

**LOBBYING ON ACCOUNTING STANDARD SETTING
IN THE PARLIAMENTARY ENVIRONMENT OF GERMANY**

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Abstract

This paper employs an expertise framework to analyze the case of lobbying on the modernization of German GAAP between 2007 and 2009. The parliamentary context of accounting standard setting in Germany provides a unique opportunity for an examination of lobbyists' and the parliamentarians' use of rhetoric and arguments in presence of an expertise gap between both parties. Lobbyists follow rhetoric strategies of providing expertise in form of conceptual arguments when agreeing, using a self-referential rhetoric when opposing and a mixed approach of using both arguments when not having an unambiguous opinion. The paper concludes that lobbyists' rhetoric differs from previous findings for private standard setting context and that the transfer of knowledge effectively informs parliamentarians by exploiting the gap in expertise.

1 Introduction

It is argued that accounting standard setting processes work similarly in privately and publicly organized systems because both are political processes (Botzem and Quack, 2006; Königsgruber, 2010) in which heterogeneous interests deploy power struggles to exercise influence on regulatory outcomes. However, as soon as parliaments get involved, one considerable difference occurs. While private accounting standard setting bodies like the British Accounting Standards Board (ASB), the US American Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB) employ technically experienced people, often being former accountants or having similar qualifications, members of parliament may typically be considered lay people with regard to accounting knowledge. This results in a mismatch of expertise between actors in a parliamentary and a privately organized standard setting process. Applying Collins and Evans' (2007) framework of expertise, parliamentarians are expected to hardly be able to acquire specialist tacit knowledge in accounting, because the semantic specifics of accounting language (Devine, 1985) presuppose learning through application. However, only specialist knowledge would allow parliamentarians to debate with technical experts or expert interest groups, like preparers of financial statement, auditors or accountants who all possess accounting knowledge in form of contributory, i.e. the highest level of, expertise.

It follows that, in a privately organized standard setting system, interest groups and the standard setting body share similar expertise while in public systems involving a parliament as the standard setter will per se have less expertise than the interest groups. This inequality of expertise explains why parliaments as non-expert standard setting bodies are in need of external knowledge when working on highly technical matters like accounting (Botzem, 2012). The required expertise may be provided by interest groups which enables lobbying activities (Königsgruber, 2012). In this context we expect interest groups to anticipate the difference in expertise and consequently behave differently in parliamentary organized standard setting environments compared to private systems. This should be particularly true for the interest groups' rhetoric and arguments, since rhetoric is an important tool for lobbying on accounting standards (Young, 1995).

Lobbying research in accounting is often based on Sutton's (1984) idea that certain constituent groups play a vital role in the formation and change of accounting regulation. For privately organized systems of accounting standard setting like in the USA, UK and Australia or for the IASB previous studies mainly examine the participation of constituent groups¹, their success² or lobbying behavior³. Only few studies investigate lobbying on accounting standard setting in publicly organized systems that involve parliamentary structures and produce formal laws. Examples are Federmann (1980), McLeay, Ordelheide and Young (2000) and Ordelheide (1998) who examine the transformation of the Fourth European Community Directive into German legislation and the involvement of certain interest groups. McLeay and Merkl (2004) analyze the amendment of accounting law in Austria preceding the country's

¹ Notable studies assessing the participation of interest groups are, for example, Brasher and Lowery (2006), Deakin (1989), Georgiou (2005), Kelly (1985), Ndubizu, Choi and Jain (1993), Perry and Nölke (2005), Tandy and Wilburn (1992), Tandy and Wilburn (1996) and van Lent (1997).

² Research on lobbying success in a private standard setting context is often using case study research as, for example, provided in Klumpes (1994) and van Lent (1997).

³ See for example Jupe (2000), MacArthur (1999), Sims and Cullis (1995), Tandy and Wilburn (1992) and Tandy and Wilburn (1996).

accession to the European Union. Zeff and Johansson (1984) present a case of changes in accounting regulation through parliament to the benefit of one particular Swedish company.

The paper intends to contribute to this stream of research on parliamentary accounting standard setting and analyze the rhetoric of interest groups in context of the modernization of German GAAP. Applying a category-based content analysis we analyze statements of lobbyists and parliamentarians in order to assess their rhetoric with regards to the arguments used and the success of specific suggestions. We follow Jupe's (2000) analytical framework who classifies the rhetoric of arguments as self-referential, conceptual and a use of both arguments. This approach differs from other rhetorical analyses of standard setting processes (Young, 2003; Masocha and Weetman, 2007) that assess rhetoric in terms of persuasion and silencing. Based on the asymmetric distribution of expertise between the parties involved in a parliamentary standard setting procedure we expect interest groups to inform members of parliament by means of issuing public statements.

The case of the modernization of German GAAP, which took place between 2007 and 2009, is a unique opportunity to observe rhetorical lobbying efforts in a purely parliamentary setting since German national accounting standards are codified in law which is made exclusively by parliament. As a reference for contrasting the results with a privately organized standard setting body we refer to Jupe (2000) who analyzes lobbying rhetoric around the ASB's Financial Reporting Standard No. 1 in the UK. Although both cases refer to one particular country, findings are not necessarily restricted to the respective national level because the ASB's standard setting process is comparable to the IASB and most Anglo-American accounting standard setters whereas the German standard setting system shows similarities to other code law countries in continental Europe. Within the latter jurisdictions accounting standard setting always needs at least some degree of parliamentary involvement as the essential legitimating instance. When comparing different accounting standard setting systems in European code law countries⁴ one finds Germany to have the highest degree of parliamentary involvement. The German case is particularly relevant as the gap in technical accounting expertise between the standard setter and interest groups can be assumed to be particularly large if no expert body is formally involved in the standard setting process.

