allow us some form of stabilisation* (Manager 2)

For employees of ServiceCo the balancing of interests between management and those of employees is played out through the dynamics of collective bargaining voice forms and a variety of voice practices. The very existence of the company is also overshadowed by the threat of a hostile takeover by their main competitor and largest shareholder. In the very challenging circumstances facing the company over the last decade there have been numerous occasions when the employment relationship for all employees was constantly re-made in the aftermath of the major restructuring processes that have taken place. One constant throughout this time is the legitimacy afforded to trade union representation at all levels of the workplace by both the new owners and new senior management team at the company.

7.6.1. Balancing interests – ServiceCo North

In creating the new base in Belfast the company's management had decided on two approaches. One was that the terms and conditions of employment would be different and less expensive than in the rest of the company. New employment grades and pay scales were established specific to ServiceCo North and were negotiated through the LRC and these employees would not be eligible to join the existing defined benefit pension scheme but a new defined contribution scheme. The second approach was to trade union representation. Management wanted to have a restricted form of collective bargaining on a limited range of issues. The employees in ServiceCo North have brought forward ideas that have changed the nature of their employment relationship through the creation of a staff forum and have pushed out the boundaries of the original restricted collective bargaining to encompass new issues. Some of the employees believed there was a major shift in their relationship and position with management when they got the company to provide funds for social activities. They are aware of the difference between their relationship with management and that of their colleagues in ServiceCo South who they believe view them as "yellow-pack' or second class employees" (Employee 4). The ServiceCo North relationship between local management and employees, according to one manager, is due to the fact that

> *We are all new employees and we all are aware that it is important to get along with each other and show head office that we are good at our jobs and are making a profit* (Manager 1).

Employees who participated in the research all expressed an overwhelming feeling throughout the workplace that the continued existence of the base was on a form of extended probation by head office senior managers. There has not been a strike or any form of industrial action in the base at this point in its development. This has not, however, resulted in a servile workforce who have not challenged management or sought to improve their terms and conditions. An employee said:

> *All in ServiceCo North feel a sense of togetherness and know the importance of making things work well here but there is a lingering sense of injustice at our salaries compared to those in Dublin* (Employee 5)

Thus the balancing of interests between managers and employees is a dynamic one that is new to both managers and employees and taking time to settle into a pattern of collective bargaining viewed as legitimate. All grades were united in believing that the new operation was on a form of extended probation and not fully or yet a permanent ServiceCo base thus contributing to employee flexibility to ensure a viable and professional workplace.

7.6.2. Balancing interests – ServiceCo South

ServiceCo South, in stark contrast with ServiceCo North, is a long established large workplace which has been fundamentally re-shaped over the last decade. The privatisation of the company in 2006 and the moves by the EU to deregulate their industry has ensured a period of extended turbulence. The negotiations surrounding the 'Newfield' restructuring plan was conducted through high level talks with all unions and senior management of the company and its implementation has meant significant changes to work practices involving additional working hours for many and voluntary redundancies for others. How 'Newfield' was achieved is indicative of how the interests of employees and the company are played out and then forged together into a compromise plan.

A senior manager related how he had joined the company many years before as a general operative who then became a shop steward before joining management and believed that managers like him understand the need for a balance of interests between managers and workers demands. He said:

> *There is great respect in this company for all shades of opinion but even as a shop steward I realised that the most important interest is the continued existence of the company* (Manager 5).

The union representatives in ServiceCo South were extremely conscious of limitations as to what they demand or get from management in the face of the threat from Blueline and the impact of their fast changing highly competitive industry. One full-time officer said:

> *It took a while for some members to grasp the fact that as a private company this place can go bust. There is a view that we roll-over too easily to changes management want. The reality is there has been no choice but do all we can to maintain reasonable working standards, together as workers and managers, to make this company survive* (FTO 2)

What became apparent in the research in ServiceCo South was the siege like mentality that had developed over the past decade which had assisted in blending the interest of employees and managers together more strongly than in the past. However, within this context it would be incorrect to characterise the relationship between line managers and union stewards as anything other than respectfully antagonistic in practice.

7.7 Summary and conclusions

The data outlined in this chapter indicates that the governance regime at ServiceCo is a voluntary pluralist one with an embedded tradition of trade union representation at all levels in Service Co South. While there is slowly developing a pattern of unionised bargaining between managers and employees in ServiceCo North, there was no sense in the data collected that management had considered creating alternative non-union workplaces in new operations. Service Co South is a major player in the Irish economy and as a formerly nationalised company is linked to the corridors of power of the Irish government retaining its networked relationships with

senior civil servants. Indeed the continuance of the government's sharing holding in the company provides a direct line to policy makers. The company is very active in business fora and does so to advance its interests. Similarly in NI Service Co North the company has made a sustained effort to be an active member of business organisations to advance and protect the interests of the company.

The main voice form in Service Co North and South is through trade union representation. In the newer and smaller workplace of Service Co North there were no obstacles to union organisation by management except the attempt to have a limited form of collective bargaining on certain issues only. At all levels in ServiceCo South the interests of employees are advanced by recognised trade unions through an embedded well established voice structure form that includes interaction with the CEO of the company. Voice practices in ServiceCo South are in the shape of robust collective bargaining that can, and has, led to industrial action and strikes at times. The voice practices in ServiceCo North are developing into an active unionised form coupled with a non-union staff forum that has had some success in achieving concessions in an expanded collective bargaining space from management.

There are two different underlying contexts as to how the normality of working is experienced and how management and employee interests are accepted as a facet of their workplaces. In ServiceCo South the potent threat from Blueline to the very survival of the company has forged an understanding between managers and union representatives about what they need to do to ensure a shared future through the implementation of 'Newfield'. In ServiceCo North there is a different dynamic as a small workplace that also has a mutuality of direction between managers and employees in maintaining their presence in the company as a cost effective operation. The next chapter is an integration of the data results reported in Chapters 5,6 and 7.

Chapter 8 – Integration of Results

8.1 Introduction

This chapter brings together results given in Chapters' 5 to 7. It does not introduce new evidence on the processes or factors that have shaped the governance regimes and voice outcomes in each of the six research sites. It does, however, compare and contrast the governance typology as set out in Chapter 2 (Figure 2.3) and voice evaluation framework given in Chapter 3 (Table 3.3). From this, results for each governance regime are integrated and examined against the voice evaluation framework factors and a simplified integrated conceptual representation is presented in Table 8.2. The chapter will proceed by examining each of the factors in turn for the six research sites and make a number of general observations. The first factor we will consider is the governance regime that exists in each research site.

8.2 Governance Regimes

The influences and factors that create and sustain the governance regime in each workplace include the external influences from state and EU polity, market pressures and the individual history of each workplace. The approach taken by ManuCo at multinational Board level is that the management in each subsidiary take full responsibility for all employment relations policies thereby purposely creating a federalised structure. The governance regime of ManuCo North can be placed on the conceptual employment relations continuum as a non-union unilateral regime. ManuCo South by comparison is an older workplace with a tradition of trade union recognition and involvement at all levels of the company and could be situated as voluntary pluralist on the governance regime continuum in Chapter 2 (Figure 2.3).

In contrast to ManuCo, the governance regimes in RetailCo North and South were very similar. The regimes differed to the extent that RetailCo North was older and featured a strong line-management team which was not the case in the newer RetailCo South daily influenced by Regional managers. Along the governance typology in Chapter 2, (Figure 2.3) RetailCo is located as a sophisticated human

relations regime. Such a governance regime is typified by unilateral management practices especially in the setting and varying of terms and conditions of employment at the will of management and not by negotiation with employees. Their NER called *'Bottom-up'* was revamped to incorporate the main elements of the ICED in advance of specific UK or Irish legislation, thereby creating a pre-existing I&C structure crafted as an indigenous form to support RetailCo's existing organisational culture.

On the governance regime typology in Chapter 2 (Figure 2.3) ServiceCo locates as a voluntary pluralist governance regime. It is defensive pluralist with an embedded tradition of trade union representation at all levels in Service Co South. There is a developing unionised bargaining relationship between managers and employees in ServiceCo North. In practice the regime in ServiceCo South is characterised by on-going conflictual management-union relationships with a central wage setting mechanism, constant use of IR third parties and no compulsory redundancies in the various restructuring plans that have taken place. There is, therefore, a regime framework of continuous interaction, communication and negotiation between managers and unions at all levels. Regulatory changes from EU polity have brought more competitive pressures which, along with the privatisation of the company have resulted in a struggle for its very survival not least from hostile takeover attempts from its main competitor and largest shareholder.

8.3 Firm as interest actor

ManuCo, RetailCo and ServiceCo were not passive rule takers from local or central government or EU agencies. All three of the companies were active in various business organisations that lobby and attempt to influence political decisions affecting their businesses. Their membership of the CBI and IBEC as well as local chambers of commerce are deliberative moves in each case. ManuCo North and South participated in lobbying in their different political arenas seeking changes to regulations in the transposition of ICED. ServiceCo South is politically well connected to the Irish government and senior civil service and does use political agency to defend itself against such as hostile takeover bids from its main competitor. RetailCo also participated in many CBI and IBEC events when ICED were agreed with both bodies seeking the views of their members in order to

formulate policy positions with regard to UK and Irish regulations. RetailCo took the initiative and interpreted ICED by creating an indigenous but compliant I&C form. In each of the six research sites there was a clear view expressed by senior managers regarding the importance of active participation in business organisations to advance and protect their interests be it in areas of transport policy, local rates or changes in employment legislation.

8.4 Voice forms

Voice forms in ManuCo North and South differ considerably as do employee perception of their breadth and scope as indicted in Tables 5.1 and 5.2. In ManuCo North direct involvement is the main voice form with management deciding the breadth of issues. By contrast, in ManuCo South voice forms are predominately indirect and conducted through management and union agreed schemes. There are multi-forms of voice schemes covering all aspects of work deeply embedded in ManuCo South and with a wide breadth of membership from all employees. Only in the area of H&S are there regular and active meetings between managers and employees in ManuCo North though there are no formal means to pressurise or make management respond to any ideas or suggestions in the H&S unlike the situation in ManuCo South.

Voice forms in RetailCo are primarily directed and managerially sponsored either one-way or two-way communications primarily through their NER called *'Bottom-up'*. The company does not recognise trade unions and it would appear that *'Bottom-up'* was designed and is operated by the management as an indigenous house voice form and as an alternative body to any form of collective bargaining. *'Bottom-up'* is the centre piece of the company's consultative arrangement or its pivotal voice form with employees. Although coincidental, the heating issues in both locations (See Chapter 6) proved a failure of *'Bottom-up'* as a means of dispute resolution according to both employees and managers.

Voice forms in ServiceCo South are rooted in long-standing custom and practice whereby management and the employees' unions will work together, even in the most difficult of situations, to find and agree solutions for the benefit of the

company. The dominance of collective bargaining forms has resulted in regular contests between management and unions about all aspects of working conditions and practices. The taking of industrial action up to and including strike action is a feature of robust voice forms in this workplace such as the strike action by cabin crew during the lifetime of this study. ServiceCo North is a newer workplace and has an evolving pattern of collective bargaining voice form. Senior management in the company wanted to have a restricted form of collective bargaining but that original position has been challenged and eroded by the actions of pilots as reported in Chapter 7 and by ground crew in obtaining new funds for social activities.

8.5 Voice practices

Multiple voice practices were observed in each of the six research sites. Broadly they can be grouped into eleven practices and were experienced as either one-way top-down or two-way processes between management and workers in either formal or informal settings. Those eleven practices were: Works Committees; EWC; Union; Team Briefings; Quality Circles; Attitude Surveys; Suggestions Schemes; Workforce Meetings; Notice Boards; Newsletters and E-mail. Thus there was a wide range of practices in evidence and one of the objects of the data collection was to make a consideration as to breadth, scope and depth of voice practices in each case.

Responses from non-managerial employees to the employee questionnaire (Appendix E) are already shown in detail in Tables 5.1 – 5.3, 6.1 - 6.3 and 7.1 - 7.3. Table 8.1 combines the three main categories of responses for all six research sites; the scope, breadth, and perceived effectiveness of I&C mechanisms. In all cases employees reported that they were 'rarely' or 'never' consulted on future plans, staffing numbers or pay issues. H&S issues are well utilised with high positive response rates from all except ServiceCo South where it is in any event a joint regulation item. In terms of breadth, newsletters and notice boards are deemed overwhelmingly as 'always' or 'often' used while works councils and union are rated highly only in RetailCo North and South due to the existence of their NER *'Bottom-up'*. Only responses for 'always or often' are given for the use of union mechanism for the unionised research sites; ManuCo South and ServiceCo North and South. Newsletters and notice boards are rated highly in terms of effectiveness in all

research sites with the exception of newsletters in ManuCo North. However, the perceived effectiveness of works councils and unions in ManuCo North is a striking 0%. Unions are perceived to be 'very effective' or 'effective' in the unionised research sites of ManuCo South is very high rate of 97% and similarly high at 91% Service Co South with 23% Service Co South.

Table 8.1 Integration of results from employee questionnaire

1. 'Scope' of I&C issues asked:-	ManuCo		RetailCo		ServiceCo	
	North	South	North	South	North	South
Future Plans for the Company – Q, Response - Very rarely or never	75%	68%	30%	62%	32%	76%
Staffing Numbers- Q .Response - Very rarely or never	62.5%	86%	34%	68%	28%	34%
Health and Safety Issues –Q. Response – Always or often	37.5%	93%	62%	54%	62%	8%
Pay Issues – Response – Q. Very rarely or never	75%	87%	19%	54%	28%	70%
2. 'Breadth' of I&C mechanisms Used:-						
Works Committee- Response – Q. Always or often	0%	8%	31%	64%	26%	10%
Union – Response – Q. Always or often	29%	50%	0%	8%	25%	56%
Notice Boards – Response – Q. Always or often	77.5%	99%	52%	84%	70%	75%
Newsletter – Response – Q. Always or often	100%	31.5%	37%	47%	70%	60%
3. Perceived 'effectiveness' of I&C mechanisms:-						
Works Committee –Response – Q. Very Effective or effective	0%	46%	36%	55%	34%	70%
Union – Response – Q. Very effective or effective	0%	97%	0%	0%	23%	91%
Notice boards – Response – Q. Very effective or effective	75%	87%	58%	67%	80%	60%
Newsletter – Response – Q. Very effective or effective	100%	82%	21%	60%	65%	50%

In ManuCo North the management expressed a preference for non-union workplaces witness their closing of a unionised facility and moving all employees to a new non-union site with lower and different terms and conditions. Thus the breadth and depth

of voice practices here could be defined as narrow. In ManuCo South unionised robust voice practices dominated, covering all issues relating to work throughout the entire company. The lengthy saga in ManuCo South regarding the opening of a new administrative order facility and closure of others is unlikely to ever occur in ManuCo North. The difference in the number of voice practices in RetailCo North and South was non-existent and their NER that was created and sustained with considerable effort by the company was described by one manger to operate mostly to 'download' information and not be consultative nature. ServiceCo South demonstrated clear characteristics of a voluntary pluralist approach to voice practices which were extensive in number, at all levels of the company and were institutionally robust enough to survive many a bitter industrial dispute. There was evidence in the new base of Service Co North of employees successfully seeking to broaden their voice practices by the creation of the staff forum as an all employee formal means of I&C.

