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Lobbying against increased accountability:
The case of the European Sustainability Reporting Standards (ESRS)

Benita Helena Kaulina (25197)

Abstract: This study investigates the feedback received in the public consultation process for the European Sustainability Reporting Standards to determine if business associations engaged in lobbying by comparing the policy positions of said business associations to organizations geared towards examining and advocating for sustainability topics. The effects of the organization's characteristics on policy positions were examined based on findings of previous studies suggesting distinct factors determine the decision to lobby and the success of such actions. The study did not find evidence that business associations held different positions on the ESRS than sustainability organizations. The results did suggest that the explanation for why this case study did not find organization characteristics to be telling the organization's policy position are found within the subject of the policy positions - the salience and granularity of the ESRS.

Keywords: Policy instruments, Lobbying, ESG, Sustainability reporting, European Green Deal, CSRD, ESRS

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Discussants: Hanna Johansson, Leo Jidah
Examiner: Johanna Wallenius

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1. Introduction

There are no doubts that so far climate change is shaping up to be the defining crisis of the 21st century. As its effects are and will continue to be felt by all people regardless of their contributions towards accelerating the problem, the task of protecting the people and the planet falls onto the governments because only they have the power to reshape the behaviors of both individuals and businesses on the scale necessary to slow down the temperature rise enough to allow for adaptation solution to be implemented.

The European Union (EU) being a supranational union consisting of 27 politically, socially, and economically integrated nations[1] that together create the 3rd largest economy in the world[2] is uniquely positioned to combat the threat of global warming. In 2019 the European Commission, the EU's politically independent executive arm[3], launched The European Green Deal[4]:

> *"a package of policy initiatives, which aims to set the EU on the path to a green transition, with the ultimate goal of reaching climate neutrality by 2050. It was designed to support the transformation of the EU into a fair and prosperous society with a modern and competitive economy. The package includes initiatives covering the climate, the environment, energy, transport, industry, agriculture, and sustainable finance – all of which are strongly interlinked."*

One particular policy under the sustainable finance package – the Corporate Sustainability Reporting Directive (CSRD)[5] – has been discussed quite a lot by not only policymakers but also business communities all across Europe and abroad, as this particular regulation "*requires companies to report on the impact of their activities on the environment and society and requires the audit (assurance) of reported information*"[6], in addition to having the information reported according to brand new EU sustainability reporting standards.

As is the norm with the EU policy development process[7], the development of the European Sustainability Reporting Standards or ESRS included a public consultation process[8] where the public

[1] European Union, *Aims and values* [website], https://european-union.europa.eu/principles-countries-history/principles-and-values/aims-and-values_en, (accessed November 2022)
[2] The World Bank, *GDP (current US$)* [website], https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?year_high_desc=true, (accessed October 2022)
[3] European Union, *European Commission* [website], https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/institutions-and-bodies-profiles/european-commission_en, (accessed November 2022)
[4] European Council, *European Green Deal* [website], https://www.consilium.europa.eu/en/policies/green-deal/#what, (accessed November 2022)
[5] European Commission, *Corporate sustainability reporting* [website], https://finance.ec.europa.eu/capital-markets-union-and-financial-markets/company-reporting-and-auditing/company-reporting/corporate-sustainability-reporting_en, (accessed November 2022)
[6] KPMG Netherlands, *Corporate Sustainability Reporting Directive* [website], https://home.kpmg/nl/en/home/topics/environmental-social-governance/corporate-sustainability-reporting-directive.html, (accessed November 2022)
[7] European Commission, *Comment on EU policy and law* [website], https://ec.europa.eu/info/about-european-commission/get-involved/comment-eu-policy-and-law_en, (accessed November 2022)
[8] EFRAG, *Public consultation on the first set of Draft ESRS* [website], https://www.efrag.org/lab3, (accessed November 2022)

was encouraged to contribute by giving their feedback regarding the scope and details of the proposed legislation, in this case – the reporting standards.

Previous studies, notably the research by Adriana Bunea[9] and Heike Klüver[10], suggest that, when it comes to sustainability-related policies, lobby groups – both business and environmental – will attempt to shape the policy towards their preferences. With the specific policy area that CSRD and ESRS belong to, the extremely large number of companies subject to these regulations, and the discourse surrounding the regulations and the development process of the ESRS, there is an argument to be made for the potential for extreme lobbying from business interest groups to take place resulting in less effective policy instrument. This study looks to uncover whether or not such lobbying took place.

[9] A.Bunea, 'Issues, preferences and ties: determinants of interest groups' preference attainment in the EU environmental policy', *Journal of European Public Policy*, vol. 20, no. 4, 2013, pp. 552–570
[10] H.Klüver, 'The Contextual Nature of Lobbying: Explaining Lobbying Success in the European Union', *European Union Politics*, vol. 12, no. 4, 2011, pp. 483–506

2. Background

To be able to determine if lobbying took place and uncover what motivates organizations to express lobbying opinions it is crucial to first understand the regulations in play, particularly their requirements and criticism received from the business community, and the existing relationship between companies and sustainability reporting.

2.1 Current state of environmental, societal, and governance (ESG) topic reporting

In recent decades reporting of ESG matters alongside financial performance and corporate governance and social responsibility principles (CSR) has become more widely required by exchanges, financial service providers, and government institutions[11], meaning that an ever-increasing number of companies are subject to reporting requirements. Additionally, more and more companies see the value of disclosing ESG-related information as a tool for enhancing financial performance, mostly through increased reputation among customers[12]. This has led to a portion of companies viewing sustainability and its activity and goal disclosures as strategic communication tools part of their marketing strategy[13] resulting in the rise of "greenwashing"[14].

To avoid a such trap and provide credibility to disclosures following a reporting framework designed specifically for ESG reporting that fits the company's needs together with acquiring third part assurance (similarly to financial reporting) is considered to be best practice.

A bi-annual survey by KPMG[15] found that almost 80% of the world's top companies report on sustainability, however, the information reported differs from company to company - the level of disclosure is dependent on the reason for reporting e.g., to communicate their achievements to the stakeholders or to comply with a stock exchange requirement, company's resources, and the chosen reporting framework.

Each reporting framework tends to define sustainability topics differently, but most standards have topics related to biodiversity, climate change and emissions as key parts of the environment (E) reporting, employee health and safety, and community engagement are society (S) related topics, and anti-corruption and internal controls are included in governance (G) sections. The number of topics and details vary greatly from one set of standards to the next. The amount and type of data required under

[11] I.Woods et al., 'Review of trends in ESG reporting requirements for investors', Principles for Responsible Investment, 2022, page 8, https://www.unpri.org/download?ac=16705, (accessed November 2022)
[12] V.Kumar et al., 'Evolution of Sustainability as Marketing Strategy: Beginning of New Era', *Procedia - Social and Behavioral Sciences*, vol. 37, 2012, pp. 482-489
[13] P.Jones et al., 'Marketing and Sustainability', *Marketing Intelligence & Planning*, vol. 26, no. 2, 2008, pp. 123–130
[14] B.River, 'The Increasing Dangers Of Corporate Greenwashing In The Era Of Sustainability', *Forbes*, 29 April 2021, https://www.forbes.com/sites/beauriver/2021/04/29/the-increasing-dangers-of-corporate-greenwashing-in-the-era-of-sustainability/?sh=4e0f78744a32, (accessed November 2022)
[15] KPMG International, 'Survey of Sustainability Reporting 2022', *KPMG International*, 2022, https://assets.kpmg/content/dam/kpmg/xx/pdf/2022/10/ssr-small-steps-big-shifts.pdf, (accessed November 2022)

frameworks also differ as some require disclosing an extensive amount of data points for all topics, whereas some require almost no data and only the company's approach to sustainability disclosures to be compliant. The lack of harmonization between what is considered sustainable and what data is necessary to support company claims of sustainability achievements leads to the inability to compare company performances against each other when, for example, evaluating investment options.