Overall, we provide an explorative study on the rhetoric of arguments employed by lobbyists and the standard setter within the parliamentary accounting standard setting system of Germany. While we do not aim to discriminate for certain interest groups or their methods of taking influence and the related absolute success, we examine their general rhetoric and the success of rhetoric strategies in light of differences in expertise vis-à-vis the standard setter represented by parliamentarians. We thus contribute to the understanding of the importance of differences in expertise between constituents and regulators in the regulatory space. Moreover, we add to the scarce literature on accounting lobbying in public structures and provide insights into relevant differences to privately organized standard setting contexts.

The remaining paper is structured as follows. Section 2 provides a brief overview of the latest reform of German GAAP, explains the underlying standard setting process and refers to the importance of expertise in this context. Section 3 then presents the research design and methodology that was used, while the results of the study are presented and discussed in section 4. Chapter 5 concludes the findings.

⁴ Previts, Walton and Wolnizer (2010) provide a comprehensive review of the European history in accounting regulation. The individual chapters provide insights into the involvement of expertise bodies in accounting standard setting for the most important jurisdictions in Europe.

In Germany, accounting regulation is mainly codified in part three of the *Handelsgesetzbuch* (HGB, German Commercial Code) which is a formal law. Major changes are only seldomly undertaken and if so mostly relate to the transformation of European regulation. The 2007-2009 reform of German GAAP (referred to as ‘modernization’) has not been mainly driven by European pressures but stems from a need for “a modern accounting basis [...] which [...] may serve as a permanent, less expensive and easier to use but fully adequate alternative to international accounting standards” (Motivation for the Accounting Modernization Law, Bundestag Printed Matter No. 16/10067: 1).

As a formal law the reform act needs to run through the formal legislative procedure⁵ which encompasses usually two or three parliamentary readings in the *Bundestag* (Lower House of the German Parliament) and one committee statement of the *Bundesrat* (German Federal Council, Upper House of German Parliament) as well as, and according to demand, hearings in the ministry or parliamentary committees. The formal law making procedure concludes with the Federal President’s signature of the law and publication in the law gazette. As soon as the laws are effective, they are subject to further development through academic and practitioners’ commentaries as well as judicature (Schwenzer, 2006) but without changing the legal text of the law. The ongoing change in the interpretation of law enables constituents to lobby regulatory proposals during the formal standard setting procedure and beyond. The German setting of accounting regulation is thus prone to a continuous exertion of influence.

In November 2007 the German Ministry of Justice, being responsible for commercial law, published a ministry draft law for the modernization of HGB to initiate the debate with public experts. In the following months many academic articles were published in German practitioner accounting journals and associations sent statements to the ministry which are not published by the ministry though. An association’s statement becomes accessible only if the association decided to publish its statement electronically or in a journal. In January 2008, the ministry invited selected industry and audit associations for a private hearing behind closed doors to further explain their statements concerning the draft law.

Taking all statements into account, the German government issued a government draft law in May 2008. The German parliament was not formally involved in the standard setting process until July 2008 when the *Bundesrat* passed its committee statement on the government draft law suggesting further amendments. In September 2008 the government draft law was introduced to the *Bundestag* for a first parliamentary reading. However, the parliament decided to not discuss the government draft law orally and put the parliamentarians’ speeches on record which makes them publicly available in the *Bundestag*’s plenary protocols. The draft law was then passed on to the legal committee of the *Bundestag* for further deliberation and a public hearing was held with experts in December 2008. Following further parliament committee work on details of the law, the second and third parliamentary reading took place in March 2009 and concluded with the passage of the Accounting Modernization Law which eventually came into effect in May 2009.

We argue that associations strive for informing parliamentarians. As politicians, presumably due to their lack in accounting expertise, are the bottleneck with regard to the topics raised during the standard setting process, we limit our study on those issues the parliamentarians took up. Zülch and Hoffmann (2008) identify nine topics that were of special importance

⁵ One notable exception is the development of additional guidance and recommendations for group accounting issues, for which responsibility lies with the Deutsches Rechnungslegungs Standards Committee (DRSC – German Accounting Standards Board), a privately organized body founded in 1998 that has no authoritative power per se but suggests specific standards to the Ministry of Justice that eventually issues directives based on the DRSC’s recommendations.

during the parliamentary debates and thus are relevant for our study. The issues are briefly discussed in the following.

Relationship between the HGB and the International Financial Reporting Standards (IFRS): An obligation to report according to IFRS exists for group accounts of companies with listed equity or debt instruments in Germany since 2005. However, more than 99 percent of German companies are private and do not issue IFRS financial statements. Given the ongoing globalization, the debate focused on the extent to which regulations similar or equivalent to IFRS should be adopted in Germany and whether or not IFRS may also be used for individual financial statements. While the ministry draft law favored strong adherence to IFRS and promulgated to allow IFRS financial statements also for individual accounts, the final regulation was only a slight move towards IFRS and did not allow IFRS for the preparation of single accounts.