What emerged from the Employee Questionnaire (Appendix E) results was a mixed range of perceptions by employees as to the breath, effectiveness and scope of the eleven voice practices given above. Generally many of the respondents felt that notice boards and newsletters were very effective practices. The absence of trade unions from half of the six workplaces elicited from them largely negative responses to collective or two-way forms of voice compared to the unionised ManuCo South where 91% believed the union to be a 'highly effective' voice practice. In RetailCo North and South and in ManuCo North the EWC was largely seen as negative due in no small part to employees not being aware of its existence.

8.6   Balancing interests

In the daily working lives of employees in RetailCo, ManuCo and ServiceCo there was an understanding about 'how things happen around here' and that what may be legitimate in one workplace may not be acceptable in another. In ManuCo South there was abundant evidence of an established pattern of unionised collective bargaining arrangements throughout the company. Yet in ManuCo North there was clear evidence of unilateral management practices and no legitimacy afforded to collective bargaining by the local management. For the management in RetailCo

North and South an important part of their work was in keeping the company non-union. They used a myriad of sophisticated human relations practices to create a workplace culture ostensibly non-hierarchical and open. In ServiceCo South the profound changes in the ownership of the company from a fully stated owned semi-state company to a privatised entity was a major challenge. A significant increase in competitors wrought by EU industry deregulation has resulted in a whole series of re-balancing of interests here over the last decade. Indeed the struggle to find a suitable business model that could sustain the company into the future has in reality forced the new management team and the unions to develop a new set of relationships that put the survival of the company as their absolute first priority. This has taken place within institutionalised structures such as the CRC and the collective bargaining frameworks. Part of the new business plan saw the opening of the ServiceCo North base which is settling into a profitable operation and establishing its own customs and practices that will become their 'way of working'.

Table 8.2 Summary of governance and voice influences

Research Site	Governance Regime Type	Interest Actor	Voice Form	Voice Practices	Balancing Interests
ManuCo North	Unilateral	Active	Direct and Informal	Non-Union One-way	None Management Preferences Only
ManuCo South	Regulated Pluralist	Active	Indirect and Formal	Unionised Two-way	Balance of Employee and Management Interests
RetailCo North	Sophisticated Human Relations	Active	Direct and Informal	Non-Union One-way, except NER *'Bottom-up'*	None Management Preferences Only
RetailCo South	Sophisticated Human Relations	Active	Direct and Informal	Non-Union One-way, except NER *'Bottom-up'*	None Management Preferences Only
ServiceCo North	Voluntary Pluralist	Active	Indirect and Formal	Unionised Two-way	Balance of Employee and Management Interests
ServiceCo South	Voluntary Pluralist	Active	Indirect and Formal	Unionised Two-way	Balance of Employee and Management Interests

8.7 Summary

The objective of this chapter was to provide an integration of the main features of the data presented in Chapters 5, 6 and 7 and as summarised in Table 8.2 above. In Table 8.2 each of the six research sites are categorised from findings that emerged from the research and displayed along the following dimensions: governance regime type; interest actor; voice form; voice practices and balancing of interests between management and employees. It is opportune to make a few general points. Firstly, that the contrasting governance regimes in the research sites as depicted here was taken over a certain period of time. The dynamic nature of the employment relationship is influenced by market pressures, regulation and above all else the decisions taken by the company owners. Therefore, it would be incorrect to characterise any of the research sites as a certain type of governance regime that is set in stone and oblivious to change. The second general point is the emergence from the data of multiple voice practices in one-way and two-way forms but those are being combined with newer technologies and creating digital voice formats that may change our definitions of voice in the future. The third and last general point is that, employees' experiences as related here and in the three data reporting chapters must be understood within the context of their own workplace at a given point in time.

The next chapter is the discussion chapter where some of the general points made here will be further explored.

Chapter 9 – Discussion

9.1 Introduction

The purpose of this chapter is to evaluate the empirical evidence presented in Chapters 5, 6, and 7 and to consider that data with the factors given in the governance typologies and voice evaluation framework which directed the analysis. This chapter will proceed with a reiteration of the purpose of the research in order to provide context and to assess the purpose in relation to each of the research questions developed for the study. The second part will consider the findings within the meanings and purposes of voice, how voice functions in a variety of governance regimes and to discern the regulatory influence of the ICED on these processes. There then follows a discussion on the concept of the shifting axis of employment regulation. The last part of the chapter is a consideration of some possible theoretical implications for the understanding of the influences of EU regulation at workplace level in a cross jurisdictional sample. Some conclusions and a summary of the chapter are then given.

9.2 The purpose of the research

This research study began with the transposition of the ICED into the employment regulations of the UK and Ireland and was developed from a review of two different but related sets of literature. The first set of literature considered the operationalisation of the employment relationship and the nature of workplace regimes and related governance features. Some of the literature tended to conceptually view IR as a study of rules (Clegg, 1979) in a static form along pluralist or unitarist lines rather than an examination of workplace outcomes as a result of ongoing influences from new regulation or from market pressures. The main purpose of ICED was to add to the choices of employee voice mechanisms available in workplaces in EU member states. Thus it was essential to form an understanding and develop a working concept of employee voice and this was achieved through analysis of a second set of extensive literature on this subject. The consequence of the implementation of ICED was to create for the first time in Ireland and the UK a

specific legal general right for employees to engage in I&C with their employers. Thus it was important to trace the regulatory effect of the ICED along with the subsequent processes of adjustment which occurred in workplaces governance regimes.

The rationale for studying workplace governance informed the research questions for the thesis. Factors such as company size and ownership patterns are known influences on workplace governance regimes, other factors include the law and government regulation, market conditions, organisational hierarchies and power relationships, and employer and employee collective associations (Campbell and Lindberg, 1991; Hollingsworth *et al.* 1994; Hauptmeier, 2011). The relationship between the role of governance regimes and the outcomes of employee voice has been somewhat overlooked in the literature. This is particularly so in the provision of empirical evidence concerning the regulatory effect on governance regime functions and in any subsequent variation in voice forms and practices. Thus one purpose was to investigate what type of governance regimes framed or influenced particular voice outcomes in workplaces.

The decision to pursue a comparative IR study of NI and ROI was based on a number of criteria including their mutual voluntarist approach to IR, strong cultural and social linkages, similar business practices and the existence of the same companies in both jurisdictions. Thus there was a similar governance context in which to examine the response to ICED and establish whether there were corresponding or different outcomes. As has been made evident in the introductory chapter the issue of employee voice is a highly contested one in employment relations and the transposition of the ICED was a politicised one. These factors pointed the thesis in the direction of theoretical concepts that could account for change in employment regulation, in particular neo-institutionalist concepts that provide for an examination of actor agency and an understanding of employers as both rule takers and rule makers in the formulation of employment legislation which is relevant to the ICED transposition process.

This study adapted the contextual framework of the LME as the locus of the workplaces and their adjustment to the ICED. The varieties of capitalism (VoC)

approach (Hall and Soskice, 2001) is a neo-institutionalist school of analysis that provides tools for comparing national political economies with elements of complementarities such as those that govern labour and product markets which produce specific adjustment paths in response to change. The 'ideal type' typologies of national political systems that emerged from VoC were broadly labeled LMEs and CMEs. There is ongoing criticism and refinement of VoC (Hancké *et al.* 2007), the LME characteristics it provides explains the UK and Irish economies such as encouraging fluid labour markets and highly competitive relations. There are significant criticisms of VoC; from historical institutionalism (Streeck and Thelen, 2005) contending that VoC ignored the fact that economies are political economies governed by political choices and from the power resource approach (PRA) viewpoint (Korpi, 2006; Gallie, 2007; Nash, 2011) that VoC is a production regime perspective that neglects class relations and how companies exercise agency as rule makers and not just takers. In the LMEs of ROI and NI the most prevalent feature of employment relations is the institutional support for voluntarism which is a reflection of governmental and political choices (Boxall and Purcell, 2011). Voluntarism in NI and ROI is a feature of a LME and the political and institutional support for it is best accounted for by a blend of PRA and historical neo-institutionalist propositions recounted in related discussion.

In Chapters 2 and 3 the characteristics of governance regimes, employee voice and the capture or control of regulatory space were interrogated further. Arising from these conceptual directions and the adaption of neo-institutionalist tools, it was felt sensible for refinement and precision purposes to develop a scheme to describe the variant types of governance regimes. A conceptual presentation of employment relations governance regimes typologies was made in Chapter 2 (Figure 2.3). Four types of regimes emerged from the data and were placed on a continuum ranging from unilateral regulation to joint regulation. Those regimes were: unilateral regime; sophisticated human relations regime, voluntary pluralist regime and regulated pluralist regime. It was posited that each of the regime variants would display distinctive features that would influence the voice forms and practices in workplaces. In order to add further investigative ability a voice evaluation framework was devised from the literature which helped set out a pivotal operational criterion of voice with descriptions of the key features and dimensions (Chapter 3 Table 3.3).

Employee voice within the employment relationship is a factor in the ongoing contest for the 'frontier of control' (Goodrich, 1920) or balance of advance between employers and employees. There is a long history of attempts by managers to wield unrestricted power over workers seeking to treat them as a commodity or a servant whose duty it is to carry-out their masters' bidding (Clarke *et al.* 1972). While cost-effectiveness is the primary goal of management in HRM, the question of voice is one of social legitimacy where most states put a restriction on the right to manage and seek to balance political citizenship with some concept of industrial or employment citizenship (Boxall and Purcell, 2011:160).Three broad rationales for voice given in Chapter 3 explain the contest of the 'frontier of control' in the employment relationship surrounding employee voice and they highlight both pragmatic and social legitimate factors behind the EU and governments' attitudes to employment citizenship which is also reflected in the ICED regulations.

Those three rationales for voice are grouped themes arising from the literature: (Summers and Hyman, 2005; Foley and Polanyi, 2006) economic and pragmatic; ethical and social; and governmental and legislative and provide an understanding of a variety of approaches to employee voice. At various periods and in a variety of contexts there are many reasons for the existence of different voice forms and practices. The three rationales provide a range of explanations as to why employee voice can exist or not and be perceived differently by the IR actors. Whether one or more rationale is evident or is the main factor depends on circumstance and context. For instance management style (Legge 2005: Wood and de Menezes, 2008) is an important factor of workplace organisation and individual managers can interpret or demonstrate an ethical and pragmatic approach to voice or be hostile and pursue a minimum compliance with any form of employment legislation as evident in the contrasting research sites of ManuCo North and South. Voice can be perceived by the actions in the employment relationship in four distinct ways: voice acting for management; voice acting against management; voice acting for employees; and voice acting against employees. A brief explanation of each of the four perceptions is given below:

a) Voice can be perceived to be *acting for management* when productivity or co-operation increases as a result of negotiations, decisions of a NER or the result of the imposition of silent or no voice regime (Donaghey *et al.* 2011).

b) Voice is perceived as acting *against management* if legislation or collective employee voice forces them to cede more than they wish to employees or to adjust task or operational matters that involved additional cost.

c) Voice can be perceived to be *acting for employees* when they can articulate their views that enable change or improvement in conditions, or by collectively challenging managerial control and where changes or improvements are facilitated by legislation.

d) Voice can be perceived to be *acting against employees* when they have insufficient or ineffective avenues by which to articulate their concerns leaving a feeling of powerlessness and consequent disengagement from their work.

Thus the voice evaluation framework (Table 3.3) was devised to investigate employee voice as a multi-dimensional construct which could have pragmatic, economic, ethical, social, or legislative underpinnings perceived differently by management and employees depending on circumstances. The investigation of the impact of the ICED regulations in workplaces on the island of Ireland was the purpose of the research. This was set within the framework of an LME with workplace governance regimes that are supported by political choice and employer actor agency. Concepts from the variants of neo-institutionalism theories such as VoC and PRA have added an additional dimension to those which provided an understanding of voice forms and practices and this has facilitated the research objective.

9.3 Considering the Findings

In order to explain the findings from Chapters 5, 6, and 7 a number of possible interpretations of the outcomes can be observed. Firstly we will engage with the function and role of governance regimes in the employment relationship and then consider approaches to understanding employee voice outcomes.

9.3.1 The dominance of particular governance regimes

The findings generated in the empirical stage of the research indicated the predominant association of governance regime type variants with certain voice forms and practices. Governance is a multi-level concept and Edwards (2006b:2) defined it as sets of practices that promote active co-operation with the wider system of rules regulating workplace regimes. In essence the concept assisted in considering how the 'rules of the game' are made within enterprises and how they are recombined along the way with external influences to create the experience of a normal working environment. Underpinning workplace governance regimes is the legitimate power of employers over their employees; the power to make decisions and enforce control mechanisms while attempting to seek commitment to the goals of the enterprise. This underlines the complexity of influences and factors at play in the employment relationship and governance regime operation and connects to the outcomes of voice forms and practices. Consequently, it was possible to explain what influences and processes account for the way employee voice exists, is modified and operationalised.

In ManuCo North and RetailCo the governance regimes operated by managerial imposed regulation with no negotiation with employees on the terms and conditions of employment. In both cases they displayed a preference for non-union working environments. In practice the voice forms and practice that their employees experienced were not independent from management and not vehicles by which they could challenge any unilateral change in pay or tasks. One-way or communication only forms of voice ensured a narrow range of issues was transmitted to employees for their information and not for any form of consultation. Both regimes appear to be supportive of previous explanations in the literature of unilateral regimes. However, in RetailCo 'management style' along with features of 'open-door' HRM practices including multiple forms of one-way voice such as newsletters or notice boards and an NER called *'Bottom-up'* provide a different approach and could not be labelled as unilateral regime but more accurately a sophisticated human relations regime. Employees in RetailCo work in an atmosphere where managers are approachable with a wide range of information download practices and an expensive NER that is impressive on paper. However, there was virtually no training available for employee representatives to *'Bottom-up'* making them less skilled or effective and management

consider it an arena for 'venting' and no contribution to the business strategy of the company. Thus it can be assumed they had in mind 'venting' as a form of letting off steam from a potential build-up of pressure and not perceived as adding productive value. In some ways 'venting' is a form of 'pseudo' voice (Pateman, 1970) and lacking honest motives (Ramsay, 1983) but it does have a purpose. The purpose of 'venting' could be a form of *placebo voice* – it makes one feel better but has no effect on one's social reality. In interpreting the operation and outcomes of voice forms and practices in RetailCo a possible explanation is that '*Bottom-up*' is a non-union 'talking-shop' (Gollan, 2007). In the unilateral regime of ManuCo North the approach was unsophisticated compared to RetailCo a veritable 'bleak-house' (Sisson, 1993) with no I&C fora and information only communicated when and to whom as decided by management.