To solve this problem the European Union as part of the sustainable finance framework under the Green Deal developed a "dictionary" to identify sustainable activities and more detailed reporting requirements for a wider range of companies.

This "dictionary" is called the EU Taxonomy[16] and is defined as "*a classification system that establishes a list of criteria necessary to count as environmentally sustainable economic activities*". By defining what classifies as a sustainable activity it allows for all market participants – companies, investors, and customers – to distinguish what activities are sustainable and which ones are not, to see through "greenwashing".

The EU Taxonomy is intended to be primarily used by investors when assessing investment opportunities and the companies when following the reporting requirements laid out in the Corporate Sustainability Reporting Directive.

2.2 Corporate Sustainability Reporting Directive (CSRD)

The European Commission adopted the proposal for the CSRD on April 21, 2021, as part of the European Green Deal and the Sustainable Finance Agenda[17]. On November 28, 2022, the Council gave its final approval for the regulation, meaning that after its publication in the Official Journal of the European Union it will enter force.

The CSRD is replacing another reporting rule of the EU – the Non-Financial Reporting Directive (NFRD) [18], which lists disclosure rules of non-financial and diversity information mandatory for certain large companies. CSRD extends the scope of the NFRD regarding information disclosures and companies subject to reporting, as well as introduces a new way of reporting ESG information – the European Sustainability Standards (ESRS).

[16] European Commission, *EU taxonomy for sustainable activities* [website], https://finance.ec.europa.eu/sustainable-finance/tools-and-standards/eu-taxonomy-sustainable-activities_en, (accessed November 2022)
[17] European Council, *Council gives final green light to corporate sustainability reporting directive* [press release], 28 November 2022, https://www.consilium.europa.eu/en/press/press-releases/2022/11/28/council-gives-final-green-light-to-corporate-sustainability-reporting-directive/, (accessed November 2022)
[18] DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, as regards corporate sustainability reporting, 16 November 2022, https://data.consilium.europa.eu/doc/document/PE-35-2022-INIT/en/pdf, (accessed December 2022)

CSRD will apply to listed companies, including SMEs (small and medium enterprises), and all other large EU companies and EU subsidiaries of non-EU companies meeting at least 2 of the 3 criteria:

- more than 250 employees;
- a turnover of more than €40 million;
- total assets of €20 million.

This is estimated to increase the number of companies reporting from around 10,000 to over 50,000[19]. With the first report under the new system being due 2025 for the year 2024, there has been some discourse[20,21] around the timeframe and resource costs for companies who have not had to report sustainability information so far. The CSRD does require a quite detailed account of specific data points that are not currently tracked by companies.

The goal of the CSRD is to help guide investments toward sustainable activities by lessening the information asymmetry between actors. This is to be achieved by providing policy instruments ensuring the availability of relevant and comparable sustainability information about business entities. Through the mandatory sustainability information disclosures, CSRD will almost certainly (due to the likely harsh punishments for non-compliance) change the way companies operate[22] by adjusting their existing and introducing new business practices to meet the requirements and steer the *Invisible Hand* away from harmful activities. <u>This makes the CSRD a very powerful tool for changing the economy and society.</u>

2.3 European Sustainability Reporting Standards (ESRS)

Under CSRD a new set of sustainability reporting standards called European Sustainability Reporting Standards or ESRS needs to be created. This task was appointed to the European Financial Reporting Advisory Group (EFRAG) by Commissioner McGuinness[23].

The draft standards made available for public consultation consist of 2 sets of Cross-cutting standards where general principles and approach to reporting are laid out[24] and 5 sets of environment topic standards, 4 social topic standard sets, and 2 governance standard sets.

[19] European Commission, 'EU sustainable finance', 21 April 2021, https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/sustainable-finance-communication-factsheet_en.pdf, (accessed November 2022)
[20] Confederation of Swedish Enterprise, 'Our main concerns with European Parliament report on CSRD' [article], 23 March 2022, https://www.svensktnaringsliv.se/english/our-main-concerns-with-european-parliament-report-on-csrd_1182879.html, (accessed November 2022)
[21] R.G.Eccles, 'The Credibility Of EFRAG's Sustainability Reporting Standards Is At Risk', *Forbes*, 17 July 2022, https://www.forbes.com/sites/bobeccles/2022/07/17/the-credibility-of-efrags-sustainability-reporting-standards-is-at-risk/, (accessed September 2022)
[22] H.B.Christensen et al., 'Mandatory CSR and Sustainability Reporting: Economic Analysis and Literature Review', *Review of Accounting Studies*, vol. 26, no. 3, 2021, pp. 1176–1248
[23] M.McGuinness, 'Request to provide Technical Advice to the European Commission' [letter to J.Gauzès], 12 May 2021, https://www.efrag.org/Assets/Download?assetUrl=/sites/webpublishing/SiteAssets/210512%2520Commissioner%2520McGuinness%2520to%2520EFRAG%2520on%2520sustainability.pdf, (accessed September 2022)
[24] EFRAG, *Public consultation on the first set of Draft ESRS* [website], https://www.efrag.org/lab3, (accessed November 2022)

The key principles underlying the standards, as envisioned by CSRD an defined in ESRS 1 and 2, are[25]:

- double materiality – "*reporting entity has to report on sustainability matters financial materiality and impact materiality*", where:
  - financial materiality –"*sustainability matter is material from a financial perspective if it triggers or may trigger significant financial effects on undertakings*"
  - impact materiality – "*sustainability matter is material from an impact perspective if it is connected to actual or potentially significant impacts by the undertaking on people or the environment*"
- rebuttable presumption – "*mandatory disclosure requirements are considered material for an undertaking until proven untrue (rebutted). The rebuttable presumption places the responsibility of proof (i.e., that a disclosure requirement is not material) on the undertaking*"
- reporting boundary for value chain – "*the undertaking's reporting boundary for its sustainability reporting is the one retained for its financial statements expanded to its upstream and downstream value chain*"

The rebuttable principle sets the ESRS apart from existing reporting frameworks as under it, by default, all organizations must report their performance against all standards in the framework rather than selecting which aspects to disclose.

After the creation of the draft standard, on April 29, 2022, EFRAG launched a public consultation stage with a deadline of August 8, 2022. The public consultation was used to collect feedback from stakeholders and interested parties on the standards through 2 surveys with the included option to submit additional comment letters. Survey 1 covered aspects of "*Overall substance of the Exposure Drafts*" and "*ESRS Implementation prioritization / phasing-in*". Survey 2 covered "*Adequacy of Disclosure requirements*".

After the public consultation stage, the feedback received was considered by EFRAG Sustainability Reporting Board (EFRAG SRB) and EFRAG Sustainability Reporting Technical Expert Group (EFRAG SR TEG) following predetermined procedures and EFRAG's policies. The feedback was then evaluated, and adjustments to the standards were made where necessary. The resulting sets of ESRS were submitted to the European Commission on November 22, 2022. The aim is for the Commission to adopt the standards as delegate acts by June 2023.