Implementation of certain exemptions from the legal obligation to keep records and prepare financial statements: The ministry draft law envisioned to exempt small companies, i.e. small sole proprietors as well as business partnerships, from the legal obligation to keep records and prepare financial statements. The government draft as well as the final law restricted this possibility to small sole proprietors only.

Implementation of an economic attribution of assets: Assets are recognized by the company that legally and economically owns them. The ministry draft law conveyed the impression that only the company that economically owns the asset shall recognize it. Accordingly, the government draft and the final law clarified that nothing should change compared to status quo.

Fair-Value accounting for financial instruments held for trading: According to both draft laws, financial instruments held for trading were to be measured at fair value. The regulation was intended to be mandatory for all companies that are obliged to keep books. Eventually this rule was implemented for financial institutions only.

Valuation of provisions for pensions: In the course of the modernization, provisions for pension were to be measured including the expected increases in salaries and the potential career development of the pension recipient. Furthermore, a new regulation concerning the discount rate was intended. Both aspects lead to a deviation from German taxation law and required a separate measurement independent from the provision's tax base, thus implementing accounting procedures which German companies were not used to. The proposals were largely implemented as suggested.

Recognition of internally generated intangible assets: A further change envisioned the recognition of internally generated intangible assets (excluding internally generated brands, master heads, publishing titles, customer lists and similar internally generated items). There was no substantial deviation between the suggestions in the ministry and government draft law. The final law, however, did not require recognition but implemented an explicit option.

Authoritativeness (Maßgeblichkeit) and reverse authoritativeness (umgekehrte Maßgeblichkeit) principles: Before the modernization of German GAAP taxation law and financial reporting law were strongly interwoven. Financial reporting is the basis for taxation and tax law can also be applied when preparing financial statements. This enabled companies to prepare only one set of financial statements that served as the basis for taxation as well as for dividend payments and general financial reporting purposes. Both drafts made several suggestions to relinquish the authoritativeness principles which eventually were implemented.

Tax effects of the modernization: The reform act aimed to be neutral with regard to taxation, i.e. companies should not have to pay more or less taxes due to the reform efforts.

Transition regulations: Both draft laws envisioned the major changes to become effective at the beginning of 2009 but did not provide sufficient transition guidance. Given the lengthy parliamentary procedures and the necessity for companies to carefully prepare the

transition, this timeframe never seemed realistic and eventually the effective date was postponed to 2010.

We conclude that the ministry draft law was very progressive, especially due to its strong adherence to IFRS, while the government draft law is considered a less progressive approach being closer to established German accounting tradition. The final law eventually implemented only moderate changes thus proving informing efforts successful.

Contemplating the evolution of the modernization act there is a limited number of occasions to observe the rhetoric of associations and parliamentarians (von Arnim, 2008), namely the statements of those associations who voluntarily published them, the plenary debates in the *Bundestag* and the public hearing in front of the *Bundestag's* legal committee.

3 Research methodology

3.1 Data sources

We began our analysis by identifying the relevant parliamentary documents. The plenary debates are documented in the protocols of the *Bundestag* as of 25 September 2008 and 26 March 2009 and the public hearing is recorded in the protocols of the *Bundestag's* legal committee's hearing as of 17 December 2008.

The protocols as of 25 September 2008 (Bundestag, 2008a) contain the politicians' speeches with regard to the modernization act thus qualifying for a rhetoric analysis of the parliamentarians' argumentation. We identified overall five parliamentarians, one from each party represented in the parliament, who were supposed to report in the *Bundestag*. They presented overall 24 statements, thereof 23 supported by arguments. The protocols as of 26 March 2009 also include speeches given by the same five parliamentarians. However, the speeches' are not related to substantial content of the modernization act but merely praise the legislative success of the standard setting project in general. Therefore these protocols did not qualify for further analysis.

Although the above mentioned parliamentarians were present in the committee hearing on 17 December 2008, the protocols (Bundestag, 2008b) reveal that they were only asking questions, not presenting any views or arguments. Nonetheless, the protocols grant access to oral statements that were presented in front of the parliamentarians by those associations invited to the hearing.

In Germany, lobbying usually takes place through big associations representing hundreds or thousands of individual organizations or people (Busch-Janser, 2004: p.24-6), which is why an examination of accounting lobbying in a German context needs to focus on associations (McLeay, Ordeltcheide and Young, 2000). At first, we identified all associations that issued a statement on the modernization efforts, either in writing or during the public hearing. With regards to the associations that published a written statement we excluded those associations that published a statement after the parliamentary debate on 25 September 2008. Associations' statements issued after this date would, of course, not be suited to inform the plenary debate. Furthermore we excluded those written statements that were not related to the ministry draft law in order to have all associations commenting on the same regulatory proposal. The total number of included associations was not reduced by this measure because we found only those associations to comment on later proposals who also issued a statement on the ministry draft law. Table 1 presents all associations included in our study and reveals that overall 13 associations' written statements were considered and that a total of six associations was represented in the public hearing.