Turning to the two pluralist regimes ManuCo South as voluntary pluralist and ServiceCo as regulated pluralist regimes these differed significantly in terms of voice forms, practices and outcomes from those evident in ManuCo North and RetailCo. The common factor in both ManuCo South and ServiceCo was the presence of trade unions and the functioning of collective bargaining. A particular characteristic of these workplaces was the longevity of trade union activity where custom and practice allowed open displays of worker contestation, negotiations or even in the taking of industrial action. In ManuCo South there was a new management team, assertive but not demonstrating any preference for a non-union workplace; unions are 'part of the fabric of the company'. A feature of ServiceCo South was the continual battles between line managers and shop stewards about interpretation and implementation of high level company agreements, demonstrating a form of unitarism at the bottom of the research site that was not apparent from the interview findings for the higher level voice forms.

In considering the various explanations for the dominance of particular governance regimes with the existence and function of employee voice, some specification must be given on the forms of voice and practices found in the research. There were eleven voice forms indentified in the case studies and these are detailed and listed in Chapters 5, 6 and 7. The evaluation framework was devised around the definition of voice by Boxall and Purcell (2003:162) added to by Dundon *et al.* (2004) thereby

giving four meanings to voice, summarised in Table 3.1. Outcomes were analysed using the escalator framework of Marchington and Wilkinson (2000, 2005b, 2008) reflecting 'depth', 'scope', 'level' and 'form' of voice.

There were uneven explanations for the outcomes of voice that emerged from the findings reflecting the different governance regimes settings from which they were obtained. ManuCo South and ServiceCo stood out due to their considerable depth of practices and a wide scope of issues dealt with at all levels. In essence in both ManuCo South and ServiceCo all and any issues of concern to employees such as pay, redundancies, training or sick pay could become the subject of management and union negotiation at high levels within each research site. By contrast voice outcomes in ManuCo North and RetailCo reflects much informality; one-way voice forms on a narrow and thin set of issues ultimately decided upon by management. In ManuCo the main level of I&C was on a one to one level between managers and employees or at 'tool-box' gatherings that mostly concerned work tasks. Although the organisational culture in RetailCo was less hierarchical than ManuCo North much of I&C was informal and on the shop floor. In both ManuCo North and RetailCo there was little indication of employees making much, or any, contribution to decision making in their workplaces or having any form of independent collective organisation. The evidence from RetailCo indicates the existence of a formal means of employees expressing dissatisfaction with their workplace which was absent in ManuCo North. However, the outcome for employees in RetailCo using the formal dissatisfaction method provided was ineffective as regards their heating issues and was only resolved in RetailCo South by the intervention of the state Health and Safety agency. The form of voice in each research site was extremely pertinent with regard to outcomes of voice for employees. The articulation of dissatisfaction and the ability of employees to contribute to decision making in an enterprise was most obvious in the voluntary pluralist regimes of ServiceCo North and South. The common feature in the latter three research sites was the existence of trade unions and collective bargaining arrangements which were not a feature of voice forms in RetailCo North or South and ManuCo North.

9.4 The shifting axis of employment regulation

Piore and Stafford (2006) and Hauptmeier (2011) have brought different explanations of change in workplaces describing them as the changing axis of workplace governance. Piore and Stafford (2006) place the emphasis of change on a shift away from collective bargaining to the demand for an employment legal rights regime with new identity groups whose locus is social and political mobilization and not workplace identity. Hauptmeier (2011) asserts that the impact of markets is the main driver behind workplace changes rather than laws, hierarchies and associations of managers and employees. He argues that governments have supported market liberalisation through neo-liberal policies that have given greater employer power and a market orientation towards employment relations. He further argues that the dominance of the ideation of ever more competitive markets is reflected in the growth of privatisations and weak employment regulations. He also makes the argument that such is the overwhelming effect of market supporting policies that they become a main employee and union concern. Both Piore and Stafford (2006) and Hauptmeier (2001) raised important issues with the latter more focused on European realities. As such the idea of conceptualising employment regulation as an axis that can be shifted by influences from political actors and regulation such as that of the ICED provides an excellent manner to describe and explain findings in this thesis.

Figure 2.3 depicting the employment relations governance regime continuum was derived from the literature as a means to indentify and provide conceptual categorisations of workplace governance regimes. For instance the ability to locate different workplace governance regimes (Edwards, 2006b; MacKenzie and Martinez Lucio, 2005) and that they operate in a variety of ways such as unilateral or 'bleak houses' (Guest 1995) or that they reflect their political and constitutional contexts such as the prevalence of co-determination regimes in Nordic or CMEs (Sisson, 2007; Blyton *et al.* 2011). The purpose of the continuum in Figure 2.3 was to create a means to conceptually frame the research for this study and the empirical findings are reflected in Figure 9.1.

The findings gathered by the research questions are portrayed in Figure 9.1 entitled the shifting axis of employment regulation and is elaborated upon below. Figure 9.1 is a 4 x 4 cross-axis with four quadrants. One axis has high regulatory compliance at one end and low regulatory compliance at the other. It is crossed by another axis running from unilateral decision making to joint decision making. Each of the case study companies is placed in the quadrant that best reflects their position with regard to regulatory compliance in employment regulation and their operation of either unilateral or joint decision making regimes.

Figure 9.1 Shifting Axis of Employment Regulation

Shifting Axis of Employment Regulation

Unilateral Decision Making

RetailCo *Sophisticated Human Relations Regime*	**ManuCo NI** *Unilateral Regime*
ManuCo ROI *Regulated Pluralist Regime*	**ServiceCo** *Voluntary Pluralist Regime*

High Regulatory Effect · **Low Regulatory Effect**

Joint Decision Making
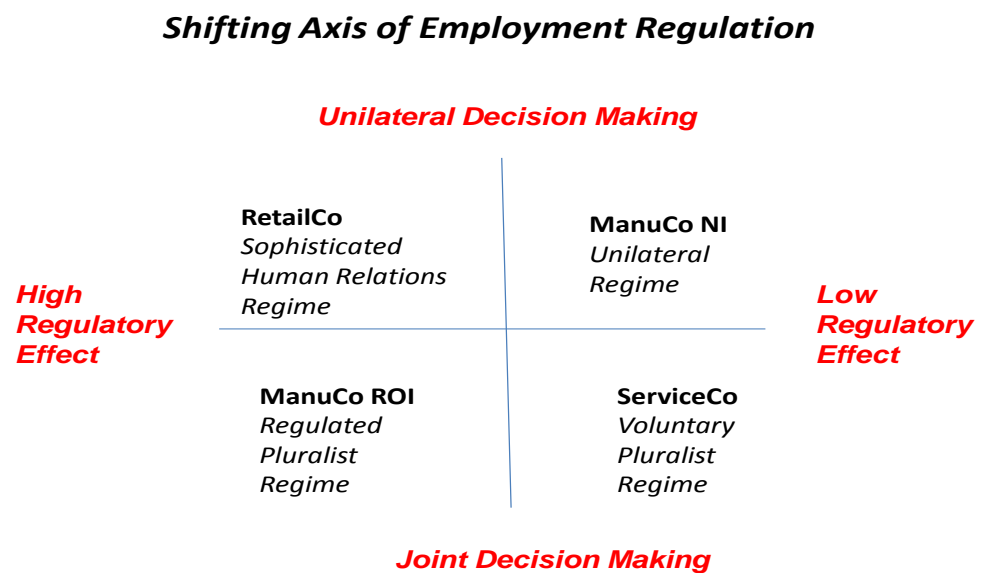
Through the utilisation of the governance regime typology the research questions allowed for the discrete identification of different voice forms and practices to be associated with certain regime variants. It was found that within ManuCo there were two variants of governance: unilateral regime in ManuCo North and a voluntary pluralist regime in ManuCo South. It was further observed that the voice forms and practices in both case studies were also markedly different with weak, narrow and predominately one-way forms in ManuCo North. Whereas in ManuCo South long established union recognition and collective bargaining created a different dynamic and there was evidence of union members challenging and forcing changes from management. ManuCo North and South are represented in different and opposite

sides of the axis in Figure 9.1 as each approached employment regulation differently. As an example, ManuCo North processed redundancies by complying with the minimum terms of the law while ManuCo South went beyond existing regulation and negotiated over a sustained period of time and provided extra payments for those facing redundancies. In explaining further the dynamic position of ManuCo North there are a number of factors specific to this research site and this includes the federalised structure of ManuCo which permits local managers to decide their approach to employment relations. Secondly, the unilateral stance found was a reflection of their managerial style (Legge, 2005) with an abundance of informal rather than formal voice practices which produced precisely the outcomes the managers intended (Marchington and Suiter, 2013). Thirdly, the decline in unionisation in workplaces has allowed ManuCo North managers to create and operate union free workplaces. Fourthly, the major economic crisis that began in 2008 was used by ManuCo North's management team to close work sites and establish new ones that were non-union and where the employees had inferior terms and conditions of employment.

There was a sophisticated human relations regime in both RetailCo North and South which displayed elements of two-way voice practices alongside managerially imposed terms and conditions of employment, and a limited form of NER. The management style and organisational culture has meant they operate at a high level of regulatory compliance. This was evident in RetailCo North and South with high levels of training on consumer and environmental protection legislation and a rigorous policy enforced by HR executives on individual H&S training. In contrast ServiceCo as a former nationalised company can be placed at one end of the governance regime typologies continuum as a regulated pluralist regime. It was apparent from the interview data that employees in ServiceCo felt that they had meaningful forms of voice underpinned by written regulated agreements. The struggle for sheer survival faced by ServiceCo since its change in ownership and from hostile takeover attempts was immense and during which they would not consider changes to their voice arrangements. ServiceCo has always had terms and conditions and H&S arrangements designed and operated beyond legal regulation. Management in ManuCo North advanced their preference for a non-union workplace in consolidating work onto new premises when they faced considerable down turn in

business. In concurrence with Hauptmeier (2011) the influence of neo-liberalism facilitated the privatisation of ServiceCo and has eroded the institutional support for union organisation hastening a sharp fall in union density levels with a consequent disappearance of collective bargaining from ManuCo North.

The predominant factor influencing workplace outcomes during periods when there was a shifting axis of employment regulation in each research site was the type of governance regime. The data discussed in this chapter was obtained over a certain period of time in those workplaces investigated and all have indications of forms of change that have affected workplace relations. ManuCo South has a new management team challenging previously agreed terms and conditions of employment that could lead to many changes for employees. ManuCo North once had pockets of unionised workers with negotiated terms and conditions of employment. This position was shifted through purposeful management action to become a unilateral regime where employees work terms are of a 'take it or leave it' type where work practices are in line with flexible employment laws. RetailCo took pre-emptive action to put a more sophisticated NER in place in order to prevent an ICED inspired I&C forum emerging that might challenge the management dominated one and thereby brought changes to their workplaces in anticipation of new employment regulation. ServiceCo has attempted to put a circumscribed form of collective bargaining in place in ServiceCo North in which negotiation can take place on a fixed set of issues and this has been challenged by both unions using their industrial muscle and NI's employment laws.

The evidence presented indicates that there is an influence from employment regulation on workplace organisation as each of the six research sites has changed work practices due to external regulation in recent times. Figure 9.1 was designed as an axis to indicate a high or low compliance with regulation helping to describe whether it is achieved by either unilateral or joint decision making means. The description of the effects from regulation was considered and the type of governance regime found in the research proved to be the pivotal factor as to how each research site reacted to and/or assimilated new laws. The design of Figure 9.1 allows for any of the research sites to shift from one quadrant to another over time and therefore is not a static view of employment relations. An example is ManuCo who in the course

of the research shifted its employment relations from some pluralist features to entirely unilateral ones.

9.5 Explanations of capturing regulatory space

Employee voice has been an important policy objective of the EU Commission for some years (Gold and Schwimbersky, 2008) and the ICED was considered to have potential to transform employment relations (Storey, 2005, Hall, 2006). As such the lens of the ICED was considered a valid opportunity to assess the impact of the new voice regulations and derive some understanding as to the influences on its impact at workplace level. The metaphor of regulatory space was utilised to define whether management were passive rule-takers or active rule-makers. The settlement of ICED regulations in NI and ROI was completed before this study but each management team was investigated as to their role in developing a combined employers' position on it. It emerged from the interview data that RetailCo unilateral management were the most pro-active in making a pre-emptive move and creating a NER type forum that could be considered a pre-existing agreement within the terms of ICED and thereby closing off any further potential influence from ICED in their employment. The management teams in ManuCo were active in CBI and IBEC in building political support for minimalist sets of ICED regulations and were successful in their endeavours. They did so by participating in the lobbying of politicians of the main parties and publicly supporting both CBI and IBEC efforts to influence their governments' discussions on transposition process. By lobbying to reform or blunt ICED regulations the employers had persuaded Irish and UK governments to cede that regulatory potential to individual employers at enterprise level. In essence employers have captured the regulatory space for the ICED. It also emerged from the interview findings that in all cases here, management teams were active in leading business organisations as a form of network but primarily as a means of lobbying to advance or protect their interests in the political systems at EU, local and governmental levels. Thus they are activist rule-makers.

9.6 Some conclusions

From this discussion a number of understandings regarding the role of governance regimes and the outcomes of employee voice can be brought together. The concept of governance regime as understood in the IR literature is a multi-level one which seeks to understand the various influences and factors that sustain them. We established typologies of regimes and features they displayed with regard to governance and voice forms and practices. From the main body of findings it was evident that certain regimes are associated with particular types of voice and practices; of unilateral regimes with weak employee voice forms and practices and pluralist regimes with strong employee voice ones. The ICED regulations are a legal right but have been ignored in practice by management acting alone or in joint agreement with unions. Nonetheless, the existence of the ICED and any possible review or re-cast could potentially prompt another shift in the axis of employment regulation for companies in the EU.

9.7 Summary

This chapter integrated and evaluated the evidence from the previous chapters and considered the conceptual concerns as set out in the main research question and the supplementary research questions. There are five main conclusions that can be drawn from the body of findings which produced a variety of results with outcomes related to context and governance regime type. In the final chapter these conclusions are drawn together along with discussion and answers provided by the research question.

Chapter 10 – Conclusion and Implications

10.1 Introduction

This thesis has explored the impact of the ICED on a sample of voice forms and practices in workplaces on the island of Ireland. It sought to identify any modifications that have occurred as a result of the new legal regulation and to consider the role of governance regimes in influencing the patterns of outcomes for voice. Employee voice plays a key part in the governance of the employment relationship (Marsden, 2011:1; Heery, 2011:342). Recent legislative developments on ICED, coupled with public policy support for workplace partnership, has re-awakened interest in employee voice. This study was a systematic study of ICED and its efficacy and specific regulatory impact in the governance regimes in workplaces in NI and ROI. The first part of this chapter will consider some general conclusions of the study and the second part will consider the findings *vis-a-vis* the research questions. This closing section, therefore, provides a summary of the principal theoretical debates surrounding the impact of EU employment regulation on employee voice, as originally outlined in Chapter 1.