EFRAG received a substantial amount of criticism over the 100-day consultation period as a large portion of entities that provided feedback mentioned in their comment letters that the timeframe was

[25] EFRAG, *Public consultation on the first set of Draft ESRS* [website], https://www.efrag.org/lab3, (accessed November 2022) Exposure draft of ESRS 1: General principles, ESRS 2: General, strategy, governance, and materiality assessment https://www.efrag.org/Assets/Download?assetUrl=%2Fsites%2Fwebpublishing%2FSiteAssets%2FED_ESRS_1.pdf, https://www.efrag.org/Assets/Download?assetUrl=%2Fsites%2Fwebpublishing%2FSiteAssets%2FED_ESRS_2.pdf

too short to properly evaluate the standards. Additionally, with the final standards being adopted in June 2023 and the first reports following the ESRS being due in early 2024, a lot of organizations feel like they will not have enough time to adequately prepare their reports following the ESRS framework.

A cost-benefit analysis of the first set of draft ESRS as laid out by CSRD was performed by the Centre for European Policy Studies (CEPS) and a partner consultancy Milieu commissioned by EFRAG[26]. It found that for listed and large companies the one-time costs of starting to report based on the ESRS framework would be just shy of €700 thousand and recurring yearly costs would reach over €1.6 million per year. For SME's the one-time costs would range from under €100 thousand to €300 thousand, and yearly costs fall between €200 thousand and €800 thousand. Overall, the total costs for the 50 000 European undertakings subject to the reporting requirements would sum up to €2.1 billion in one-time costs and €2.4 billion in yearly spending, and that is without the costs of assurance, which adds anywhere from €1 to €7 billion in yearly costs, depending on the level of the assurance. Increasing the spending of European organizations by a couple of billion euros a year makes ESRS an economically significant policy instrument.

[26] CEPS and Milieu, 'Cost-benefit analysis of the First Set of draft ESRS', 22 November 2022, https://www.efrag.org/Assets/Download?assetUrl=%2Fsites%2Fwebpublishing%2FSiteAssets%2F05%2520EFRAGs%2520Cover%2520Letter%2520on%2520the%2520Cost-benefit%2520analysis.pdf ,(accessed December 2022)

3. Literature review

3.1 Lobbying in the EU

Lobbying group attempts to influence policy outcomes in the EU and other parts of the world have been the subject of an increasing number of studies.

Bunea (2014)[27] *Explaining Interest Groups' Articulation of Policy Preferences in the European Commission's Open Consultations: An Analysis of the Environmental Policy Area* looks at the factors influencing a lobby group's decision to lobby by examining the public consultation process for environmental policy area. The expectation for the study was that organizations that are better connected to other organizations have an advantage concerning the information available and are more likely to be part of lobbying coalitions, which in turn makes them more likely to articulate preferences in the context of consultations. This proved to be correct, explained by "*built in response to the external inter-organizational environment and under the constraints imposed by its membership in inter-organizational co-operative structures*". An additional assumption that business organizations should be less likely to articulate preferences in open consultations than organizations representing environmental NGOs were tested. Arguments that because they have access to more resources business organizations would prefer more direct channels to lobby their interests proved to be partially true, as there was evidence for and against this assumption. However, for European business associations, the assumption proved incorrect, and it was speculated that this is due to the EU consultation process being designed to give a voice to everyone equally.

Mahoney's (2007)[28] *Lobbying Success in the United States and the European Union* compares how interest groups lobby their interests and how successful they are in the United States and the EU. The study found that the EU exhibits a higher ability to compromise on policy to allow everyone to see at least some of their goals realized. This contrasts with the States where usually the business interests end up on top. The potential explanation given for this is, the case argues, that due to EU policymakers not having to be elected they do not need to fundraise for campaigns and thus are less incentivized to favor wealthier lobbyists like business associations.

Klüver (2011)[29] *The contextual nature of lobbying: Explaining lobbying success in the European Union* hypothesizes that the size of lobbying coalitions, in addition to the relevance and complexity of the issue shape the positive outcome of the organization's lobbying activities. It was found that an increase in the size of the lobbying entity had a positive effect on the success, but issue characteristics positively impacted the outcome of large coalitions and had the opposite effect for lobbyists of small size.

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[27] A.Bunea, 'Explaining Interest Groups' Articulation of Policy Preferences in the European Commission's Open Consultations: An Analysis of the Environmental Policy Area', *Journal of Common Market Studies*, vol. 52, no. 6, 2014, pp. 1224–1241

[28] C.Mahoney, 'Lobbying Success in the United States and the European Union', *Journal of Public Policy*, vol. 27, no. 1, 2007, pp. 35–56

[29] H.Klüver, 'The Contextual Nature of Lobbying: Explaining Lobbying Success in the European Union', *European Union Politics*, vol. 12, no. 4, 2011, pp. 483–506

Bunea (2013) [30] *Issues, preferences and ties: determinants of interest groups' preference attainment in the EU environmental policy* investigate what characteristics of a lobby group contribute to achieving their desired outcome. The study found that median preferences regarding the contents of the policy were more likely to result in the preference being adjusted by the policy makers. Interestingly, the study also found that advocating for more regulations did not result in policy changes in the desired direction. Additionally, Bunea argues that "*Organizations representing 'diffuse interests', such as environmental NGOs and local authorities, perform significantly worse in achieving preferences than main business groups, representing 'concentrated interests'.*"

3.2 Policy analysis

Analysis of the policy development process including policy lobbying through the public consultation process mechanism is not a very popular area of study, mostly due to the lack of efficient appropriate tools for textual data analysis.

Bunea et al. (2017)[31] *Estimating interest groups' policy positions through content analysis: a discussion of automated and human-coding text analysis techniques applied to studies of EU lobbying* compares and evaluates different methods for policy analysis, the hand-coding approach, and automated methods. Hand-coding allows for the classification of policy position papers based on the nuances of contextual details in the text. However, it is a very time-consuming process with the position papers having varying lengths and structures. The automated methods can analyze large quantities of text in short periods making them the more efficient tool. The downside to automation is the heavy reliance on word frequencies in the position papers for their classification that can, in cases where comments are formal and highly technical, be not representative of the actual position. The research concludes that both types of analysis have their place in policy research, but it was recommended that automation is best used when "*policy documents are less technical in their substantive content, the number of policy issues is low, the organizations authoring them are relatively homogenous and use their documents for the same goals*". However, hand-coding was still preferred for the highest accuracy.

Klüver (2009)[32] *Measuring Interest Group Influence Using Quantitative Text Analysis* compares 3 different ways of analyzing policy positions expressed in the public consultation process. The first method uses a manual classification of policy positions, the second uses a supervised text analysis program called Wordscores[33], and the third uses an unsupervised algorithm named Wordfish[34]. The

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[30] A.Bunea, 'Issues, preferences and ties: determinants of interest groups' preference attainment in the EU environmental policy', *Journal of European Public Policy*, vol. 20, no. 4, 2013, pp. 552–570

[31] A.Bunea et al., 'Estimating interest groups' policy positions through content analysis: a discussion of automated and human-coding text analysis techniques applied to studies of EU lobbying', *European Political Science*, vol.16, 2017, pp.337–353

[32] H.Klüver, 'Measuring Interest Group Influence Using Quantitative Text Analysis', *European Union Politics*, vol. 10, no. 4, 2009, pp. 535–549

[33] M.Laver et al., 'Extracting Policy Positions from Political Texts Using Words as Data', *The American Political Science Review*, vol. 97, no. 2, 2003, pp. 311–331

[34] J.B.Slapin and S.Proksch, 'A Scaling Model for Estimating Time-Series Party Positions from Texts', *American Journal of Political Science*, vol. 52, no. 3, 2008, pp. 705–722

study then compares the results from each classification method to assess how the different ways of analyzing text can be used in policy analysis. It was found that both automatic methods produced similar results to hand-coding, with Wordscores being a good way to gauge where a position paper fall compared to others submitted in the consultation, and Wordfish being better at giving a raw score for texts.