| Association | Characterization | Published written statements | Represented in public hearing |
|---|--------------------|---|-------------------------------|
| Bundesverband der deutschen Industrie (BDI) | INDUSTRY (GENERAL) | 2 joint statements (BDI_DIHK and DIHK et al.) and 1 individual statement (DIHK) | yes |
| Deutscher Industrie- und Handelskammertag (DIHK) | INDUSTRY (GENERAL) | | no |
| Zentraler Kreditausschuss (ZKA) | INDUSTRY (BANKS) | 1 individual statement (ZKA) | yes |
| Schmalenbach-Gesellschaft Arbeitskreis Externe Unternehmensrechnung (SG-AK-EXTRL) | INDUSTRY-RELATED | 1 individual statement (SG-AK-EXTRL) | no |
| Arbeitsgemeinschaft für wirtschaftliche Verwaltung (AWV) | INDUSTRY-RELATED | 1 individual statement (AWV) | no |
| Bundesverband der Bilanzbuchhalter und Controller (BVBC) | INDUSTRY-RELATED | 1 individual statement (BVBC) | no |
| Institut der Wirtschaftsprüfer (IDW) | AUDITORS | 1 individual statement plus supplement (IDW) | yes |
| Wirtschaftsprüferkammer (WPK) | AUDITORS | 1 individual statement (WPK) | no |
| Deutscher Buchprüferverband (DBV) | AUDITORS | 1 individual statement (DBV) | no |
| Bundessteuerberaterkammer (BSTBK) | PROFESSIONAL (TAX) | 1 joint statement (BSTBK_DSTV) | yes |
| Deutscher Steuerberaterverband (DSTV) | PROFESSIONAL (TAX) | | no |
| Deutscher Anwaltverein (DAV) | PROFESSIONAL (LAW) | 1 individual statement (DAV) | yes |
| Deutsches Rechnungslegungs Standards Committee (DRSC) | STANDARD SETTER | 1 individual statement (DRSC) | no |
| Deutscher Gewerkschaftsbund (DGB) | EMPLOYEES | N/A | yes |

Table 1: Associations including their characterization and involvement

The *Bundesverband der Deutschen Industrie* (BDI – Federal Association of German Industry) is the industry association in Germany including all industry’s major associations while the *Deutscher Industrie- und Handelskammertag* (DIHK – Association of German Chambers of Industry and Commerce) claims to represent the whole German industry. Both were considered with a total of three statements: one single statement published by DIHK, one joint statement of BDI and DIHK and one joint statement of BDI and DIHK in cooperation with six additional industry associations (the federal associations of retailers, wholesalers, private banks, insurance companies, craftsmen and employers). Although one might expect those three statements be the same, they actually differ with regards to the issues raised and the rhetoric employed, hence they are treated separately. The *Zentraler Kreditausschuss* (ZKA – Central Association of Banking Associations) is the BDI’s equivalent for financial institutions.

The *Schmalenbach-Gesellschaft Arbeitskreis Externe Rechnungslegung* (SG-AK-extRL – Schmalenbach Association Working Group External Accounting) is a standing working groups of company representatives and scholars where company representatives form the majority of members. The *Arbeitsgemeinschaft für wirtschaftliche Verwaltung* (AWV – Association for Economical Administration) aims at an efficiency increase for small and medium sized entities, particularly with regard to public administrative issues. Professional accountants working in enterprises are organized in the *Bundesverband der Bilanzbuchhalter und Controller* (BVBC – Federal Association of Financial and Management Accountants).

The *Institut der Wirtschaftsprüfer* (IDW – Institute of Auditors) is the representative body of all German audit firms, while the *Wirtschaftsprüferkammer* (WPK – Chamber of Auditors) is a public organisation all German auditors have to be member of. The *Deutscher Buchprüferverband* (DBV – German Association of Chartered Accountants) is the IDW’s equivalent for chartered accountants. Those three associations virtually represent the whole audit profession in Germany.

Basically, the *Bundessteuerberaterkammer* (BSTBK – Federal Chamber of Tax Consultants) is the tax consultants’ equivalent to WPK while *Deutscher Steuerberaterverband* (DSTV – German Association of Tax Consultants) is the respective equivalent to IDW; hence both represent the tax profession in full. The *Deutscher Anwaltverein* (DAV – German Association of Lawyers) is the representative association for the legal profession in Germany.

We already introduced the DRSC in footnote 5, being Germany's private standard setting body with limited authority. The *Deutscher Gewerkschaftsbund* (DGB – The Confederation of German Trade Unions) is representing the interests of employees.

3.2 Evaluating arguments and success

We employed a category-based content analysis of all documents as described by Holsti (1969) and Krippendorff (2004) along the nine critical topics described in section two and for all of the identified data sources. Coding was performed by two coders independently⁶. The general attitude of the statements was categorized as 'supporting' (S) or 'opposing' (O) the (government) draft law's proposals or as expressing a 'neutral' (N) opinion.

We followed Jupe's (2000) classification with regard to the backing of attitudes and identified conceptual as well as self-referential arguments.

Conceptually based arguments (C) are statements explicitly referring to basic accounting or specific German accounting principles. Typically, such arguments are very general comments and accompanied by detailed elaborations employing accounting specific semantics. Conceptual arguments qualify for transferring knowledge on general implications of proposals on the regulatory accounting system as a whole.

Self-referential arguments (SR) are statements that relate to the effects for the issuer. For industry associations and those dominated by industry, arguments were classified as self-referential if (economic) consequences for the associations' members were mentioned. Audit firms' and professional associations' arguments were assigned to this category if they either mentioned consequences for their clients or the profession members. The standard-setters arguments' were treated self-referential if effects for standard setting in general were dominating. As parliamentarians cannot be affected by accounting standards per se we categorized arguments that explicitly pointed to consequences for potential voters (i.e. companies, the professions, the general public, etc.) as self-referential. Although the arguments classified into this category seem very different in nature, we pool them due to their identical rhetoric characteristics. Self-referential arguments always mention (economic) effects on one or more societal groups. These arguments usually give specific examples of potential consequences for certain industries, companies of specific size or economic transactions. Thus, they are suited to transfer knowledge on impacts of proposed regulation and may be presented in an illustrative fashion.