10.2 Some general conclusions of study

The previous chapter detailed and discussed findings which highlighted the multi-level nature of governance regimes and how they can shift the axis of employment regulation in any workplace in response to external regulation or the influence of market and products. One of the implications for the findings was that governance regime is a dynamic multi-level concept one where power, legitimacy and the process of change and adjustment are understood to be concerned with choices that are made. Therefore, in any situation where options are considered there is potential for contesting views and preferences between competing parties and actors. The latter was observed in the politicised contest in the transposition of the ICED regulations in Ireland and UK. Workplace governance regimes are shaped by both external regulation and internal managerial choices as found to be a place specific entity within the boundaries of those workplaces in the study. Utilising neo-institutionalist concepts in this manner has allowed for the investigation of motives

for the adjustment to ICED regulations through theoretically informed research questions. The point of reference for the thesis was the ICED and how it legislated for a general framework or minimum floor of rights for employee voice in workplaces throughout the EU. It was in the utilisation of two analytical frameworks, the conceptual employment relations governance regime typologies continuum and employee voice evaluation framework, that the enquiry subsequently pursued the specific examination of regulatory voice outcomes in workplaces. In particular we traced how the actors in the employment relationship had the capacity to shape the regulatory space for the ICED regulations within their areas of operation which is a reflection of the broader socioeconomic conditions and the operation of the voluntarist systems of employment relations which mediates the process of regulatory institutional change.

10.3 Considering the results *Vis a Vis* the research questions

The results of the data were integrated and summarised in Chapter 8. It would be useful to refine those findings under each of the supplementary research questions specifying the key findings and then address the main research question on how different governance regimes affect employee voice outcomes.

> *First supplementary research question: What has been the impact of ICED in cross-border companies on the island of Ireland?*

The study determined from primary and secondary data that the ICED has had little reported direct impact in workplaces on the island of Ireland. The data from the IR bodies of NI and ROI indicate that there is a paucity of activity involving the relevant dispute resolution machinery. Certainly none of the six research sites reported using or consulting those IR bodies. It was evident from the interview data that knowledge of ICED was confined to senior management or union officers. The legal existence of the ICED was a contextual factor and not a pertinent operational one. In the six research sites each of the senior management team took some form of action in response to ICED. They did so unilaterally in both RetailCo who reconfigured their NER *'Bottom-up'* to make it a legally compliant pre-existing agreement and in ManuCo North who decided it was 'social stuff' and ignored it by taking no action.

In three cases, ServiceCo North and South and in ManuCo North, they acted with a joint regulation approach and agreed with unions to take no action or adjust existing voice arrangements which they deemed to be more advanced. There was a discernible impact of the ICED on these workplaces. Nonetheless only in RetailCo is there a working I&C forum spawned by ICED albeit constructed to protect a particular way of working.

The second supplementary research question sought to identify influences and outcomes in the case study workplaces and it was:

> *Second Supplementary Research Question: What factors have influenced the particular outcomes of voice schemes and practices in the case study companies, and why?*

There were a number of conceptual indicators that required to be blended together in order for this research question to have sufficient potency. The extensive literature on employee voice indicates that there is a wide range of voice practices and some have attempted to offer a definition of their meaning and purposes (Dundon *et al.* 2004). Others point to the many rationales for voice but there is an acceptance that it is a contested concept in workplaces (Gomez *et al.* 2010). Voice schemes can, therefore, be constructed either by employers alone or arrived at by negotiation between employers and employee representatives or a mixture of both coalescing together. Voice schemes emerge from the type of governance regime that exists in a workplace or can be imposed from a higher organisational level. Increasingly in the Anglophone world management have a greater impact on the shape of voice schemes at organisational level (Boxall and Purcell, 2011). There was, therefore, a complexity of influences to be identified and voice practices and forms to be understood and evaluated within the research sites.

ManuCo North stands out as a clear example of unilateral governance regime where management operate a no voice regime and barely comply with employment law to meet minimum requirements, as witnessed by their processing of redundancies detailed in Chapter 5. The voice regime that is imposed in ManuCo North by management is a non-union one with a range of shallow one-way practices on a

narrow range of items. While in ManuCo South the opposite is the case; they operate a voluntary pluralist regime where trade unions are considered part of the fabric of the company. Their voice regime and practices reflect many two-way practices resulting in negotiation and written agreements between employers and employees on terms and conditions of employment. Thus within ManuCo there exists differing governance regimes and this is reflected in the variant voice forms and practices found in the workplaces. The sophisticated human relations regime in RetailCo ensures an organisational uniformity using HRM techniques and facets of organisational culture with terms and conditions of employment unilaterally imposed. Although there was evidence of many voice practices and a complex NER form which was presented by management as an effective I&C forum. RetailCo management considered the NER not to be a means of providing a contribution to business strategy but merely a place for allowing 'venting' by employees who in turn perceived it to be ineffective. RetailCo was spending considerable sums of money and had sophisticated structures for I&C but the evidence in this study indicated a 'Potemkin Village' masking a unilateral anti-union governance regime. ServiceCo was a voluntary pluralist regime which had many voice forms and practices anchored in trade union recognition with robust collective bargaining and where managers considered unions as business partners of the company.

The research questions were instrumental in highlighting contextual factors and the role of governance regimes in determining the scope and effectiveness of voice forms and practices. In ServiceCo the long historical roots of trade union recognition meant that effective information and consultation was in evidence throughout the company which was reflected in a pluralist approach at top levels of management and unions while line managers and shop stewards were contesting the frontier of control on the ground. The very survival of ServiceCo was a constant shadow during the conduct of the research. Similarly in ManuCo South the long history of trade union recognition provided voice forms and practices where employees had a say in their workplace. This was absent in RetailCo who had created a complex NER as an alternative to trade unions though employees there had no say in their workplace governance. The final supplementary research question was:

Third Supplementary Research Question: Who occupies the regulatory space for employee voice in workplace governance regimes, and why?

The purpose of the question was to establish empirical evidence regarding action, attitude and specific adaption to the ICED regulations. The concept of regulatory space generally involves a consideration of a particular moment when legislation is being agreed upon and the reactions of certain groups or individuals to it, be they rule takers or rule makers. It was observed in this study that RetailCo occupied the regulatory space for ICED by creating a legally compliant body which attempted to close off any option for any other I&C form. Both ManuCo North and South participated in employer associations that argued and won substantial changes to the terms of the ICED in the transposition processes in UK and Ireland. The minimalist interpretation of ICED in NI and ROI regulations created a general framework with a minimum floor of rights in which employees have to trigger the provisions as an elective right. This has facilitated management in ManuCo North in ignoring ICED regulations and continuing with a unilateral or communication only form of I&C. Taking a similar approach in ignoring the ICED regulations, the management and unions in ServiceCo and ManuCo South each agreed that their voice arrangements were superior to the minimalist ones prescribed in its provisions.

In essence employers made I&C a politically sensitive issue and were successful in persuading both the EU Commission and EU Parliament and their respective governments' that information and consultation was best left to existing practices and to allow for flexible and enterprise specific models. In so doing employers effectively captured the ICED regulatory space and obtained changes in the direction of the legislation from a prescriptive model that was contained in the 1998 draft ICED to one that was underpinned by the subsidiarity principle which has meant increasing divergence of practice and growth of voluntaristic enterprise specific forms. The findings that emerged from the research were that none of the case study management groups, or employee representatives where they existed, felt the ICED regulations compelled them to take any action they did not wish to take. There was, nonetheless, a discernible impact in these cases in terms of adjustment and recognition of the changed legal landscape for employee voice.

An additional unintended outcome of the findings from this supplementary research question was managements' role as active and deliberate actors in a variety of business fora. Their participation in such groups was considered a means to lobby local or national governments on matters of concern to the interests of their company. Evidence emerged then to support the general proposition that managers were open and active in attempts to capture the available regulatory space in areas of particular concern to their business be it in local government on property or rate charges or attempting to influence national transport policies.

As such, the main research question was the base for the enquiry and the results from the data collected through the supplementary research questions were building blocks from which to construct an answer to the main research question. That question was:

> *Main Research Question: How has the transposition of the ICE Directive affected employee voice in companies on the island of Ireland?*

There are six main conclusions that can be drawn from the findings as outlined in Chapter 5, 6 and 7 which provide an answer to the main research question and they are:-

1. In the absence of a union presence managers tended to 'cherry pick' employment regulation and operate a minimum compliance approach while imposing unilateral terms and conditions of employment.
2. There was a variety of voice practices observed in each research site with varying degrees of employee involvement but there was a predominance of shallow one-way communications and informality evident in those operating unilateral or sophisticated human relations governance regimes.
3. The forms and practices of voice with the greatest depth of practices, widest scope of issues and breadth of membership were found in those regimes on the pluralist side.
4. The ICED regulations in NI and ROI have resulted in three types of action: either management ignored the regulations; they have pre-empted them and put in place a pre-existing agreement or management and unions jointly agreed to maintain their existing voice forms and practices and ignore the

    ICED regulations. Of these the most prevalent found was a mix of actions as reported here in conclusions one and two.

5. Workplace governance regime is an arena not in a vacuum or unaffected by public polity, but nor is the operationalisation of the regime fully framed by either the external factors of the law or market pressures, it is largely affected by management choices or effective employee representation when present.

6. In the LMEs of NI and ROI, employment regulation is subsumed into the operation of voluntarism. In the case of the ICED there were similar approaches and outcomes found reflecting the type of workplace governance regime but none that could be traced to the similar but distinct ICED regulations in NI or ROI.

10.4 Contribution of Study

The thesis makes a theoretical contribution in the area of functioning of workplace governance regimes in the operation and/or capture of regulatory space as it constrains or promotes employee voice. Specifically, the study examined the influence and effect the ICED has had in workplaces on the island of Ireland. To this end the purpose of the thesis is to widen the current limited scope of empirical findings in relation to the potential influence and effect on employee voice and IR from implementation of ICED. It is an original empirical study into regulatory influence in employment relations. The research enquiry involved the pursuit of case study and qualitative research strategies to obtain empirical evidence from workplaces. It was decided that the most appropriate manner to advance this comparative IR aim was to conduct research in private sector companies that operate on a cross-border basis with operations in NI and ROI in different sectors of the economy. This would provide three pertinent comparative dimensions: it would be a) cross jurisdictional; b) cross-sectoral; and c) it would be an intra-company study through the lens of differing but similar ICED regulations.

Figure 10.1 Evaluation Framework: Governance and Voice

BOX A
External Environmental Factors

- Market Pressures
- Political change
- Government Policy
- Legislation (EU Directives)

BOX B
Workplace Governance Criteria

- Regulatory compliance
- Employer power
- Union strength/density
- VOC: LME/CME modes

BOX C
Internal Mediating Processes

- Firm as Interest Actor (national-transnational)
- Voice Form (scope, depth)
- Voice practices (direct- indirect)
- Balancing Interests (*de jure – de facto*)

BOX D
Operation of Voice Forms & Practices

- Absence of union- 'cherry pick' regulation & minimum compliance
- Shallow voice & informality evident
- Greater depth & range of practices in unionised firms
- ICED – 3 responses; pre-empted form; management ignore; management & unions agree to ignore
- Governance regime- largely management choice
- ICED was not found to be influential but dominance of 'voluntarism'

BOX E
Regime Types

- Unilateral Imposition
- Sophisticated Human Relations Approach
- Voluntarist Pluralist Regime
- Regulated Pluralist Regime

The analysis and research gaps along with the data reported and discussed thus far were developed from a set of criteria presented earlier in Figure 2.3 (Chapter 2) as conceptual typologies of governance regimes, and in Table 3.3 (Chapter 3) as a means to consider forms and practices of employee voice. From this a broader evaluation framework was devised to capture the overarching contribution of the thesis. In Figure 10.1, 'external environmental factors' (Box A) can have a bearing on the internal governance of voice, including labour and product market pressures, the political environment and, importantly for the research focus here, transposition issues associated with the ICED. Similarly, 'workplace governance criteria' (Box B), as discussed in Chapter 2, can shape how external regulations are transposed and applied at the level of the firm. In the centre of Figure 10.1 are the 'internal mediating processes' (Box C), discussed fully in Chapter 3, including the way a firm may lobby for its interests within the employment relationship.

The findings of the thesis presented in Chapters 5, 6, 7 and 8 reported that external regulation such as ICED was mediated in a number of ways, influencing a bi-linear relationship on the type of governance regime. Thus the 'operation of voice forms and practices' (Box D) points to a range of possible 'outcome types' (Box E) from the ICED transposition in the 6 research sites and the main findings that emerged are: where no unions existed firms tended to 'cherry pick' regulation was imposed and there was a minimum compliance approach; there was a prevalence of shallow one-way and informal forms of voice in non-unions workplaces; in contrast there was a wide range and a greater depth of voice practices in unionised firms; there were 3 main responses found to the ICED in firms, in one case RetailCo a premeptive form or it was ignored by management n ManuCo North or ignored in agreement between management and unions in ServiceCo and ManuCo South; the type of governance regime was largely affected by management choices or the presence of a unions; and that ICED had made a major impact in workplaces in the voluntarist systems in NI and ROI. The nature of the workplace governance 'regime types' (Box E) was further shown to have a bi-linear influence on the operation of the forms and practices of voice.

The contribution is an analysis of recombinant capitalist workplace governance examined through the shifting axis of ICED employment regulation. As Crouch (2005:126) explains governance regimes are not static formulations but one where:

> *Actors seek out those elements of one governance mode that seems to be associated with certain desired outcomes, and elements of others that give different ones, recombining them in order to maximise their performance*

This thesis considered how new regulations on employee voice were normalised into everyday workplace operations and set forth differing responses observed in the research sites. It has also established that different workplace governance regimes, even within the same company, as in ManuCo, were the main causal factor for the varied responses and outcomes to ICED. The study has linked the process of adjustment to external regulation to workplace governance regimes and identified the capacity of employers to capture the regulatory space for the ICED regulations.

Another contribution of this study is in relation to public policy concerns in European, Irish and UK IR. As has been made evident in this chapter, the issue of employee voice is a highly contested one and the transposition of the ICED was a politicised one. Despite the passage of the ICED regulations into national laws with the aim of promoting employee voice throughout the EU, there is ongoing debate about its impact in terms of take-up and creation of new ICED inspired voice forms or practices (Ewing, 2010; Taylor *et al*. 2010; Hall and Purcell, 2012, Donaghey *et al.* 2013). The small number of fully processed disputes between employers and employees or their unions in the states' conciliation and arbitration services indicates a limited take up of the provisions of the ICED. Nonetheless the ICED regulations are described as an underpinning of "a concept of industrial citizenship" (Martin, 2003: 164) which is an institutional change that adds a layer of employee voice through a general framework arrangement onto traditional voluntarist employment relations systems.