General dictionary or sentiment analysis methods are not used often seemingly due to policy positions being determined by opinions on a scale from *agree* to *disagree* together with reasons forming the opinion. They are given in a formal tone and consist of policy-specific arguments and technical details. This makes policy positions not very well suited for sentiment analysis and topic modeling based on dictionary method classifications. Thus, most scholars employ either hand-coding methods of position classification or one of the few algorithms designed with policy analysis-specific needs in mind. However, with the technology progressing at light speed there is potential for new methods of text analysis using computer programs to emerge.

As for estimating the different factor effects on policy positions or lobbying outcomes regression analysis is used unanimously across the board.

3.3 Sustainability topics and businesses

There are no substantial studies on mandatory sustainability topic disclosure impact on businesses due to the lack of such regulations. However, there have been studies performed on the effect of corporate social responsibility (CSR) disclosures on business performance. CSR topics are generally considered to be part of the governance (G in ESG) topics. As they are part of the set of topics to be disclosed under CSRD, and subsequently to be reported under ESRS, an assumption that the sustainability disclosure requirements are likely to have a similar effect on business operations and performance as CSR disclosures can be derived.

Bonsón and Bednárová (2015)[35] *CSR reporting practices of Eurozone companies* found that companies that disclose their non-financial information mostly report their corporate governance practices, with only a moderate number of environmental KPIs (key performance indicators) being disclosed, and infrequent use of social indicators. This shows that on their own companies are likely to report mostly on their governance, with the implication being that this is due to the regulatory institutions requiring companies to provide a level of transparency.

[35] E.Bonsón and M.Bednárová, 'CSR Reporting Practices of Eurozone Companies', *Revista de Contabilidad*, vol. 18, no. 2, 2015, pp.182–193

A study by Burhan and Rahmanti (2012)[36] *The impact of sustainability reporting on company performance* found that there is a link between sustainability reporting and a company's performance, with performance on social topics having the largest impact.

Tang and Demeritt (2018)[37] *Climate Change and Mandatory Carbon Reporting: Impacts on Business Process and Performance* studied the effects of mandatory greenhouse gas emissions (GHG) disclosures on UK companies. It was found that companies had different motivations for reporting GHG before requirement – financial gains and reputation were among the main drivers. The study found support for the assumption that carbon reporting did lead to greater awareness about climate change and did result in company behavior changes, notably reduced energy consumption. The authors concluded by arguing that the goal of CSR requirements is to make firms change their internal operations as internal shifts are key to reducing company (negative) environmental impact.

Stubbs et al. (2013)[38] *Why Do Companies Not Produce Sustainability Reports?* looked at what are the roadblocks to why organizations do not report on sustainability topics by examining 200 of the top Australian companies. The study found that sustainability reports were seen as a costly luxury that did not provide enough returns for the business. The study also found that there are large in-sector differences between company views on sustainability and which topics and issues were salient.

Baldassarre and Campo (2016)[39] *Sustainability as a marketing tool: To be or to appear to be?* looked at different levels of transparency in companies regarding sustainability and what are the implications of each level and how sustainability is incorporated into their marketing tools. The paper makes the argument that sustainability can indeed be a marketing tool, as long as the claims made are backed up by actions and data.

The financial incentives motivating the interest in sustainability are supported by one of the cornerstone economic theories – Friedman doctrine[40]. It is also called shareholder theory since it states that the goal of an organization is to satisfy the shareholders and thus should focus on the largest possible return no matter the impact. It has received a lot of criticism regarding the ethics and morality of the approach.

A competing theory called stakeholder theory[41] that states that businesses should be guided by their impact on the world around them like the impact on employees, suppliers, nature, etc. has gained

[36] N.Burhan et al., 'The impact of sustainability reporting on company performance', *Journal of Economics, Business & Accountancy Ventura (Online)*, vol. 15, no. 2, 2012, p. 257

[37] S.Tang and D.Demeritt, 'Climate Change and Mandatory Carbon Reporting: Impacts on Business Process and Performance: Climate Change and Carbon Reporting: Impacts on Business', *Business Strategy and the Environment*, vol. 27, no. 4, 2018, pp. 437–455

[38] W.Stubbs et al., 'Why Do Companies Not Produce Sustainability Reports?', *Business Strategy and the Environment*, vol. 22, no. 7, 2013, pp. 456–470

[39] F.Baldassarre and R.Campo, 'Sustainability as a Marketing Tool: To Be or to Appear to Be?', *Business Horizons*, vol. 59, no. 4, 2016, pp. 421–429

[40] M.Friedman, 'A Friedman doctrine - The Social Responsibility Of Business Is to Increase Its Profits', *The New York Times*, 13 September 1970, Section SM, Page 17, https://www.nytimes.com/1970/09/13/archives/a-friedman-doctrine-the-social-responsibility-of-business-is-to.html, (accessed October 2022)

[41] A.Laplume et al., 'Stakeholder Theory: Reviewing a Theory That Moves Us', *Journal of Management*, vol. 34, no. 6, 2008, pp. 1152–1189

momentum in recent years[42] and looks to replace shareholder theory as the company action governing principle.

The lack of concern the companies have about the resources and the world around them, specifically, the issue of lack of responsibility for resources that do not have one particular owner has given the term "tragedy of the commons". The term was popularized by an American ecologist Garrett Hardin in his article[43] in the Science in 1968 about the lack of resources in face of potential overpopulation as well as the negative impacts of pollution on all people (negative commons), taking resources for granted and privatizing what does not have an owner. A relevant takeaway from Hardin's article for this study is his confidence in the need for a governing body to enforce regulations to preserve the commons due to other economic actors not being able to properly decide on the best course of action.

Nowadays, the term is used in the economic context when the transition to a sustainable economy is discussed - how to best allocate resources (the commons) and minimize the creation of negative commons (e.g. pollution, climate change). An article by Ansari et al. (2013)[44] *An Institutional Perspective on the "Tragedy of the Commons"* gives a more modern and very insightful look at commons and how national and international institutions approach this issue in the context of the climate crisis.

Additionally, a hypothesis formulated by the prominent American economist Michael Porter provides support and an explanation for why regulations aimed at environmental protection benefit businesses[45]. The hypothesis states that well-designed environmental regulations enhance the competitiveness and commercial success of businesses. Numerous studies on this hypothesis have proven that regulations can not only benefit the planet and people but businesses as well. This can be used to explain policy maker decision to create stricter regulations, like CSRD and ESRS, despite the opposition from business communities. It can be argued that businesses aim to achieve the highest profits with the lowest efforts and thus, having to be innovative to compete can be seen as burdensome to some businesses. However, this is an issue to be solved by businesses rather than policy makers.