Both arguments (B), i.e. a mixture of conceptual and self-referential arguments, were also frequently used by associations and parliamentarians when supporting their general attitudes.

In order to assess lobbying success a comparison of lobbyists' statements to the final regulatory outcome is required. Such contrasting is only possible if both suggestions and final regulation is specific and concise which generally makes the German context better suited to assess lobbyists' success than does an Anglo-American context (McLeay, Ordelheide and Young, 2000: 80-1). We therefore needed to exclude unspecific general statements expressing, for instance, a general preference for more IFRS related regulation. Overall, associations made 65 suggestions⁷ that were concise enough for assessing the success of lobbying efforts.

⁶ Coding resulted in an intercoder reliability score (Holsti, 1969) of 96 percent. Due to the simplicity of categories, such a score seems reasonable (Miles and Huberman, 1994, p. 64). Dissimilarities in coding were finally discussed by the two coders and consensually harmonized.

⁷ The difference to the total number of 56 arguments employed by associations (cf. table 2) is explained by the fact that a couple of associations issued more than one specific suggestions when presenting their views on a regulatory proposal.

We created three categories of success, namely ‘no success’, ‘partial success’ or ‘full success’. ‘No success’ was assumed if the association’s proposal did not come into effect at all while a ‘full success’ was awarded if the final regulation corresponded to the association’s proposal. Whenever the final regulation was in line with the general idea but differed in details from the association’s view, we treated the statement as ‘partial success’. We accumulated the success over different topics and associations by attributing a success score to each qualifying argument, that was 2 for ‘full success’, 1 for ‘partial success’ and 0 for ‘no success’ which eventually allowed for assessing the success of rhetoric strategies.

As we aim for contrasting the rhetoric of associations and parliamentarians against the background of their difference in expertise, we do not aim to discriminate the rhetoric on the individual level. Thus we aggregated arguments and success over associations and parliamentarians, respectively.

4 Employing rhetoric: arguments and success

4.1 The rhetoric of using arguments

We analyzed the associations’ attitude as expressed in their written statements and the parliamentarians’ views in the legislative debate and identified 87 statements⁸ over nine topics raised in parliament. Most of those statements were supported by arguments; only 8 statements stood alone and were not considered for further analysis. Therefore, we processed a total of 79 arguments, thereof 23 issued by parliamentarians and the remaining 56 by associations. Table 2 reports the distribution of arguments among parliamentarians and associations decomposed into the types of arguments as specified before: self-referential (SR), conceptual (C) and both (B).

| Group | Arguments used | | | Total |
|-------------------------|----------------|-----------|-----------|-----------|
| | SR | C | B | |
| Associations | 15 | 27 | 14 | 56 |
| | 27% | 48% | 25% | 71% |
| Parliamentarians | 12 | 5 | 6 | 23 |
| | 52% | 22% | 26% | 29% |
| Total | 27 | 32 | 20 | 79 |
| | 34% | 41% | 25% | 100% |

Table 2: Total arguments used by parliamentarians and in associations’ written statements

Given the historical and practical significance of accounting principles in Germany (Hoffmann and Detzen, 2013: 20-25) the dominance of conceptual arguments (41 percent) seems reasonable. This finding is comparable to the UK’s privately organized standard setting process for which Jupe (2000: 347) reports a similar relative use of conceptual arguments (42 percent). However, he finds only 12 percent of self-referential arguments among the commenting interest group whereas we report about 34 percent. We attribute the stronger preference for self-referential arguments in Germany to the supposed expertise gap between associations and parliamentarians. Using self-referential arguments may be convenient for parliamentarians. Employing such arguments requires less expertise than conceptual arguments because they are less complex and more illustrative. Moreover, if the arguments are provided by interest groups, e.g. well prepared and convincingly illustrated in written statements, they

⁸ Jupe (2000: 347) identified 199 statements in context of the ASB’s standard setting project on FRS 1.

may easily inform the parliamentarians and consequently be taken up by them. Additionally, using self-referential arguments signals interest in and consideration of voters' needs and preferences. Beyond transferring knowledge about potential effects of proposed regulation, a disproportionately high use of self-referential arguments by parliamentarians can thus serve as a mechanism to appease voters and increase the probability of being re-elected, a matter many parliamentarians are focused on (Biglaiser and Mezzetti, 1997).

By contrast, associations overall prefer using conceptual arguments. We conclude that associations perceive conceptual arguments being important in terms of demonstrating expertise to and thereby convincing parliamentarians. Moreover, conceptual arguments are easy to use for associations as they possess the specialist knowledge that is required for employing these complex arguments. The relevance of conceptual arguments for associations' rhetoric becomes even more evident when extending the analysis to the public hearing⁹ where more than 60 percent of their arguments were conceptual.