10.5 Generalisablity of Results

Generalisation is one of the major controversies in qualitative research with postmodernists denying that any such possibility can exist as they claim each situation is unique. In one sense the data collected and analysed was unique as it was context sensitive. However, the investigation has explored a neglected area of IR and therefore advances the body of knowledge of adjustment to external employment relations regulation. In conducting the enquiry in three companies it was a deliberate choice to include private sector union and non-union firms who operate across the main sectors of the economies in Retail, Services and Manufacturing. Thus the results that emerged from this thesis have a wide applicably to a range of workers in Ireland and the UK. By using a comparative case study approach of two LMEs the evidence presents an opportunity to relate the findings to other LMEs such as Australia and Canada.

Another factor in support of the generalisation of the thesis results is that the analysis in each case study chapter has also demonstrated that similar factors are important in the workplace governance regimes and they influence the outcomes for voice. Thus the importance of management style, market pressures and the approach adopted to employee voice are factors likely to be present in any workplace. The transferability of the conceptual frameworks created for the study arose from specific contexts but there are general properties to them. How those framework properties are modified and shaped by external regulation and internal management or employee choice are important determinants which can explain and advance workplace IR more generally.

10.6 Implications of the study

The research in this thesis has many implications and lessons for the theory and practice of IR and employment regulation. There are implications specifically relating to four broad groups; employers, employees, trade unions and policy makers. Taking group each in turn:

a) For employers the task of management is not without ongoing challenges from product markets and external regulation. In this thesis a spectrum of companies and their operation in terms of employee experiences were studied; RetailCo

was never unionised, ManuCo North had experience of de-unionisation and ServiceCo and ManuCo South operate with high levels of union density. Each research site had adapted HRM practices including employee voice practices or communications channels. None of the managers interviewed had expressed hostility to the economic and pragmatic rationales for voice. This appears to support employee forms and practices so long as these do not affect their control function and add value by way of higher commitment and motivation to the firm (Poole and Mansfield, 1993; Purcell and Georgiadis, 2007). Thus the approach to the ICED and the national ICED regulations was one based on protecting existing practices in workplaces and by implication opposing ethical and industrial citizenship potentials of the ICED regulations. In practice the employers' approach has been compliance but non-enforcement (Falkner *et al.* 2005) of ICED attempts to expand voice forms and practices. A possible consequence of this for employers may come in the shape of a managerial challenge of a re-cast and stronger ICED in the future.

b) For employees it has been a feature of work in industrial capitalism that they work under managerial authority and have restricted democratic rights at work (Hyman and Mason, 1995). The ICED regulations expand and provide a somewhat constrained democratic and legal right for employees to I&C regarding the general economic circumstances of their company. The ability of employees to 'trigger' the ICED regulations is inhibited by application only to workplaces of over 50 employees and there is a high threshold in the numbers of employees needed to make a successful application. Purcell and Hall (2012) and Donaghey *et al.* 2013 suggest the low take-up of ICED in some workplaces implies that employees cannot rely on ICED regulatory effect to expand voice forms and practices. The second implication for employees arising from the findings in this thesis is that those in non-unionised companies have none, or less, of a say in the governance of their workplace than those in unionised ones.

c) For trade unions the ICED transposition into national laws of ROI and UK was a lesson in high hopes dashed by political pragmatism. ICED regulations do not provide either a gateway or a back-door for trade unions to expand their membership into non-unionised companies. Indeed the ICED regulations are regarded as a threat by unions to their single channel as they could provide for the creation of employer supported dual I&C systems. As such trade union

representatives interviewed for this study had set their face against any usage or involvement with the ICED regulations. An implication for trade unions is that by reacting against the ICED regulations they are in effect leaving the field of expanding forms of employee voice to employers or non-unionised employees in the majority of employments as they are non-unionised.

d) For policy makers a feature of the transposition process in Ireland and the UK was the contrasting manner of 'social partner' involvement and the legacy it has cast. For the first time ever the 'social partners' in the UK, the Government, CBI and the TUC made an agreement on EU legislation and agreed the content and manner of the transposition of the ICED (Hall, 2004; Veale, 2005). In contrast given the context at the time of over two decades of national social corporatism or social partnership, there was no agreement on this particular Directive in ROI for the first time ever on EU legislation. Instead there was much disappointment for trade unions with the ICED regulations and even threats of legal challenges (Dobbins, 2008a). The deliberate lack of engagement by trade unions with the ICED regulations in ROI and NI is a significant implication for policy makers. It implies that one 'side' of industry is at best suspicious of, and at worst considers the ICED regulations to be weak or ineffective and possibly even skewed against them.

Consequently, the contextual factors of the transposition processes and the on-going influence of the ICED in workplaces is a matter of significant public policy concerns in terms of effectiveness of legislation and social partner support. The EU operates a policy of review of Directives and obtains evidence through studies such as 'fitness check' (EU, 2012), Synthesis Report 2007, Implementation Report 2008 and commissioned reports from Eurofound (2008, 2013). This study, therefore, offers an original empirical investigation that can be of benefit to ongoing scholarly, policy and practical concerns as to the effectiveness of ICED application to workplaces.

10.7 Limitations of the thesis and Future Research

There are certain limitations with any research endeavour and this section outlines the limitations posed by this thesis. Suggestions therein for future research are which may address some of those limitations. The main aim of the thesis was to explore the research problem on the impact of employment regulation at workplace level and uncover the processes of adjustment. This research has generated a new insight into the role of workplace governance regimes and their ability to capture or occupy the regulatory space for employee voice. This exploratory study employed inductive case study design within the tradition of comparative IR. The study was confined to three case study companies and six research sites in the two jurisdictions on the island of Ireland. Whilst the research questions and the subsequent findings were theory building in nature, in order to further test the conceptual frameworks and increase validity, a broader study that incorporates a larger number of case studies could be undertaken and designed to increase and enhance the generalisability of the research output.

The final limitation was that the research data produced in interviews are essentially one-off taken at a point in time in each research site. The approach taken had limited longitudinal possibilities ruling out questions that might have unearthed more on dynamic nature of IR. Yet the research questions on how organisations respond to external employment regulation produced evidence of 'rule-makers' rather than 'rule-takers' demonstrating acute political awareness and their actions were underpinned by certain values and beliefs. The rich sample of interviews conducted against the backdrop of the stringent economic times in the post 2008 climate, produced evidence which may in some sense be framed entirely by the prevailing overall social and economic context. Had the interviews been conducted in the 'Celtic Tiger' period experienced on the island of Ireland the study may have found a more upbeat and positive, or experimental, approach traced to employee voice forms and practices.

There are a number of suggestions for future research arising from this thesis. It is recognised on reflection that organisational culture (Wilson, 2010), while largely a management choice and is a reflection of 'custom and practices', it can have a

specific influence on employee voice forms and practices. In order to expand the scope of the study such a potentially influential dimension as organisational culture could, therefore, be explored to broaden the knowledge of adjustment to external regulation at workplace level. A second area for future research that emerged as a major feature of voice forms and practices, particularly in ManuCo North and RetailCo, was the prevalence of deliberate informal voice practices and the ability of line managers to obtain precise outcomes on the shop floor (Marchington and Suiter, 2013). Indeed the voice multiple forms and practices found in the research sites were in some instances a mix of informal and formal and whether they complemented or replaced one another in workplaces deserves further investigation. Finally, the last suggestion for future research is that the depiction in Figure 9.1 of the shifting axis of employment regulation was a result of the findings obtained for this thesis. One cannot state categorically all the major factors influencing change in work organisations or how they shift or move to another quadrant on the employment axis without sound longitudinal data which could provide empirical evidence and explanations about the dynamic nature of employment relations.

10. 8 Summary and conclusions

The EU set out to adjust the employee voice forms and practices and instead the outcome was a recombined form of governance regime that assimilated ICED into the normality of everyday work. In essence the contribution of this thesis is an analysis of recombinant capitalist workplace governance (Crouch, 2005). This was examined through the shifting axis of ICED employment regulation which considered how it is normalised into everyday workplace operations and established what causal factors create different responses and outcomes in workplace regimes to ICED on the island of Ireland. It also became clear that both sides of industry look upon the ICED regulations as possessing 'Janus faces' with potential threats to both managerial and union positions and to their power and influence in the workplace.

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APPENDIX A –

Some of the main differences in the laws of the Republic of Ireland and Northern Ireland from the application of EU Directive 2002/14/EC on the Information and Consultation of Employees.

Republic of Ireland	Northern Ireland
Employee Thresholds 10% of workforce or minimum of 15 and maximum of 100.	**Employee Thresholds** 10% of workforce or a minimum of 15 and a maximum of 2,500. A number of requests from different shifts/sections can be aggregated together to form a valid request over a six month period.
Calculating Thresholds Employers have 4 weeks to reply to an employee request to confirm the number of employees in the firm. Employees are counted using an average number employed by the firm over a 2-year period.	**Calculating Thresholds** Employers do not have a specified time within which to reply to an employee request for numbers. The firm must employ at least 50 full-time employees. The employer can count part-time employees, those who are contracted to work for less than 75 hours per month, as a half a full-time person for the purposes of calculating numbers. Employee numbers in a firm are calculated by counting the average number employed over a 12-month period.
Tribunal request on employee numbers Labour Court requests to an employer to confirm employee numbers must be replied to within 4 weeks.	**Tribunal request on employee numbers** Industrial Court requests to an employer to confirm employee numbers must be replied to within 1 week.
Pre-existing agreement (PEA) - Failed or invalid employee request cannot be re-made within 2 years.	**Pre-existing agreement (PEA) -** Failed or invalid employee request cannot be re-made within 3 years.

Republic of Ireland	Northern Ireland
Negotiated agreements a) No time-scale specified once an employee request has been made. Once negotiations start they have 6 months to conclude an agreement. b) Employees can be appointed as representatives and approve the agreement on behalf of the workforce. c) Approval of negotiated agreement can be obtained with the majority voting in a ballot. d) Employers can under such agreements provide information to representatives or directly to the workforce. e) There are specific references made about time-scales for duration, renewal, expiry and lapse of agreements.	**Negotiated agreements** a) Employers have 1 month to dispute the validity of an employee request, after three months there is 6 months to conclude agreement. b) Negotiated agreements must be signed by all or a majority of negotiating representatives. c) Approval of negotiated agreement must be by ballot and gain 50% or more of those employees voting.
Standard rules a) Apply 3 months after valid request is made or after 6 months of negotiations and an agreement cannot be concluded. b) Information and Consultation Forum (ICF) must meet at least 2 times per year and consist of at least 3 and not more than 30 members. c) Minutes of meetings between the employer and ICF must be approved by both employer and employee representatives. d) Employers are not part of the ICF. e) Before any meeting with employer ICF entitled to meet without the employer being present. f) ICF shall inform employees of the content and outcome of meetings of the forum without prejudice to provisions covering confidential information. g) Employer must inform and consult ICF, not directly with workforce, on substantial changes in work organisation and on contractual relations including transfer of undertakings and collective redundancies.	**Standard rules** a) Apply 6 months after valid employee request has been made if an employer has refused to enter negotiates. b) Apply 6 months after negotiations have commenced and failed to reach an agreement. c) ICF will consist of at least 2 and not exceed 25 members or one per 50 employees. d) Employer free not to consult ICF about transfer of undertakings or collective redundancy matters if s/he has already commenced employee consultation under those Acts. e) Information to be given by an employer to ICF in a fashion that allows adequate study and where necessary preparation to take place. f) ICF must be able to meet appropriate level of management.
Employee representatives a) ICF representatives must be employees of a firm for at least 12 months. b) Where trade unions are recognised and represent at least 10% of workforce they have a guaranteed role to appoint/elect representative/s to ICF.	**Employee representatives** a) A merchant navy employee who is a long haul crewmember cannot be a representative without employer's consent.

Republic of Ireland	Northern Ireland
Enforcement and penalties a) Labour Inspectorate of NERA can independently seek compliance with law and bring prosecution to Courts. b) Labour Court can apply to Circuit Court to impose summary conviction fine of up to €3,000 or 6 months imprisonment on the employer for failing to attend hearings, failing to provide information or giving wilful false information. c) Circuit Courts may impose fines on indictment offences on an employer up to €30,000 or up to 3 years imprisonment d) Circuit Courts can issue daily non-compliance fines of up €500 for summary offences and €5,000 for indictment offences. e) Appeals on points of law can be made to the High Court whose determination and decision is final and conclusive.	**Enforcement and penalties** a) Laws apply to firms who have Head office or registered office in NI or if majority of employees are situated there. b) Employers who fail to comply with laws cannot have their failure construed to be an action attributable to those who control them directly or indirectly (MNCs). c) Industrial Court can apply to High Court after 3 months to issue penalty notice on an employer for failing to comply with their declaration. d) High Court can issue fines up to £75,000.
Confidential information Duty of non-disclosure of confidential information applies to:- a) I&C representatives, employee representatives, employee participant or expert providing assistance and continues after cessation of employment or office. b) Labour Court, member of Court, registrar, officer or servant of Court, persons including experts or mediators appointed by the Court.	**Confidential information** The provisions of 'Whistle blowing laws' apply to ICF representatives in the form of "protected disclosure" under *Employment Rights Act 1996 Article 67A.*
Employee contracts No such provision in the Republic.	**Employee contracts** NI employee contracts in general cannot contain clauses that prevent participation, limit or exclude one from being a representative in I&C fora or taking actions under the regulations.
Direct involvement a) Section 11 of the Act is entitled 'Direct Involvement'. b) An employee has a right to be consulted through representatives or directly. c) System of direct involvement can be changed to representative one by workforce. It requires written request to employer or Labour Court by at least 10% of workforce. Approval by majority of employees concerned in a procedure that is confidential and capable of independent scrutiny	**Direct involvement** a) No specific section in the Act is entitled 'Direct Involvement'. b) Negotiated agreement or PEA can contain clause to permit employer to provide information and consult directly with workforce.

APPENDIX B

Interview Dates

Company	Managers	Employee Reps (Stewards)	Employees (not reps)	Full-time Union Officers	Dates	Totals
RetailCo	11	6	6	2	2009 8 June 20 August 15 Sept. 16 Sept. 2010 22 March 24 March 9 June 30 Nov.	25
ManuCo	12	4	6	4	2009 11 June 19 May 20 May 7 Oct. 8 Oct. 2010 17 Feb. 18 Feb. 5 Oct. 6 Oct.	26
ServiceCo	9	6	8	5	2010 2 Sept. 8 Dec. 2011 8-10 Feb. 5 April 22-23 Sept. 14-15 Dec.	28
Totals	32	16	20	11		79

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APPENDIX C

INTERVIEW SCHEDULE FOR SEMI-STRUCTURED INTERVIEWS WITH EMPLOYEE/UNION REPRESENTATIVES

(This schedule is designed to provide the framework for a semi-structured interview. It is intended to provide a broad, flexible framework for the interviews and ensure that all key issues are addressed while allowing space to interrogate specific issues in greater depth if appropriate.)