[42] D.Sundheim and K.Starr, ' Making Stakeholder Capitalism a Reality', *Harvard Business Review*, 22 January 2020, https://hbr.org/2020/01/making-stakeholder-capitalism-a-reality, (accessed December 2022)
[43] G.Hardin, 'The Tragedy of the Commons', *Science*, vol. 162, no. 3859, 13 December 1968, pp. 1243-1248
[44] S,Ansari - Loan et al., 'Constructing a Climate Change Logic: An Institutional Perspective on the 'Tragedy of the Commons'', *Organization Science (Providence, R.I.)*, vol. 24, no. 4, 2013, pp. 1014–1040
[45] M.E.Porter, 'America's Green Strategy', *Scientific American*, vol. 264, no. 4, 1991, p. 168

4. Research design

4.1 Research question

Based on the findings of previous studies a *null hypothesis* for this study is set that business associations will lobby. It is also assumed that larger business associations will have stronger biases against strict regulations thus a research question posed in this study is *"What are the factors that drive organizations to have stronger opinions for receding the scope of the European Sustainability Reporting Standards?"*

To find the answer to the question and to further examine what characteristics of business lobby groups (used interchangeably with business associations) influence the expressed desired scope of the ESRS a study using the comment letters and survey answers to the 2 surveys conducted by EFRAG is performed.

The study consists of 2 parts:

- in the first part, the comment letters are used to obtain position scores that are then analyzed to determine if lobbying did take place,
- in the second part regression analysis is performed to find the effects of the entity parameters on their position.

The underlaying assumption of this study is that businesses, and thus business associations representing the interests of businesses, want to report less, as disclosing the amount of information required by the ESRS would bare high resource costs that the businesses want to avoid. Thus, these entities have the incentive to express preferences for reducing the scope of the standards. Therefore, expressed policy position is used as an indication of lobbying. This follows the reasoning and findings of previous studies on policy lobbying and is in line with established economic theories, notably Friedman's doctrine.

To better understand whether business associations engaged in interest lobbying rather than provided objective feedback on the scope of ESRS sustainability (ESG) topic related entities were included alongside the business associations in the analysis. This is done based on the widely held belief, supported by shareholder theory / Friedman doctrine, that for-profit businesses are motivated by increased shareholder profits and decreased costs while the goals of ESG topic organizations are to profit humanity and the planet.

4.2 The hypotheses

The findings of previous studies on the topics of lobbying and sustainability discussed in the Literature review part prompted the creation of the following hypotheses to be tested in this study:

H1: Business Associations will have lower policy position average and median scores than ESG organizations.

- Based on the findings in the article by Klüver (2011) in addition to being based on the inherent underlying assumption that Business Associations are representing the interests of profit-driven businesses that want fewer regulations restricting their operations, and that ESG organizations lobby in favor of regulations aiming to address sustainability challenges. Such an assumption is followed in the article by Bunea (2014).

H2: Most business associations will have moderately low policy position scores.

- Based on the article by Bunea (2013) the assumption that having median policy positions would result in the policy being adjusted to the expressed preferences.

H3: Being a Business Association will have a negative effect on the policy position score.

- This hypothesis aims to answer the research question and test the findings of Bunea (2014).

4.3 Data selection

After the consultation process EFRAG made available to the public the responses to Survey 1 and 2 and attached comment letters for both surveys, as well as additional comment letters submitted to EFRAG (see *Appendix 9.1 The ESRS public consultation surveys* for survey structure). According to EFRAG, Survey 1 received 450 unique responses and Survey 2 received 252[46]. In total 289 comment letters were received. Survey responses and comment letters were accessed and downloaded on September 27, 2022.

Responses to part of the survey questions describing the respondent and attached comment letters to both surveys were used in the study. Additional comment letters were not included due to the absence of easily obtainable respondent descriptive parameters available without survey responses.

For the purposes of the study, it is assumed that the opinions of direct stakeholders impacted by the regulation are more relevant than those who fit the role I call "outside observers". Thus, only entities located in the EU are analyzed, because CSRD and ESRS mainly concern European organizations. Further, only organizations that fit the descriptions of either business interest associations or sustainability-related entities were included in the analysis, as per the research question.

[46] EFRAG, *Public consultation on the first set of Draft ESRS* [website], https://www.efrag.org/lab3, (accessed last November 2022) https://efrag.sharefile.com/share/view/sb9591db743cd4729b45e481bc7990efb/fod87e7b-9884-4c36-9836-f391eb02d538 /

Participation in the consultation process is voluntary, thus a bias exists that the organizations partaking in the feedback process have the desire to influence the outcomes and those wishing to change the standards are more likely to participate in the process. However, this is a known limitation of every study containing analysis of voluntary feedback of any sort. But due to the feedback submitted being taken mostly at face-value by policy makers, for this study whether an organization participated in the consultation process is assumed to have little significance in determining the organization's opinion about the scope of ESRS.

4.4 Obtaining policy preferences

For determining the policy positions of respondents, comment letters are used. The process follows the outline of the research design in Klüver (2009), where comment letters are first edited to contain only the parts where the position is expressed and then a program, in this study Wordscores, is used to obtain a numerical value of the preferences expressed by the entity.

The opinions regarding the key principles of the ESRS – double materiality, rebuttable presumption, reporting boundary for value chain – were assumed to make up the policy position of the entity, as these principles are unique to the ESRS compared to other, existing reporting standards, and thus of great interest to those having to report on them. Additionally, opinions about the level of granularity of disclosable data requirements and the time frame in which SMEs must comply with all reporting requirements were considered as contributing to policy position due to the widespread discourse surrounding these specific characteristics.

Due to the number of letters to be analyzed hand-coding was not used. Wordscores, a suite of software utilities for Stata, was employed as the classification program.

Wordscores was developed by Michael Laver[47] in the early 2000s. It can measure the policy position of a given text along an axis, which in this study is defined as the preference for or against ESRS scope reduction. Wordscores classify a text by comparing word frequencies in "virgin texts" (unknown policy positions) against the word frequencies in "reference texts" (documents with predefined policy positions).

It uses the reference text word frequencies in virgin texts to obtain a probability P_{wr} that the text being read is a reference text r based on w – a particular word. Due to the policy position score A_{rw} of the reference texts being known, the score A_{rw} together with the probability P_{wr} to calculate S_{wd} – the score for each word w on the policy position dimension d. To calculate the cumulative score of a virgin text, which serves as the policy position for the whole text, first the proportion of the relative frequency of virgin text word to the total number of words F_{wv} is calculated and then the formula

[47] M.Laver et al., 'Extracting Policy Positions from Political Texts Using Words as Data', *The American Political Science Review*, vol. 97, no. 2, 2003, pp. 311–331

$S_{vd} = \sum_w (F_{vd} \times S_{wd})$ is used. However, the resulting score cannot be used to compare virgin texts on the same scale as reference texts, thus S_{vd} is transformed into $S\ *_{vd}$ that then has the same score distribution as reference texts.

Even though in her research Klüver found Wordscores to be less accurate than the other method used due to the more relative nature of the scoring method, other studies evaluating Wordscores like a study by Klemmensen et al (2007)[48] find that taking appropriate steps, notably pre-processing of text, Wordscores can deliver a trusted result to be used when comparing policy positions. In the context of this paper, the relativity of results does not pose a problem, as the study examines the scores in context rather than the goal being the obtainment of scores through classification.

4.5 Finding the effect

Similarly to studies by Bunea, Mahoney, and others who aim to find what variables contribute to a policy position a regression analysis is used to ascertain the effect of the characteristics of an entity on the policy position.

In this study, descriptive variables obtained from survey data are used as independent variables. The policy position scores from Wordscores analysis are set as the dependent variable.