A more detailed analysis of the use of arguments is provided in tables 3 to 5¹⁰. The categories of arguments used are related to the attitudes expressed with the respective arguments. The attitudes were categorized as either a supporting (S), opposing (O) or being neutral (N) vis-à-vis the regulatory proposal.

| Group | Self-referential arguments used | | | Total |
|-------------------------|---------------------------------|-----------------|------------------|-------------------|
| | S | N | O | |
| Associations | 4 27% | 2 13% | 9 60% | 15 56% |
| Parliamentarians | 8 67% | 3 25% | 1 8% | 12 44% |
| Total | 12 44% | 5 19% | 10 37% | 27 100% |

Table 3: Expressed attitudes when using self-referential arguments

Table 3 illustrates how often the two groups use self-referential arguments in order to express a specific attitude. Overall, we find a balanced use of self-referential arguments to support and oppose a proposal while these kinds of arguments are used seldomly when expressing a neutral attitude. Parliamentarians mainly use self-referential arguments when supporting the proposals while associations employ these arguments most often to oppose.

Associations tend to two rhetoric approaches when arguing self-referentially to oppose. One is to use emotionally charged wording, as the following two examples illustrate.

“Companies question the proposed tax neutrality of many reform proposals and are very anxious.”¹¹ (DIHK individual statement, authors' emphasis)

“Small and medium-sized entities fear [...] a regulation which de facto forces these entities to report according to IFRS in the medium-term.“ (BDI_DIHK joint statement, authors' emphasis)

⁹ The analysis of the public hearing revealed a total of only 19 statements made by associations. Due to this low figure respective results are not reported separately but are occasionally referred to when analyzing the written statements.

¹⁰ We refrained from a rhetoric analysis per issue as identified in section 2 because, on average, only ten statements per issue were made by associations and parliamentarians.

¹¹ All the excerpts were translated as closely to the original German text as possible. For reasons of brevity, the German passages are not provided.

Parliamentarians have generally taken up the associations' concerns indicating the arguments' knowledge transfer characteristics.

“The accounting reform must not lead to additional tax burdens. By means of deregulation we want to achieve a reduction of cost for corporations which may not be harmed by additional tax burdens.” (Bundestag 2008a: 19194, authors' emphasis)

“Medium-sized companies still need to be able to easily translate their financial statements into tax statements. I therefore agree that a couple of accounting options, which are not applicable in tax statements, will be abolished.” (Bundestag 2008a: 19192, authors' emphasis)

However, the transfer of knowledge has not always been successful as there are cases where the associations' statements have been reversed by the parliamentarians indicating a misunderstanding because the expertise gap was too big or a paradigmatically driven misuse of the underlying associations' argument.

“By implementing international accounting standards, also small companies will end up with internationally understandable financial statements [...]. This definitely strengthens their position when negotiating with banks.” (Bundestag 2008a: 19196, authors' emphasis)

A second rhetoric approach of associations is to present economic consequences as detailed as possible. We find this approach especially within statements on proposals with clear-cut effects, e.g. for the measurement of pension provisions.

“The Ministry of Justice estimates the additional cost at approx. 50 to 75 million Euros. The actual additional cost should be higher because – in contrast to the Ministry's reasoning – also companies reporting under IAS/IFRS would be affected by the new regulation. Preliminary estimates among our member enterprises indicate that additional cost will be around 100 to 150 million Euros.” (DIHK et al. joint statement, authors' emphasis)

“The [...] proposed regulation deviates from tax rules and IAS 19. This would require providing a total of three expert opinions for the same pension provision and accounting for three different measurements of this one provision. The resulting additional expense is [...] economically not justified.” (SG-AK-EXTRL individual statement, authors' emphasis)

Parliamentarians have explicitly responded to the associations arguments and demonstrate an even higher learning effect than with regard to the emotionally laden presentation of arguments.

“Many associations [...] expect high cost with regard to the new measurement regulations for provisions because they anticipate to be in need for different measurements in tax and financial statements.” (Bundestag 2008a: 19193, authors' emphasis)

“Additional expenses could be avoided by requiring just one measurement approach for provisions.” (Bundestag 2008a: 19195, authors' emphasis)

Concluding the use of self-referential arguments we find an informative effect of the associations' arguments on the parliamentarians despite the opposite attitude preferred when using self-referential arguments. As expected, the difference in expertise and the illustrative presentation of arguments by associations make self-referential arguments compelling to parliamentarians. Assuming that associations anticipate the expertise gap, using self-referential arguments especially when opposing appears rational because essential knowledge with regard to concerns about and consequences of the regulatory proposals can be transferred most effectively.

| Group | Conceptual arguments used | | | Total |
|-------------------------|---------------------------|-----------------|-----------------|-------------------|
| | S | N | O | |
| Associations | 14 52% | 6 22% | 7 26% | 27 84% |
| Parliamentarians | 1 20% | 2 40% | 2 40% | 5 16% |
| Total | 15 47% | 8 25% | 9 28% | 32 100% |

Table 4: Expressed attitudes when using conceptual arguments

Table 4 shows that conceptual arguments are mainly used to support regulatory proposals. In the rare cases that parliamentarians use conceptual arguments they are not employed to back one preferred attitude. Associations, however, tend to favor conceptual arguments when supporting proposed changes in regulation.

The associations' conceptually backed presentation of supporting views on regulatory proposals actually demonstrates a high level of expertise as witnessed by the following two statements.