(Where unions have a presence respondents will need to be asked the separate questions (IN ITALICS) for trade union representatives.)

A. Background:

1) What is your job title and could you give me a brief summary of your role in this company?
2) How long have you been an employee/trade union representative?
3) In what capacity do you act as an employee representative (member of I&C body, trade union rep, other)?

B. Union recognition (only where unions present):

4) *What parts of the workforce are covered by your union (and any other union recognised by the case study organisation)?*
5) *Do these represent a majority or minority of the workforce?*
6). *what is the level of union membership within workforce covered by recognition?*
7) *What structures exist for collective bargaining/union representation purposes?*

C. Structures of Information and Consultation:

I would like to now ask some questions about the structures and practices that exist in this workplace which management use to inform or consult with employees:

8) FORM: Would you say the emphasis is more on structures for informing and consulting employees directly (direct communications/employee involvement) or indirectly through their representatives? Or are direct and indirect practices given equal weight?

9) Is the emphasis more on providing information to employees, or consulting them for the purpose of gathering their opinion or agreement?

10) LEVEL: What is the main level in the organisation at which information and consultation takes place? Individual, team, division, whole site, other.

11) EXTENT: What proportion and categories of the workforce are covered by different direct and indirect I&C practices?

12) SCOPE: What types of issues are discussed by the cornrnittee(s)?

Use following list as a guideline for possible scope of issues:

- Production issues (e.g. level of production or sales, quality of product or service)
- Employment issues (e.g. avoiding redundancies, reducing labour turnover)
- Financial issues (e. g. financial performance, budgets or budgetary cuts)
- Future plans (e.g. changes in goods produced or services offered, company expansion or contraction)
- Pay issues (e.g. wage or salary reviews, bonuses, regarding, job evaluation)
- Leave and flexible working arrangements, including working time
- Welfare services and facilities (e.g. child care, rest rooms, car parking, canteens, recreation)
- Government regulations (e.g. EU Directives, Local Authority regulations)
- Work organisation (e.g. changes to working methods, allocation of work between employees, multi-skilling)
- Health and safety
- Equal opportunities
- Training
- Other

In terms of examining the specific IC structures used in more detail. …

13) Are there any committees of managers and employees representatives at this workplace, primarily concerned with consultation, such as joint consultative committees, work councils or representative fora? [Also might include operational-based committees i.e. problem solving groups; quality circles or continuous improvement groups]

14) How many such committees are there?

15) What is the name of the committee(s)?

16) Which categories of employees are covered by these committee(s)?

17) Is this committee(s) intended to exist for a fixed period of time or IS it a permanent one?

18) What sections or level of management typically participate in the committee(s)?

19) How many employee representatives sit on the committee(s)?

20) What constituency do you represent? (E.g. whole workforce, particular workgroup or site, workgroup covered by union recognition, non-unionists

21) Are elections usually held among employees to appoint employee representatives to the committee(s)?

22) If no elections, who selects employee representatives for the committee(s)?

23) Are there difficulties in filling positions for employee representatives?

24) Is there any training or instruction provided to employee representatives to help them in their role on the committee(s)?

25) What does this training or instruction cover?

26) Is this training principally in the initial 'start-up' phase or ongoing basis?

27) Are there provisions for employee representatives to have paid time off to undertake their committee responsibilities?

28) Are there any facilities provided by management i.e. office or communication facilities to assist employee representatives in conducting their role?

29) Do employee reps on the I&C body have access to external sources of support and advice (e.g. union officials)?

30) How often does the committee(s) meet?

31) Does management give employees or their representatives any information about the financial position of the establishment or company as a whole?

32) Do management share commercially sensitive information with representatives on the committee(s?)

33) Are there any rules/guidelines in terms of the provision of confidential or commercially sensitive information?

34) Are there any issues which are excluded for discussion?

35) Are the issues discussed during meetings of the committee principally raised by management or by employees?

36) Do employee representatives have to advance proposed items for the agenda to management for inspection?

37) How are the outputs of the committee(s) meetings reported back to employees- if at all?

In terms of alternative I&C structures............

38) Besides the structures referred to above, are there are any other ways in which management communicates or consults with employees at this establishment? i.e.:

- Meetings between senior management and the whole workforce;
- Briefing group meetings between line managers (or supervisors) and employees;
- Notice boards;
- Suggestion schemes;
- Emails/use of company internet to inform employees;
- Newsletters;
- Appraisals;
- Attitude surveys;
- Other?

39) If there are other IC schemes along the lines above, could you briefly describe them and the main issues they cover?

D. Management Motives

40) What would be the principal reasons influencing management to create (or not) structures for the sharing of information and consultation with employees in this company?

Could prompt and dig deeper in discussion..... In particular, how important were pivotal events/crisis; improving business performance; presence of unions; legal regulations, for underpinning managements' motives on IC…

41) Was there any demand for these types of structures from employees? Or trade unions (where present)?

E. Processes

I would now like to turn to the processes of information **and** consultation – how it actually works in practice…

42) Can you describe the processes in which information and consultation typically operate i.e? The process involved at a regular management-employee representative committee meeting?

43) Would you describe the processes of information and consultation as primarily formal or informal?

44) Can you give any examples of recent problem solving activities which these structures may have been engaged in?

45) Can you give me an example of a difficult or very significant Issue that I&C Structures have dealt with?

46) In your view, to what extent have employee reps' views on these issues been taken into account by management?

47) Can you give any examples of how the processes associated with I&C have changed/enhanced relations between IT1anagement and employees/representatives?

F. Effect/Impact

I would like to explore the impact of I&C at multiple levels_

48) Generally speaking, how influential do you think these practices have been on management's decision-making? Examples?

49) In your view, have there been any noticeable advantages or disadvantages of I&C For employees/the company?

50) How satisfied are you with the amount, type and timeliness of information and consultation you are given?

51) Are employees more willing to come up with new ideas and offer solutions to problems due to I&C? Examples?

52) Do you think such practices have had any impact on the climate of employee relations at the company? Examples?

53) *(Where there is a union presence) Do union and non-union members of the I&C body work together effectively?*

54) *(Where there is a union presence) Do you think such practices had had any impact on the nature of the company's relationship with the recognised trade union(s)? Examples?*

55) *(Where there is a union presence) do you think the establishment of the I&C body presents an opportunity to develop trade union influence within the company or a threat to the union's existing role, or neither?*

56) What do you believe are the main conditions contributing to effective I&C?

57) Are there any barriers to effective employee voice? If so, how could I&C/employee voice be improved?

G. Awareness of Regulations

58) In your estimation what is the general level of awareness among employees and managers in this company of the provisions of the Information and Consultation of Employees Regulations?

59) Generally, what do you feel has been the impact of the ICE Regulations on the way this company informs and consults employees?

60) Was a registered pre-existing agreement in place either prior/or after the ICE Regulations came into law?

61) If so, what pre-existing arrangements were in place?

62) Where voluntarist pre-existing arrangements are in place, have management faced much pressure to negotiate new ICE arrangements due to the presence of the regulations?

63) Is there any indication that employees or their representatives have been prepared to trigger the ICE regulations to request that management apply the regulations as set down in law?

64) Where the company operates 'cross border', where there any differences in the reactions to the ICE Regulations from management or employee representatives in ROI and NI?

65) Did employee representatives receive any external advice or consultation on ICE Regulations?

66) *[Where union present] did the union raise the implications of the Regulations at any time?*

67) *Has the union's head office issued advice about how to respond to any management moves to implement the Regulations? What were the key messages in this?*

68) *Do you think the Regulations present an opportunity to develop trade union influence or a threat to the unions existing role, or neither?*

69) Finally, are there any other issues which you feel are of importance in relation to this company's information and consultation practices which we have not addressed in this interview?

Close

APPENDIX D

INTERVIEW SCHEDULE FOR SEMI-STRUCTURED INTERVIEWS WITH MANAGERS

(This schedule is designed to provide the framework for a semi-structured interview. It is intended to provide a broad, flexible framework for the interviews and ensure that all key issues are addressed while allowing space to interrogate specific issues in greater depth if appropriate

CORE QUESTIONS TO BE ASKED IN EACH SECTION ARE IN BOLD TYPE

A.Background Questions:

1) **What is the company's main sector of business activity?**

2) **Is this establishment part of a larger organisation or multinational company?**

3) **If yes, what is the country of residence for your parent company or head office?**

4) **What are the typical job arrangements for employees in this company i.e. full-time working; shift attendance; job-share; temporary employees etc.**

5) **Does your company recognise a trade union/in-house staff association and, if so, for what category of employees?**

6) **What is the current market/commercial position of the company?**

7) **In terms of intensity of competition, is the market dominated by your organization, a few competitors, or are there many competitors?**

8) **Does the company primarily compete on the basis of cost, quality, or a mix of factors?**

B. Structures of Information and Consultation:

I would like to now ask some questions about the structures and practices that exist in this workplace which management use to inform or consult with employees:

9) FORM: Would you say the emphasis is more on structures for informing and consulting employees directly (direct communications/employee involvement) or

Indirectly through their representatives? Or are direct and indirect practices given equal weight?

10) Is the emphasis more on providing information to employees, or consulting them for the purpose of gathering their opinion or agreement?

11) LEVEL: What is the main level in the organisation at which information and consultation takes place? Individual, team, division, whole site, other.

12) EXTENT: What proportion and categories of the workforce are covered by different direct and indirect IC practices?

13) SCOPE: What types of issues are discussed by the committee(s)?

14) Are there any committees of managers and employees representatives at this workplace, primarily concerned with consultation, such as joint consultative committees, work councils or representative fora? [Also might include operational-based committees i.e. problem solving groups; quality circles or continuous improvement groups]

15) How many such committees are there?

16) What is the name of the committee(s)?

17) Which categories of employees are covered by these committee(s)?

18) Is this committee(s) intended to exist for a fixed period of time or is it a permanent one?

19) What sections or level of management typically participate in the committee(s)?

20) How many employee representatives sit on the committee(s)?

21) Are elections usually held among employees to appoint employee representatives to the committee(s)?

22) If no elections, who selects employee representatives for the committee(s)?

23) Are there difficulties in filling positions for employee representatives?

24) Are employees encouraged to stand?

25) Is there any training or instruction provided to employee representatives to help them in their role on the committee(s)?

26) What does this training or instruction cover?

27) Is this training principally in the initial 'start-up' phase or ongoing basis?

28) Are there provisions for employee representatives to have paid time off to undertake their committee responsibilities?

29) Are there any facilities provided by management i.e. office or communication facilities to assist employee representatives in conducting their role?

30) How often does the committee(s) meet?

31) Does management give employees or their representatives any information about the financial position of the establishment or company as a whole?

32) Do management share commercially sensitive information with representatives on the committee(s)

33) Are there any rules/guidelines in terms of the provision of confidential or commercially sensitive information?

34) Are there any issues which are excluded for discussion?

35) Are the issues discussed during meetings of the committee principally raised by management or by employees?

36) Do employee representatives have to advance proposed items for the agenda to management for inspection?

37) How are the outputs of the committee(s) meetings reported back to employees- if at all?

In terms of alternative I&C structures…………

38) **Besides the structures referred to above, are there are any other ways in which management communicate or consults with employees at this establishment?**
i.e.:

- Meetings between senior management and the whole workforce;
- Briefmg group meetings between line managers (or supervisors) and employees;
- Notice boards;
- Suggestion schemes;
- Emails/use of company internet to inform employees;
- Newsletters;
- Appraisals;
- Attitude surveys;

- Other?

39) **If** there are other IC schemes along the lines above, could you briefly describe them and the main issues they cover?

C. Management Motives **and** Expectations

40) What would be the principal reasons influencing management to create (or not) structures for the sharing of information and consultation with employees in this company?

41) Would you say these reasons are shared across all levels of management in the company?

42) Was there any demand for these types of structures from employees? Or trade unions?

43) Where there any other sources which might have shaped managements' reasons for setting up (or not setting up) these structures?

D. Processes

I would now like to turn to the processes of information **and** consultation – how it actually works in practice...

44) Can you describe the processes in which information and consultation typically operate   i.e. the process involved at a regular management-employee representative committee meeting?

45) Would you describe the processes of information **and** consultation as primarily formal or informal?

46) Can you give any examples of recent problem solving activities which these structures may have been engaged in?

47) Can you give me an example of a difficult or very significant issue that I&C structures have dealt with?

48) Can you give any examples of how the processes associated with I&C have changed/enhanced relations between management and employees/representatives?

E. Effect/Impact

I would like to explore the impact of I&C at multiple levels……..

49) Generally speaking, how influential do you think these practices have been on management's decision-making? Examples?

50) Has I&C improved the quality and robustness of mgt. decision-making or been a hindrance?

51) Are employees more willing to come up with new ideas and offer solutions to problems due to I&C? Examples?

52) Do you think such practices have had any impact on the climate of employee relations at the company? Examples?

53) (Where unions are present) Do you think such practices had had any impact on the nature of the company's relationship with the recognised trade union(s)? Examples?

54) What do you believe are the main conditions contributing to effective I&C?

55) Are there any barriers to effective employee voice? **If** so, how could I&C/employee voice be improved?

F. Awareness of Regulations

56) Is management in this company aware of the provisions of the EU and national Information and Consultation of Employees Regulations?

57) How did management become aware of the regulations?

58) What issues in the regulations where the key aspects for management in this company?

59) Did management have a registered pre-existing agreement?

60) If so, what pre-existing arrangements were in place?

61) Where voluntarist pre-existing arrangements are in place, have management faced much pressure to negotiate new ICE arrangements due to the presence of the regulations?

62) If so, what type of actions were management prompted to take?

63) Is there any indication that employees or their representatives have been prepared to trigger the ICE regulations to request that management apply the regulations as set down in law?

64) [If union recognised] Did the union raise the implications of the Regulations at any time?

65) Where the company operates 'cross border', where there any differences in the reactions to the ICE Regulations from management or employee representatives in ROI and NI?

66) What do you feel has been the perceived impact of the ICE Regulations on the way this business informs and consults employees?

67) Finally, are there any other issues which you feel are of importance in relation to this company's information and consultation practices which we have not addressed in this interview?

Close

APPENDIX E

Employee Questionnaire

NUI Galway
OÉ Gaillimh

INSERT

COMPANY

LOGO

HERE

The aim of this questionnaire is to obtain your views about how management inform and consult with employees

THE QUESTIONNAIRE IS COMPLETELY CONFIDENTIAL.

NO ONE FROM YOUR COMPANY WILL SEE ANY INDIVIDUAL ANSWERS

Please return to: Eugene Hickland, CISC, NUI Galway

GUIDANCE NOTES ON COMPLETING THE QUESTIONNAIRE

<u>Aims and Objectives</u>

This questionnaire is part of a research project being conducted by Mr. Eugene Hickland, Postgraduate Student of the Management Discipline, National University of Ireland, Galway (NUIG). The research is interested in your views about the way management communicates and consults with employees.