The general model can be written as:

$$scores = a + \beta_1 var_1 + \beta_2 var_2 + \cdots + \beta_n var_n + \in$$

Equation I: Regression model in equation form

$scores$ are the policy position scores assigned by Wordscores, a is the intercept and β_n represents the coefficients of the var or variables that are obtained from the ESRS consultation surveys. $\in$ is the error term.

A 2-sided test at a 10% significance level, because of the small sample size, is used to determine which parameters of an organization influence the policy position.

[48] R.Klemmensen et al., 'Estimating Policy Positions Using Political Texts: An Evaluation of the Wordscores Approach', *Electoral Studies*, vol. 26, no. 4, 2007, pp. 746–755

5. Data and method

The data set used in the analysis contained 47 unique entries and 11 variables – 1 dependent variable and 10 independent variables. 35 entries were classified as Business Associations and 12 entries were classified as ESG organizations.

5.1 Data collection, selection, and preprocessing

5.1.1 Entities and descriptive data

Entities that fit the following criteria were selected for analysis:

- indicated "Country of Origin" to be from one of the 27 European Union member nations;
- indicated "Type of respondent" to be either a Business association, Trade union or other workers representatives, or Non-governmental organization;
- indicated "Type of respondent" Academic/research institution or Other, as during preliminary data inspection it was found that research institutions participating in the consultation process were mostly focused on ESG topic research, and the Other being the catch-all option for the survey the respondents that chose this option were inspected closer to determine whether to include in the data set;
- had provided a comment letter in the English language.

Next, to best classify each entity as a Business Association (*BA*) or an ESG organization (ESG) or to remove the entity from analysis each respondent was evaluated by looking up the entity and its work on the internet, mostly their "About us" sections on their websites, to ensure correct classification. Entities whose activities were related to either raising awareness or working with sustainability topics were further encoded under the binary variable *ESG_related* as 1, and the rest as 0. All ESG and one BA entity were classified as *ESG_related*.

Additionally, in this step, it was assessed whether the entity is not-for-profit - meaning whether the entity operates to generate profit for itself or its members through lobbying or adjacent activities. This was then encoded as a binary variable where 1 signified that the entity is not-for-profit and 0 that the entity is for-profit. All entities classified as BA ended up as for-profit, but not all ESG entities were not-for-profit.

The survey responses for questions "Size", "User/Preparer perspective" and " Subject to CSRD Separate non-financial corps subject to CSRD from those not subject to CSRD?" were also encoded as binary variables, and "Country of Origin" was divided into dummy variables.

- "Size" responses Micro, Small, Medium as 1, Large, and Other as 0 for the variable *Is_SME*.

- "User/Preparer perspective" response User, Preparer, Both as 1, Neither as 0 for *Is_user_or_preparer*.
- " Subject to CSRD Separate non-financial corps subject to CSRD from those not subject to CSRD?" response Yes as 1, No as 0 for *Subject_to_CSRD*.

This was done to further classify respondents by categorizing the entity's relationship and interaction with the regulation to see if these parameters contribute to their desired reporting standard scope.

From "Country of Origin" 4 binary dummy variables were created:

- *Is_Nordic* contained countries from the Nordics;
- *Is_German* contained German-speaking countries like Germany and Austria;
- counties located in the southern part of Europe e.g. Spain and Italy were coded under *Is_Southern*;
- *Is_Central* contained countries such as France that are located in central Europe.
- Eastern Europe countries were not given a dummy variable as splitting a parameter into dummy variables calls for k-1 dummies, where k is the number of categories contained in the parameter.

Lastly, all respondents included in the end data set for analysis were assigned a name in form of BA# (BA1 – BA35) for Business Associations and ESG# (ESG1 – ESG12) for Sustainability-related entities to ensure the anonymity of the analysis results.

5.1.2 The comment letters

Before processing the comment letters of selected entities were first "cleaned" according to the recommendations laid out by Klüver (2009). Contact details, parts describing the respondent, bullet point formatting, and other irrelevant parts for analysis were removed. Sections expressing feedback about the general structure and approach were kept. Spelling was checked using *MS Word* and words were lemmatized and punctuation removed using the *jfreq* program.

This process allowed for further filtering of entities for analysis, as letters containing only feedback on specific standards (e.g. ESRS E2) and those not containing a substantial amount of analysis-relevant feedback (e.g. very few sentences about the general structure of the standards) were removed from the dataset.

In addition, by having gone through all comment letters manually in the pre-processing stage, I was able to select comment letters that expressed differing desires for changing the scope of the standards to be used as references in the scoring stage.

In cases where multiple survey respondents collaborated on the feedback and submitted identical comment letters the respondent whose name was alphabetically first was kept in the data set. This was done to ensure the data set contained no repeated entries.

5.2 The text scoring method

To obtain a score for each comment letter to be used as the dependent variable in the regression analysis, Stata utility Wordscores, was used.

Since Wordscores is a supervised ideology scaling data analysis tool[49] it requires reference texts with set scores to be able to assign scores to other so-called virgin texts. It is necessary to have at least 2 reference scores, each on the far ends of the spectrum, but it is possible to assign values to more than 2 texts to better the classification.

In the pre-processing stage, I identified 5 texts with defined and clearly stated opinions about the subject to be used as references. Their assigned scores were 5; 10; 15; 25 and 30, with lower scores indicating a preference for reducing the scope of the ESRS and higher scores indicating a preference for increasing the scope of the standards. As there are no requirements regarding what should the scale of the scores look like, a scale of 0 to 30 was chosen due to its great fit with the 7-Point Likert Scale[50], allowing for the classification of opinions expressed using a modified Level of Acceptability scale presented by Vagias (2006) [51]. See the full list in *Appendix 9.2 Likertscale*.

The output scores from Wordscores were used to answer H1 and H2, and as the dependent variable in the regression analysis. To help validate the Wordscores scores as reliable variables to be used in regression analysis a normality test is performed.

5.3 The regression analysis

The regression analysis was performed using the linear regression function in Stata, due to the program's user-friendly interface and ease of use.

Wordscores score was used as the dependent variable and *Is_BA, Is_not_for_profit, ESG_related, Is_SME, Is_user_or_preparer, Subject_to_CSRD, Is_Nordic, Is_German, Is_Southern, Is_Central* were used as the independent variables.

The independent variables were classified into 3 groups: the organization type (*Is_BA, Is_not_for_profit, ESG_related*), relation to regulation (*Is_SME, Is_user_or_preparer, Subject_to_CSRD*), and location (*Is_Nordic, Is_German, Is_Southern, Is_Central*).

4 regressions were performed – 3 to see the effect that each group of variables individually has on the opinion expressed by the organizations, and 1 to see the collective effect of all variables on the opinion score.