“The obligation to capitalize internally generated intangible assets, which goes along with the elimination of section 248 paragraph 2 German Commercial Code, is appropriate. It not only reflects the growing importance of intangibles as value drivers but contributes to the aim of informing comprehensively by presenting all corporate assets.” (IDW individual statement)

“We support the proposed rule for discounting provisions because it, on the one hand, will lead to a harmonization with IAS 19 [...] and, on the other hand, allow for an adequate measurement of provisions. It is true that IAS 19, for example, does not use an average market discount factor for defined benefit plans; however, with regard to the fact that German Commercial Code does not provide the means for smoothing volatility effects in the income statement, we consider the proposed regulation an adequate solution of the problem.” (DRSC individual statement)

Beyond demonstrating expertise and providing complex conceptual knowledge for the parliamentarians, we find associations to also use those arguments when commenting favorably on social consequences and the motivation and reasoning of the proposals thus adulating the parliamentarians' efforts.

“By implementing the principle of an economic attribution of assets, fraudulent actions may be better identified [...]. This leads to an increase in the financial statements' informativeness. [...] To us the principle provides an adequate accounting solution.” (AWV individual statement)

“Abolishing the reverse authoritativeness principle [...] is in line with critique as expressed by scholars and in literature. [...] As the draft’s reasoning correctly states, the motivation for having introduced this principle – which was to prevent dividend payments in cases when using tax reliefs – was never convincing, because the prevention of dividend payments never applied to most of the taxpayers [...].” (DAV individual statement)

We conclude that associations do not perceive conceptual arguments to be as effective as self-referential arguments for transferring knowledge to parliamentarians because they are mainly used to support or comment neutrally on a regulatory proposal. It seems that the use of such arguments rather has a signaling function for outstanding accounting expertise since associations comment lengthy and profoundly on an issue they support anyway. Also, we find conceptual arguments being combined with commendations on the work done by parliament which may be intended to positively but subtly influence the parliamentarians’ mood.

| Group | Both arguments used | | | Total |
|-------------------------|---------------------|-----------------|-----------------|-------------------|
| | S | N | O | |
| Associations | 2 14% | 7 50% | 5 36% | 14 70% |
| Parliamentarians | 3 50% | 0 0% | 3 50% | 6 30% |
| Total | 5 25% | 7 35% | 8 40% | 20 100% |

Table 5: Expressed attitudes when using both arguments

A mixture of self-referential and conceptual arguments is used the least when expressing attitudes towards regulatory proposals (cf. table 5). Parliamentarians tend to employ a combination of arguments for both supporting and opposing proposals whereas associations have a preference for both arguments when commenting in a neutral or undecided manner. Associations, on the one hand, demonstrate high expertise by making complex elaborations on the subject matter and, on the other, provide easily comprehensible, illustrative and consequential examples for their argumentation.

“The current wording of section 253 paragraph 2 sentence 1 of the draft generally requires discounting all provisions. [...] We basically agree with that. However, a general requirement to discount provisions may be problematic since not all provisions entail an interest portion or include an embedded loan agreement. Therefore [...] measurement at the amount the debtor has to raise for settling the obligation should be preferred. [...] Furthermore, we strongly advocate allowing companies, which prepare their group accounts in accordance with IFRS, using IFRS measurement for provisions also within their financial statements prepared under German Commercial Code. That would avoid double work, the necessity for a second expert opinion and [...] consequently result in a significant reduction of cost [...].”(ZKA individual statement)

“The changes within section 246 paragraph 1 sentence 1 of the draft may in some cases – and in contrast to the property definition under civil law – lead to accounting changes. From our point of view it is not clear which consequences the changes will have, for example with regard to the leasing industry. In order to achieve practical applicability a hierarchical classification of assets is required. Starting point needs to be the continuous use of the property definition according to civil law. Only if all the asset’s material opportunities and risks are consumed by someone else than the asset’s

civil owner, this other party should account for the asset. From a tax perspective, the current wording leads to confusion as it deviates from section 39 Regulation of Taxation, which is the tax regulation for an economic attribution of assets. [...] The allocation of an asset must be treated equally in tax and financial reporting.” (BDI_DIHK joint statement)

We posit that associations employ a combination of both arguments because they expect the knowledge transfer to be most effective. Using both arguments preferably for issuing a neutral statement is insofar reasonable as it allows for a comprehensive review of pros and cons with regard to the proposals which again demonstrates the associations’ exceptional expertise in the field.

Summarizing our findings on the use of arguments we conclude that associations have a very clear idea of how to inform parliamentarians. Associations often provide knowledge by means of self-referential arguments when opposing proposals. Parliamentarians find these arguments convenient and presumably easily comprehensible as they tend to take them up, though preferably to support regulatory suggestions. We attach a signaling function to the use of conceptual arguments. Associations demonstrate technical expertise to parliamentarians while not taking too much risk for misunderstanding thus preferring those arguments when commenting favorably. Parliamentarians are quite restrictive in the use of conceptual arguments and show no preference for expressing a particular attitude. Given their low accounting expertise we conclude that they do not feel very comfortable about handling conceptual arguments. A combination of arguments may further strengthen a statement as it demonstrates expertise and has a convincing characteristic at the same time.