Time to complete

It should take you about 15 minutes to complete the questionnaire, depending on the 'additional comments' you want to make at the end.

Confidentially

All responses are completely confidential. No individual person will be identified from the questionnaire, and names should <u>NOT</u> be included.

Instructions

You should read each question carefully and, where appropriate, circle or tick the response that is 'closest' to your own view.

Watch out for statements that are given in a 'reverse' order. You should expect to agree and disagree to the statements contained in this survey.

Action when complete

When you have completed the survey, place the questionnaire in the envelope provided and return as soon as possible. You do not need a stamp.

SECTION 1: Background Information

This information will <u>not</u> be used to identify individuals, but will help analyse the data as a whole.

1. Are you:						
Male		**Female**				

2. Can you please indicate your age group?							
Under 20		**21 – 24**		**25 - 29**		**30 - 34**	
35 - 39		**40 – 44**		**45 - 49**		**50 - 54**	
Over 55							

3. How long have you worked here?							
Under 2 years		**2 - 5 years**		**6 - 10 years**		**11-15 years**	
16 - 20 years		**Over 20 years**					

4. How would you describe your occupation?							
Manager/ Supervisor		**Technical**		**Production**		**Clerical/ Admin.**	
Sales/Service		**Expert**		**Semi-Skilled**			
Other. Please specify							

5. Would you describe your job as?							
Part-time		**Full-time**		**Permanent**		**Temporary**	
Other. Please specify							

6. Are you a member of a trade union?

Yes		No	

7. If yes, which one?

SECTION 2 – Information and Consultation

This section is interested in your views about the type and extent of management communications. Please circle the number that bests reflects your opinion to the questions below.

		Always	Often	Rarely	Very Rarely	Never
8	Are your views about changes to your work valued by management?	1	2	3	4	5
9	Do management act upon your views?	1	2	3	4	5
10	Does your union (or other employee) representatives inform you about changes agreed on your behalf with management?	1	2	3	4	5
11	Does management inform you about changes agreed with your trade union (or other employee representative)?	1	2	3	4	5

12	How often are you asked by management for your views on the following:	Always	Often	Rarely	Very Rarely	Never
	Future plans for the company	1	2	3	4	5
	Staffing issues, including redundancy	1	2	3	4	5
	Staff numbers	1	2	3	4	5
	Changes to work practices	1	2	3	4	5

	Always	Often	Rarely	Very Rarely	Never
Health and Safety issues	1	2	3	4	5
Pay issues	1	2	3	4	5

13 Do management use any of the following methods to inform you	Always	Often	Rarely	Very Rarely	Never
Works Committee	1	2	3	4	5
European Works Council	1	2	3	4	5
Trade Union	1	2	3	4	5
Team Briefings	1	2	3	4	5
Quality Circle	1	2	3	4	5
Attitude Survey	1	2	3	4	5
Suggestion Scheme	1	2	3	4	5
Workforce Meetings	1	2	3	4	5
Notice Board	1	2	3	4	5
Newsletter	1	2	3	4	5
Email	1	2	3	4	5

14	If used in your company, how effective are any or all of these methods for informing employees?	Very Effective	Effective	Neither Effective nor Ineffective	Ineffective	Very Ineffective
	Works Committee	1	2	3	4	5
	European Works Council	1	2	3	4	5
	Union	1	2	3	4	5
	Team Briefings	1	2	3	4	5
	Quality Circle	1	2	3	4	5
	Attitude Survey	1	2	3	4	5
	Suggestion Scheme	1	2	3	4	5
	Workforce Meetings	1	2	3	4	5
	Notice Board	1	2	3	4	5
	Newsletter	1	2	3	4	5
	Email	1	2	3	4	5

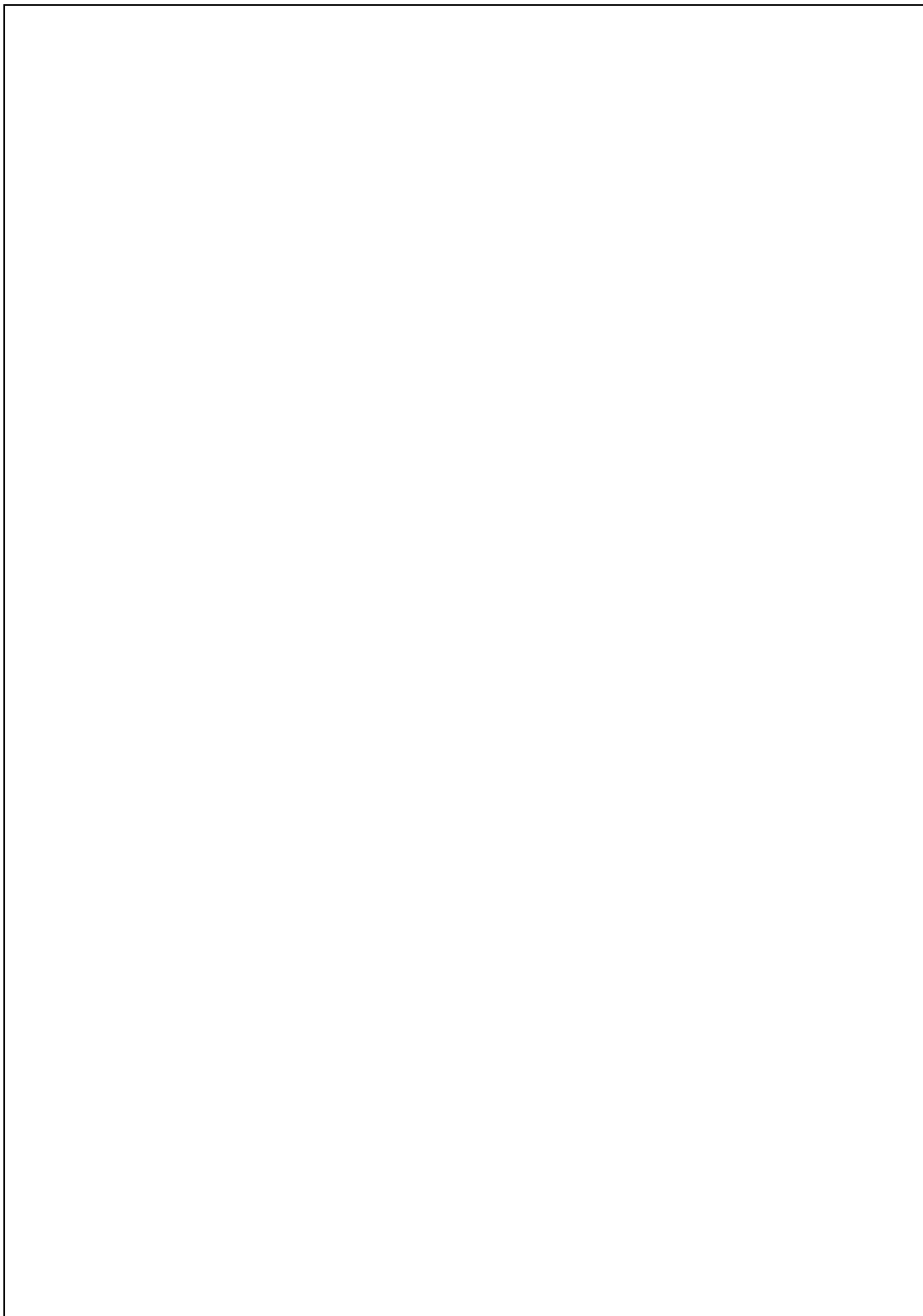| 15	In general, how much influence do you have about the following?	A Lot	Some	Not Sure	A Little	None
	The range of tasks you perform	1	2	3	4	5
	The pace at which you work	1	2	3	4	5
	How you do your work	1	2	3	4	5
	Changes to the way you work	1	2	3	4	5

SECTION 3: Impact and Performance

This section is interested in the impact on your job and whether you feel committed or not as a result of management communications asked in the previous section. Please circle the number that bests reflects your opinion to the questions below.

		Strongly Agree	Agree	Neutral	Disagree	Strongly Disagree
16	I am more committed to my company because I regularly receive information from management	1	2	3	4	5
17	Because my views are asked and considered by management instils a greater sense of pride and loyalty to my company	1	2	3	4	5
18	I am willing to put myself out to help the company	1	2	3	4	5
19	Generally, employees in this company make a special effort to work hard and do a good job	1	2	3	4	5
20	I am very satisfied with the way I am managed and managements' level of communication	1	2	3	4	5
21	I do not get a great sense of achievement from my work	1	2	3	4	5
22	I have sufficient scope to use my own initiative in terms of my job	1	2	3	4	5

SECTION 4: Additional Comments

This is the final part of the questionnaire, and gives you the opportunity to make additional comments. Please feel free to add any additional comments about employee information and consultation in your company. All comments are strictly confidential.
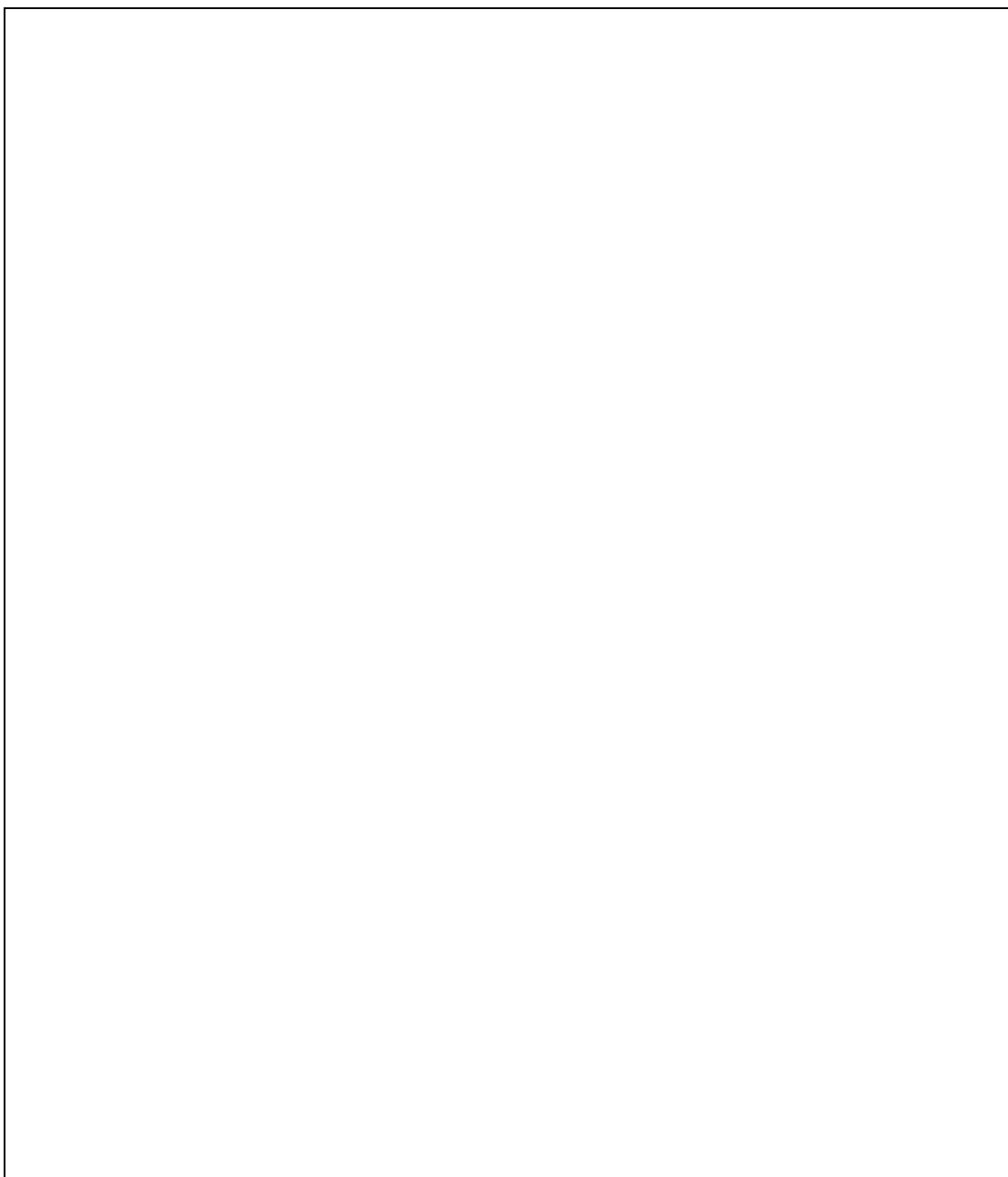
Thank you for your time and co-operation

Letter of Introduction

Management Discipline

Cairnes Building

National University of Ireland Galway,

University Roa

Galway

Tel. No. +(353) 091-493771

Re: Research project on EU Employee Information and Consultation Directive

Dear Sir/Madam,

Thank you for taking my telephone the last day. I want to outline the purpose of my research and to formally request the participation of your company. Firstly, I am a PhD candidate based in NUI Galway at the Management Discipline and the Centre for Innovation and Structural Change (CISC). I am conducting a study into the impact of employee Information and Consultation (I&C) regulations in enterprises on the island of Ireland. My research is supported with funds from the Irish Research Council for Humanities and Social Sciences (IRCHSS).

The aim my research is to gain knowledge with regard to organisational innovation, employment regulation and economic competitiveness. The research is seeking to understand how EU legislation has been implemented at enterprise level and is concerned with the enactment of EU Directive (2002/14/EC) on the provision of employee information and consultation arrangements in your company.

I am seeking firms from different sectors of the economy to take part in the project and be the subject of case study research. All research will be carried out within a strict code of conduct that will guarantee absolute confidentiality to individual enterprises. The purpose of the research is to inform academic and potential public policy in this field.

The research is concerned with understanding the key features and the practical operation of any I&C arrangements in enterprises. Some of the research questions to be explored are: -

- Are there formal or informal mechanisms of I&C?
- What is the enterprise's approach to I&C?
- What are the range and scope of items covered in I&C mechanisms?
- What impact has I&C legislation had on management decision-making and on their communications systems?
- Have I&C systems contributed to either innovation or strategic thinking?

As part of the research investigation I am interested in conducting a number of interviews with management representatives responsible for co-ordinating I&C practices, as well as with other managers (business and operations) and employees whether involved in I&C process or not.

My research supervisor is Dr. Tony Dundon of the Management Discipline and Centre for Innovation and Structural Change based in the School of Business and Economics at NUI Galway.

I trust that this brief outline provides sufficient information with regards to my research project and to support my request for your company to be a participant in it. I believe that it would be valuable for us to meet, at a time and a place of your convenience, to discuss this matter further when I can outline the practical requirements of conducting the research.

I can be contacted at the e-mail and mobile number given below or through the Management Discipline office number given at the top of the letter.

Again, thank you for taking my call and hope to speak to you in the near future.