[49] J.Grimmer and B.M.Stewart, 'Text as Data: The Promise and Pitfalls of Automatic Content Analysis Methods for Political Texts', *Political Analysis*, vol. 21, no. 3, 2013, pp. 267–297
[50] M.Khandelwa, *Everything you need to know about the Likert* Scale [website], SurveySensum, 19 November 2021, https://www.surveysensum.com/blog/everything-you-need-to-know-about-the-likert-scale/, (accessed December 2022)
[51] W.M.Vagias, 'Likert-type scale response anchors', Clemson International Institute for Tourism & Research Development, Department of Parks, Recreation and Tourism Management. Clemson University, 2006, http://media.clemson.edu/cbshs/prtm/research/resources-for-research-page-2/Vagias-Likert-Type-Scale-Response-Anchors.pdf, (accessed December 2022)

Model 1:

$$scores = a + \beta_1 Is\_BA + \beta_2 Is\_not\_for\_profit + \beta_3 ESG\_related + \in$$

Equation II: Regression model for model 1

Model 2:

$$scores = a + \beta_4 Is\_SME + \beta_5 Is\_user\_or\_preparer + \beta_6 Subject\_to\_CSRD + \in$$

Equation III: Regression model for model 2

Model 3:

$$scores = a + \beta_7 Is\_Nordic + \beta_8 Is\_German + \beta_9 Is\_Southern + \beta_{10} Is\_Central + \in$$

Equation IV: Regression model for model 3

Model 4:

$$\begin{aligned} scores = a &+ \beta_1 Is\_BA + \beta_2 Is\_not\_for\_profit + \beta_3 ESG\_related + \beta_4 Is\_SME \\ &+ \beta_5 Is\_user\_or\_preparer + \beta_6 Subject\_to\_CSRD + \beta_7 Is\_Nordic + \beta_8 Is\_German \\ &+ \beta_9 Is\_Southern + \beta_{10} Is\_Central + \in \end{aligned}$$

Equation V: Regression model for model 4

6. Results and analysis

H1 and H2 are tested in the first part of the analysis by looking only at the policy position scores assigned by Wordscores and their statistical attributes.

H3 is tested in the second part using organization descriptive data to find their effects on the policy position scores.

The data set for analysis consisted of 47 entities with 10 categorical entity descriptive variables and 1 discrete continuous dependent variable for the policy position.

6.1 Policy position scores

The distribution of policy position scores can be seen in **Figure I** below. Its x-axis has a range of 60, double that of the reference range. The scores assigned had a range of 48 points. This range exceeds the 30-point reference range used to classify the comment letters. However, all attempts of remedying this by using different texts from within and outside the sample of 47, e.g., the texts scoring on the far-ends on this and other scales, as reference texts and different score ranges also produced results with scores exceeding the input range, therefore the initial scale and reference texts were kept for classification.

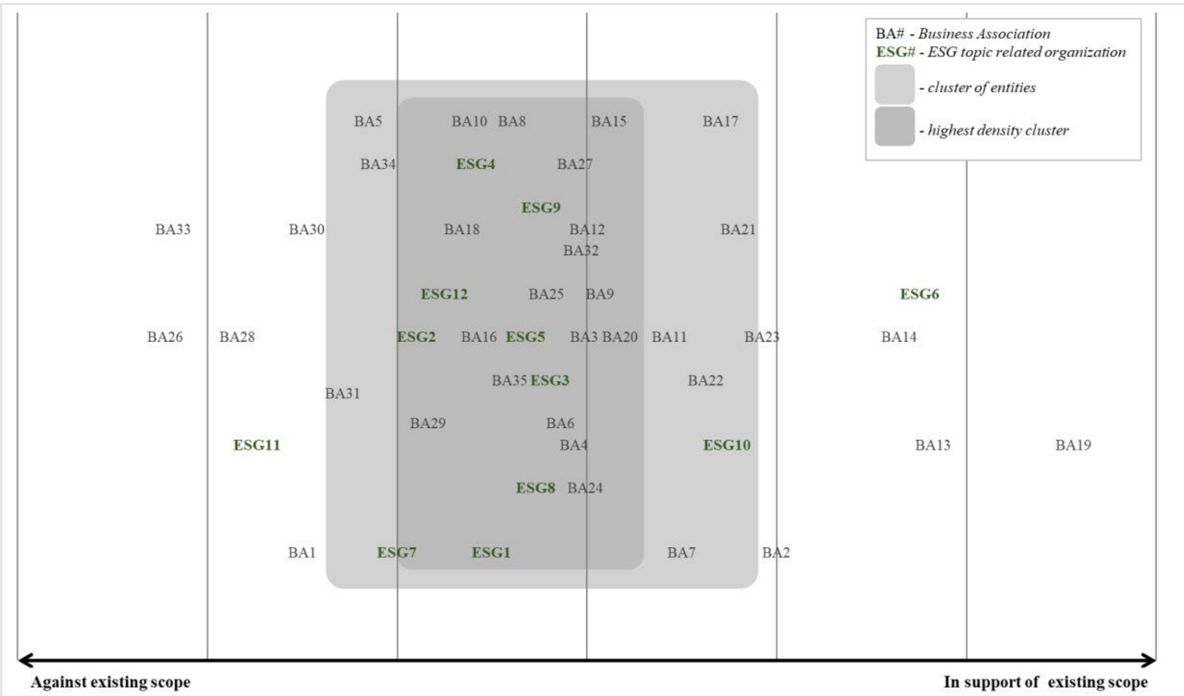

Figure I: Policy positions on ESRS scope
Data source: Author's analysis – Wordscores assigned scores based on organization comment letters
Note: Only the X-axis has meaning. Placements on Y-axis are used for illustration purposes to not have overlapping data point labels.

Using opinions on multiple sub-topics of the policy to determine the policy position, as is done in this study, does increase the likelihood that the algorithm will not be able to precisely assign the score to a text. However, this study looks for general trends in the form of organization characteristic effects on the policy position rather than to determine exact position scores since the actual scores are arbitrary, as the relative positions of the texts with each other are the more relevant part. An additional explanation for outlier phenomena is the high similarity of the texts analyzed resulting in the algorithm not being able to discern clear differences in words used. This implies that organizations expressed similar opinions regarding the scope of the ESRS.

Figure I show that ESG organizations have a narrower range of scores and do not stand apart from Business Association positions (discussed in more detail in the next section). It can also be observed that there is a cluster of organizations (colored in gray) around the middle point of the scale, with a smaller, denser cluster (colored darker gray) just left of the middle point indicating a preference for reducing the scope of ESRS.

Business Associations having a such large range of position scores does suggest that not all Business Associations lobby for the same outcome, which is a logical conclusion as not all Associations represent businesses of the same industry or location. The effects of such characteristics are examined in the second part of the study.

Contrary to expectations ESG organizations have similar policy positions as the majority of Business Associations. On the surface, this can seem alarming, and a possible interpretation of this finding at the ESG organizations participating in the consultation process might have ulterior motives for wanting to reduce the scope of ESRS, like the possibility of them being financed by for-profit businesses that would want to use the organizations to have an air of credibility associated with the position on ESG matters. This would not be the first time that deceptive tactics have been used by corporations to steer the conversation away from their impact on the planet and society – take the example of the term "Carbon footprint" being introduced into everyday conversation by oil companies to put the responsibility of the climate change onto the shoulders of the consumer[52]. However, it could be that ESRS are indeed very ambitious in their scope, and organizations, regardless of their affiliations, have their reservations. Upon closer inspection of the arguments expressed in the comment letters combined with general discussions around ESRS and CSRD, the latter possibility seems more likely.

6.1.1 Analysis of policy position scores

Comparing the average policy position score for Business Associations and ESG organizations in **Table I**, the Business Association positions score 1.8 points higher than ESG organizations. The median score for Business Associations was 3.5 points above ESG organizations, however, the Business Association did have a lower standard error (SE) on average. Based on this data, *H1: Business associations will have lower policy position average and median scores than ESG organizations* proved to be incorrect.