4.2 The success of arguments

We present an average success score for the associations’ rhetoric strategy, i.e. combining the use of arguments with the attitude expressed, in table 6¹². A higher average success score indicates a more successful strategy.

| Argument used | Expressed attitude | | | Average |
|---------------|--------------------|------|------|---------|
| | S | N | O | |
| SR | 0.75 | 0.00 | 1.18 | 0.64 |
| C | 0.56 | 0.33 | 0.89 | 0.59 |
| B | 0.00 | 1.30 | 1.00 | 0.77 |
| Average | 0.44 | 0.54 | 1.02 | |

Table 6: Average success score of associations’ rhetorical strategies

Concerning the arguments employed we find conceptual arguments to be least and a mixture of arguments most successful. This finding goes along with the proposed effectiveness of arguments. Self-referential arguments are well suited for transferring knowledge to parliamentarians while conceptual arguments demonstrate expertise to but are difficult to apprehend for the politicians. A combination of arguments is superior in terms of knowledge transfer. Furthermore we find associations to be most successful when opposing regulatory

¹² The average success score is calculated as the accumulated success score (2 points for a full success, 1 point for a partial success, 0 points for no success) for each rhetoric strategy divided by 65, the total number of rhetoric strategies employed by associations when making a specific regulatory suggestion.

proposals. The associations' rhetoric strategies B-N and SR-O are most successful and thus very effective with regard to knowledge transfer.

These results are in line with our suppositions. The B-N strategy effectively results in an extensive discussion of regulatory issues from different perspectives and employing various arguments. The strategy is thus well-suited to inform parliamentarians and accordingly appreciated. The comprehensive but neutral information leads to successes of associations' regulatory proposals.

The SR-O strategy also has a high informatory value for parliamentarians who learn about (prior unknown) consequences of new regulation for those affected by it (the associations and their members). Moreover, this strategy's triumph as well as the overall success of associations opposing indicates that parliamentarians actually take their voters' concerns seriously, supposedly in order to facilitate their re-election.

5 Conclusion

Applying an expertise framework we analyzed the rhetoric of interest groups and the accounting standard setter in the context of Germany's parliamentary accounting standard setting system for the modernization of German Commercial Code between 2007 and 2009. Interest groups in form of big associations representing thousands of professionals and corporations were standing vis-à-vis a parliamentary standard setter whose members mainly need to be considered lay men with regard to accounting.

We argue that the expertise gap between the interest groups and the standard setter makes associations' public statements, be it as written statements or oral testimonies, an essential tool for generating knowledge within parliament. At the same time associations use specific rhetorical strategies for lobbying purposes which are not recognizable by the parliamentarians.

Within the rhetorical analysis of parliamentarians' and associations' (written) statements we were able to identify some patterns. Parliamentarians generally prefer using self-referential arguments, i.e. arguments pointing to consequences for (potential) voters, which is particularly apparent when parliamentarians express their support for proposals. We attribute this finding mainly to two factors. First, self-referential arguments are easily usable, even without specialist knowledge and particularly if respective arguments are provided by associations. Second, paying close attention to and using arguments that are related to voters' needs and preferences may contribute to increasing the probability of being re-elected.

With regard to associations we conclude that they overall prefer conceptual arguments and follow rhetoric strategies. They present conceptual arguments when supporting and self-referential arguments when opposing regulatory suggestions. Conceptual arguments demonstrate high expertise but due to their complexity may not be suited well to inform parliamentarians as conveniently as self-referential arguments. Moreover, associations tend to employ a mixed argumentation when not issuing a clear opinion on the issues, which is a strategy that aims at comprehensively transferring knowledge to parliamentarians. Indeed, the identified strategies overall prove successful for the associations. Their suggestions are most successful if self-referential arguments are used to oppose and mixed arguments are presented in a neutral fashion. Conceptual arguments were overall least successful.

Our findings support the notion that associations' statements are effectively used for transferring knowledge to parliamentarians and accordingly appreciated by the standard setter. Associations successfully employ self-referential arguments pointing to disadvantageous consequences for their members or clients in order to avoid obstructive regulation. The underlying rhetoric strategy of using specific arguments in relation with expressing particular attitudes indicates that associations are aware of the knowledge gap and prepared to exploit this

gap for lobbying in favor of their preferences by selectively transferring knowledge to parliamentarians.

When supplementing our analysis of written statements by considering the public hearing, where associations had the chance to directly speak in front of the parliamentarians, we find that associations employ more conceptual arguments and express rather neutral attitudes compared to the written statements. While this difference in rhetoric is not intuitive, it seems that associations generally tend to act rather deliberately when actually speaking in the public. Further research could try to explore possible changes in the rhetoric of lobbyists over the course of a standard setting process in more depths.

Given the methodology chosen, our findings are subject to limitations. Since we use publicly available and documented data only our analysis covers a limited extract of reality and does not consider all possible lobby groups, e.g. those who do not publicly comment on topics that are important to them. Moreover, we assume a specific understanding of rhetoric by focusing our analysis on written documents and the use of arguments thus excluding an assessment of mimic and gesture. Given the necessarily aggregated nature of the evaluation of arguments and success, we cannot discriminate our results for individual parliamentarians and associations which is why we encourage further research by, e.g. conducting interviews among associations and parliamentarians.

Overall, we find some notable differences to lobbying rhetoric in privately organized accounting standard setting contexts. Particularly the relatively higher reliance on self-referential arguments seems to be explained by the expertise gap and typical for the parliamentary setting. Applying our rhetoric approach to semi-professional standard setting processes should reveal more insights on the connection of expertise and rhetoric. An example of such a context is the European Union's endorsement procedure which employs both a body of technical experts (the European Financial Reporting Advisory Group) and non-expert politicians (the European Parliament).

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