Yours sincerely,

Eugene Hickland BA (Hons), MA

PhD Candidate E-mail: e.hickland1@nuigalway.ie Tel -+ (353) (0) 879218622

APPENDIX G

DIRECTIVE 2002/14/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 March 2002

Establishing a general framework for informing and consulting employees in the European Community

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 137(2) thereof,

Having regard to the proposal from the Commission (¹),

Having regard to the opinion of the Economic and Social Committee (²),

Having regard to the opinion of the Committee of the Regions (³),

Acting in accordance with the procedure referred to in Article 251 (⁴), and in the light of the joint text approved by the Conciliation Committee on 23 January 2002,

Whereas:

(1) Pursuant to Article 136 of the Treaty, a particular objec- tive of the Community and the Member States is to promote social dialogue between management and labour.

(2) Point 17 of the Community Charter of Fundamental Social Rights of Workers provides, *inter alia*, that infor- mation, consultation and participation for workers must be developed along appropriate lines, taking account of the practices in force in different Member States.

(3) The Commission consulted management and labour at Community level on the possible direction of Community action on the information and consultation of employees in undertakings within the Community.

(4) Following this consultation, the Commission considered that Community action was advisable and again consulted management and labour on the contents of the planned proposal; management and labour have presented their opinions to the Commission.

(5) Having completed this second stage of consultation, management and labour have not informed the Commission of their wish to initiate the process poten- tially leading to the conclusion of an agreement.

(6) The existence of legal frameworks at national and Community level intended to ensure that employees are involved in the affairs of the undertaking employing them and in decisions which affect them has not always prevented serious decisions affecting employees from being taken and made public without adequate proced- ures having been implemented beforehand to inform and consult them.

(7) There is a need to strengthen dialogue and promote mutual trust within undertakings in order to improve risk anticipation, make work organisation more flexible and facilitate employee access to training within the undertaking while maintaining security, make employees aware of adaptation needs, increase employees' avail- ability to undertake measures and activities to increase their employability, promote employee involvement in the operation and future of the undertaking and increase its competitiveness.

(8) There is a need, in particular, to promote and enhance information and consultation on the situation and likely development of employment within the undertaking and, where the employer's evaluation suggests that employment within the undertaking may be under threat, the possible anticipatory measures envisaged, in particular in terms of employee training and skill devel- opment, with a view to offsetting the negative develop- ments or their consequences and increasing the employ- ability and adaptability of the employees likely to be affected.

(9) Timely information and consultation is a prerequisite for the success of the restructuring and adaptation of under- takings to the new conditions created by globalisation of the economy, particularly through the development of new forms of organisation of work.

(10) The Community has drawn up and implemented an employment strategy based on the concepts of 'anticipa- tion', 'prevention' and 'employability', which are to be incorporated as key elements into all public policies likely to benefit employment, including the policies of individual undertakings, by strengthening the social dialogue with a view to promoting change compatible with preserving the priority objective of employment

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(¹) OJ C 2, 5.1.1999, p. 3.
(²) OJ C 258, 10.9.1999, p. 24.
(³) OJ C 144, 16.5.2001, p. 58.
(⁴) Opinion of the European Parliament of 14 April 1999 (OJ C 219, 30.7.1999, p. 223), confirmed on 16 September 1999 (OJ C 54, 25.2.2000, p. 55), Council Common Position of 27 July 2001 (OJ C 307, 31.10.2001, p. 16) and Decision of the European Parlia- ment of 23 October 2001 (not yet published in the Official Journal). Decision of the European Parliament of 5 February 2002 and Decision of the Council of 18 February 2002.

(11)   Further development of the internal market must be properly balanced, maintaining the essential values on which our societies are based and ensuring that all citi- zens benefit from economic development.

(12)   Entry into the third stage of economic and monetary union has extended and accelerated the competitive pressures at European level. This means that more supportive measures are needed at national level.

(13)   The existing legal frameworks for employee information and consultation at Community and national level tend to adopt an excessively a posteriori approach to the process of change, neglect the economic aspects of deci- sions taken and do not contribute either to genuine anticipation of employment developments within the undertaking or to risk prevention.

(14)   All of these political, economic, social and legal develop- ments call for changes to the existing legal framework providing for the legal and practical instruments enabling the right to be informed and consulted to be exercised.

(15)   This Directive is without prejudice to national systems regarding the exercise of this right in practice where those entitled to exercise it are required to indicate their wishes collectively.

(16)   This Directive is without prejudice to those systems which provide for the direct involvement of employees, as long as they are always free to exercise the right to be informed and consulted through their representatives.

(17)   Since the objectives of the proposed action, as outlined above, cannot be adequately achieved by the Member States, in that the object is to establish a framework for employee information and consultation appropriate for the new European context described above, and can therefore, in view of the scale and impact of the proposed action, be better achieved at Community level, the Community may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportion- ality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve these objectives.

(18)   The purpose of this general framework is to establish minimum requirements applicable throughout the Community while not   preventing Member States from laying down provisions more favourable to employees.

(19)   The purpose of this general framework is also to avoid any administrative, financial or legal constraints which would hinder the creation and development of small and medium-sized undertakings. To this end, the scope of

this Directive should be restricted, according to the choice made by Member States, to undertakings with at least 50 employees or establishments employing at least 20 mployees.

(20)   This takes into account and is without prejudice to other national measures and practices aimed at fostering social dialogue within companies not covered by this Directive and within public administrations.

(21)   However, on a transitional basis, Member States in which there is no established statutory system of infor- mation and consultation of employees or employee representation should have the possibility of further restricting the scope of the Directive as regards the numbers of employees.

(22)   A Community framework for informing and consulting employees should keep to a minimum the burden on undertakings or establishments while ensuring the effec- tive exercise of the rights granted.

(23)   The objective of this Directive is to be achieved through the establishment of a general framework comprising the principles, definitions and arrangements for informa- tion and consultation, which it will be for the Member States to comply with and adapt to their own national situation, ensuring, where appropriate, that management and   labour have a leading role by allowing them to define freely, by agreement, the arrangements for informing and consulting employees which they consider to be best suited to their needs and wishes.

(24)   Care should be taken to avoid affecting some specific rules in the field of employee information and consulta- tion existing in some national laws, addressed to under- takings or establishments which pursue political, profes- sional, organisational, religious, charitable, educational, scientific or artistic aims, as well as aims involving infor- mation and the expression of opinions.

(25)   Undertakings and establishments should be protected against disclosure of certain particularly sensitive infor- mation.

(26)   The employer should be allowed not to inform and consult where this would seriously damage the under- taking or the establishment or where he has to comply immediately with an order issued to him by a regulatory or supervisory body.

(27)   Information and consultation imply   both   rights   and obligations for management and labour at undertaking or establishment level.

(28) Administrative or judicial procedures, as well as sanc- tions that are effective, dissuasive and proportionate in relation to the seriousness of the offence, should be applicable in cases of infringement of the obligations based on this Directive.

(29) This Directive should not affect the provisions, where these are more specific, of Council Directive 98/59/EC of 20 July 1998 on the approximation of the laws of the Member States relating to collective redundancies (¹) and of Council Directive 2001/23/EC of 12 March 2001 on the approximation of the laws of the Member States relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses (²).

(30) Other rights of information and consultation, including those arising from Council Directive 94/45/EEC of 22 September 1994 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertak- ings for the purposes of informing and consulting employees (³), should not be affected by this Directive.

(31) Implementation of this Directive should not be sufficient grounds for a reduction in the general level of protection of workers in the areas to which it applies,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Object and principles

1. The purpose of this Directive is to establish a general framework setting out minimum requirements for the right to information and consultation of employees in undertakings or establishments within the Community.

2. The practical arrangements for information and consulta- tion shall be defined and implemented in accordance with national law and industrial relations practices in individual Member States in such a way as to ensure their effectiveness.

3. When defining or implementing practical arrangements for information and consultation, the employer and the employees' representatives shall work in a spirit of cooperation and with due regard for their reciprocal rights and obligations, taking into account the interests both of the undertaking or establishment and of the employees.

(¹) OJ L 225, 12.8.1998, p. 16.
(²) OJ L 82, 22.3.2001, p. 16.
(³) OJ L 254, 30.9.1994, p. 64. Directive as amended by Directive 97/ 74/EC (OJ L 10, 16.1.1998, p. 22).

Article 2

Definitions

For the purposes of this Directive:

(a) 'undertaking' means a public or private undertaking carrying out an economic activity, whether or not oper- ating for gain, which is located within the territory of the Member States;

(b) 'establishment' means a unit of business defined in accord- ance with national law and practice, and located within the territory of a Member State, where an economic activity is carried out on an ongoing basis with human and material resources;

(c) 'employer' means the natural or legal person party to employment contracts or employment relationships with employees, in accordance with national law and practice;

(d) 'employee' means any person who, in the Member State concerned, is protected as an employee under national employment law and in accordance with national practice;

(e) 'employees' representatives' means the employees' represen- tatives provided for by national laws and/or practices;

(f) 'information' means transmission by the employer to the employees' representatives of data in order to enable them to acquaint themselves with the subject matter and to examine it;

(g) 'consultation' means the exchange of views and establish- ment of dialogue between the employees' representatives and the employer.

Article 3

Scope

1. This Directive shall apply, according to the choice made by Member States, to:

(a) undertakings employing at least 50 employees in any one Member State, or

(b) establishments employing at least 20 employees in any one Member State.

Member States shall determine the method for calculating the thresholds of employees employed.

2. In conformity with the principles and objectives of this Directive, Member States may lay down particular provisions applicable to undertakings or establishments which pursue directly and essentially political, professional organisational, religious, charitable, educational, scientific or artistic aims, as well as aims involving information and the expression of opin- ions, on condition that, at the date of entry into force of this Directive, provisions of that nature already exist in national legislation.

3. Member States may derogate from this Directive through particular provisions applicable to the crews of vessels plying the high seas.

Article 4

Practical arrangements for information and consultation

1.   In accordance with the principles set out in Article 1 and without prejudice to any provisions and/or practices in force more favourable to employees, the Member States shall determine the practical arrangements for exercising the right to information and consultation at the appropriate level in accordance with this Article.

2.   Information and consultation shall cover:

(a) information n the recent and probable development of the undertaking's or the establishment's activities and economic situation;

(b) information and consultation on the situation, structure and probable development of employment within the undertaking or establishment and on any anticipatory measures envisaged, in particular where there is a threat to employment;

(c) information and consultation on decisions likely to lead to substantial changes in work organisation or in contractual relations, including those covered by the Community provi- sions referred to in Article 9(1).

3.   Information shall be given at such time, in such fashion and with such content as are appropriate to enable, in particular, employees' representatives to conduct an adequate study and, where necessary, prepare for consultation.

4.   Consultation shall take place:

(a) while ensuring that the timing, method and content thereof are appropriate;

(b) at the relevant level of management and representation, depending on the subject under discussion;

(c) on the basis of information supplied by the employer in accordance with Article 2(f) and of the opinion which the employees' representatives are entitled to formulate;

(d) in such a way as to enable employees' representatives to meet the employer and obtain a response, and the reasons for that response, to any opinion they might formulate;

(e) with a view to reaching an agreement on decisions within the scope of the employer's powers referred to in para- graph 2(c).

Article 5

Information and consultation deriving from an agreement

Member States may entrust management and labour at the appropriate level, including at undertaking or establishment level, with defining freely and at any time through negotiated agreement the practical arrangements for informing and consulting employees. These agreements, and agreements existing on the date laid down in Article 11, as well as any

subsequent renewals of such agreements, may establish, while respecting the principles set out in Article 1 and subject to conditions and limitations laid down by the Member States, provisions which are different from those referred to in Article 4.

Article 6

Confidential information

1.   Member States shall provide that, within the conditions and limits laid down by national legislation, the employees' representatives, and any experts who assist them, are not authorised to reveal to employees or to third parties, any information which, in the legitimate interest of the undertaking or establishment, has expressly been provided to them in confidence. This obligation shall continue to apply, wherever the said representatives or experts are, even after expiry of their terms of office. However, a Member State may authorise the employees' representatives and anyone assisting them to pass on confidential information to employees and to third parties bound by an obligation of confidentiality.

2.   Member States shall provide, in specific cases and within the conditions and limits laid down by national legislation, that the employer is not obliged to communicate information or undertake consultation when the nature of that information or consultation is such that, according to objective criteria, it would seriously harm the functioning of the undertaking or establishment or would be prejudicial to it.

3.   Without prejudice to existing national procedures, Member States shall provide for administrative or judicial review procedures for the case where the employer requires confidentiality or does not provide the information in accordance with paragraphs 1 and 2. They may also provide for procedures intended to safeguard the confidentiality of the information in question.

Article 7

Protection of employees' representatives

Member States shall ensure that employees' representatives, when carrying out their functions, enjoy adequate protection and guarantees to enable them to perform properly the duties which have been assigned to them.

Article 8

Protection of rights

1.   Member States shall provide for appropriate measures in the event of non-compliance with this Directive by the employer or the employees' representatives. In particular, they shall ensure that adequate administrative or judicial procedures are available to enable the obligations deriving from this Directive to be enforced.

2.   Member States shall provide for adequate sanctions to be applicable in the event of infringement of this Directive by the employer or the employees' representatives. These sanctions must be effective, proportionate and dissuasive.

Article 9

Link between this Directive and other Community and national provisions

1.   This Directive shall be without prejudice to the specific information and consultation procedures set out in Article 2 of Directive 98/59/EC and Article 7 of Directive 2001/23/EC.

2.   This Directive shall be without prejudice to provisions adopted in accordance with Directives 94/45/EC and 97/74/EC.

3.   This Directive shall be without prejudice to other rights to information, consultation and participation under national law.

4.   Implementation of this Directive shall not be sufficient grounds for any regression in relation to the situation which already prevails in each Member State and in relation to the general level of protection of workers in the areas to which it applies.

Article 10

Transitional provisions

Notwithstanding Article 3, a Member State in which there is, at the date of entry into force of this Directive, no general, permanent and statutory system of information and consultation of employees, nor a general, permanent and statutory system of employee representation at the workplace allowing employees to be represented for that purpose, may limit the application of the national provisions implementing this Directive to:

(a) undertakings employing at least 150 employees or establishments employing at least 100 employees until 23 March 2007, and

(b) undertakings employing at least 100 employees or establishments employing at least 50 employees during the year following the date in point (a).

Article 11

Transposition

1.   Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive not later than 23 March 2005 or shall ensure that management and labour introduce by that date the required provisions by way of agreement, the Member States being obliged to take all necessary steps enabling them to guarantee the results imposed by this Directive at all times. They shall forthwith inform the Commission thereof.

2.   Where Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by the Member States.

Article 12

Review by the Commission

Not later than 23 March 2007, the Commission shall, in consultation with the Member States and the social partners at Community level, review the application of this Directive with a view to proposing any necessary amendments.

Article 13

Entry into force

This Directive shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

Article 14

Addresses

This Directive is addressed to the Member States.

Done at Brussels, 11 March 2002.

For the European Parliament   For The European Council

The President   The President
    P. COX   J. PIQUÉ I CA