[52] A.Westervelt. 'Big Oil Is Trying to Make Climate Change Your Problem to Solve. Don't Let Them', *RollingStone*, 14 May 2021, https://www.rollingstone.com/politics/politics-news/climate-change-exxonmobil-harvard-study-1169682/, (accessed November 2022)

	Average total words scored	Average % of scored words	Average Score	Median Score	Average SE
ESG organization (12)	981	85.27	16.68	15.89	3.82
Business Association (35)	1251	81.33	18.48	19.39	3.79
Combined (47)	1046	84.33	18.02	17.89	3.81

Table I: Score statistic table
Data source: *Author's analysis* – Wordscores assigned scores based on organization comment letters
*Note: average % of scored words = (scored words / all words) * 100*

Table I also shows that the Business Associations had longer texts than ESG organizations discussing the key principles of ESRS, with a lower proportion of words used to assign the policy position score. This indicates that ESG organizations were more concise and direct in their feedback than Business Associations with one way of interpreting this being that Business associations gave more arguments for having a particular position on the key principles.

Figure II shows the distribution of policy position Scores assigned to all organizations. Almost half of the organizations (47% or 22 organizations) fall into the 10-19.9 score range indicating that these organizations share a similar position regarding the scope of ESRS.

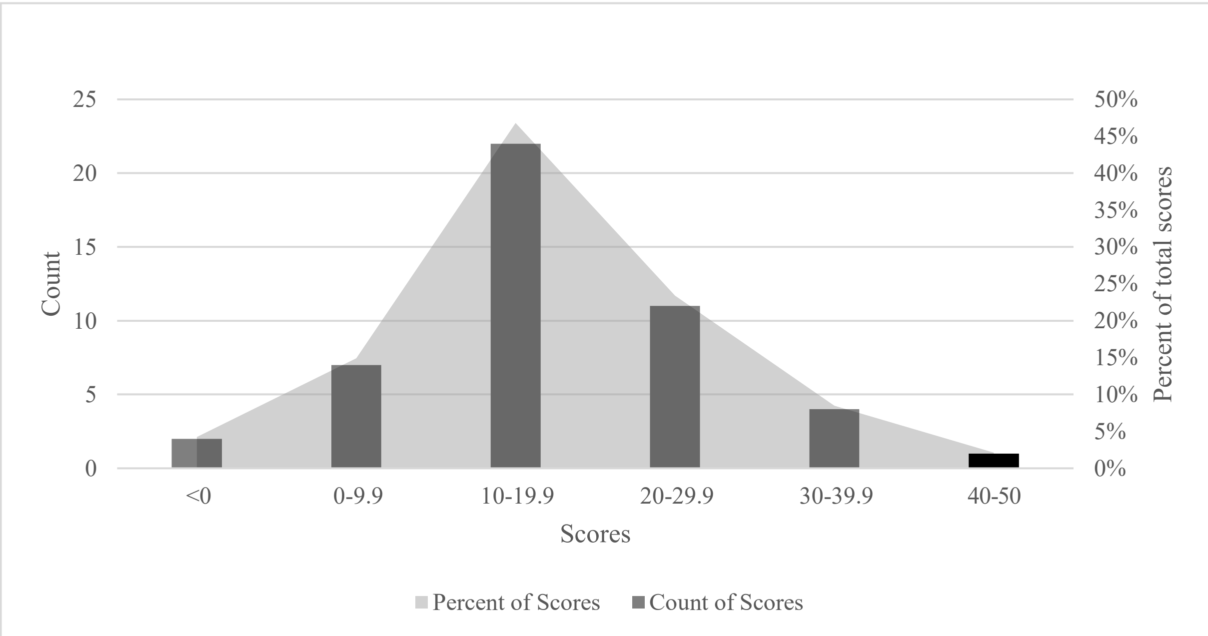

Figure II: Score distribution for all organizations
Data source: Author's analysis – Wordscores assigned scores based on organization comment letters

To see if the scores allocated follow a normal distribution Skewness Kurtosis test for normality using Stata[53] was performed, as this method for normality testing is commonly used and provides easy-to-understand results. The Skewness Kurtosis test assumes the null hypothesis to be that the data follows a normal distribution. The resulting outputs from this analysis for all scores are presented in **Table II** and **Figure III**. Skewness measures the asymmetry in the mean distribution and kurtosis describes the thickness and sharpness of the given distributions in relation to a normal distribution.

Skewness and kurtosis tests for normality

				Joint test	
Variable	Obs	Pr(skewness)	Pr(kurtosis)	Adj chi2(2)	Prob>chi2
Wordscores	**47**	**0.2768**	**0.4133**	**1.95**	**0.3763**

Table II: Skewness and kurtosis test for all policy position scores *(output from Stata)*
Data source: Author's analysis – Wordscores assigned scores based on organization comment letters

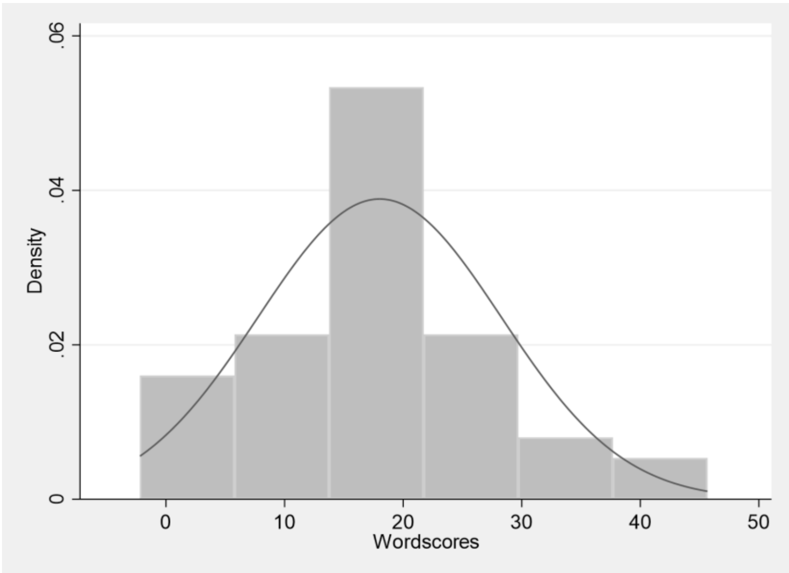

Figure III: Histogram with Bell Curve for all policy position scores *(output from Stata)*
Data source: Author's analysis – Wordscores assigned scores based on organization comment letters

In **Table II**, the probability of skewness is 0.2768 and the probability for kurtosis is 0.4133 indicating that both, skewness and kurtosis, are asymptotically normally distributed due to them being larger than the p-value of 0.05 (significance level). The chi (2) probability has a value of 0.3763 which is significant at a 5% level as 0.3763>0.05. Therefore, the null hypothesis of the test cannot be rejected meaning that the scores are normally distributed. **Figure III** graphically illustrates the bell-curve associated with normal distribution presented by the obtained scores.

This means that the scores obtained from Wordscores can be reliably used in this study as the dependent variables for regression analysis, due to standard statistical analysis methods applying to normally

[53] Stata, 'sktest -Skewness and kurtosis test for normality', https://www.stata.com/manuals13/rsktest.pdf, (accessed December 2022)

distributed data as those in this study. This finding validates the decision to not discard the far-out (tail) values, as their existence is supported by data being normally distributed.

Figure IV shows the distribution of Scores for Business Associations. The distribution curve is flatter than the curve for all Scores and leans more toward the right side. Most Business Associations, 13 of 35, have a policy position score between 10 and 20 points. Applying the 7-Point Likert Scale (see *Appendix 9.2*) the organizations with policy positions with scores between 10 and 20 see the scope of ESRS as slightly unacceptable with the policy position indicating that the scope needs moderate reduction.

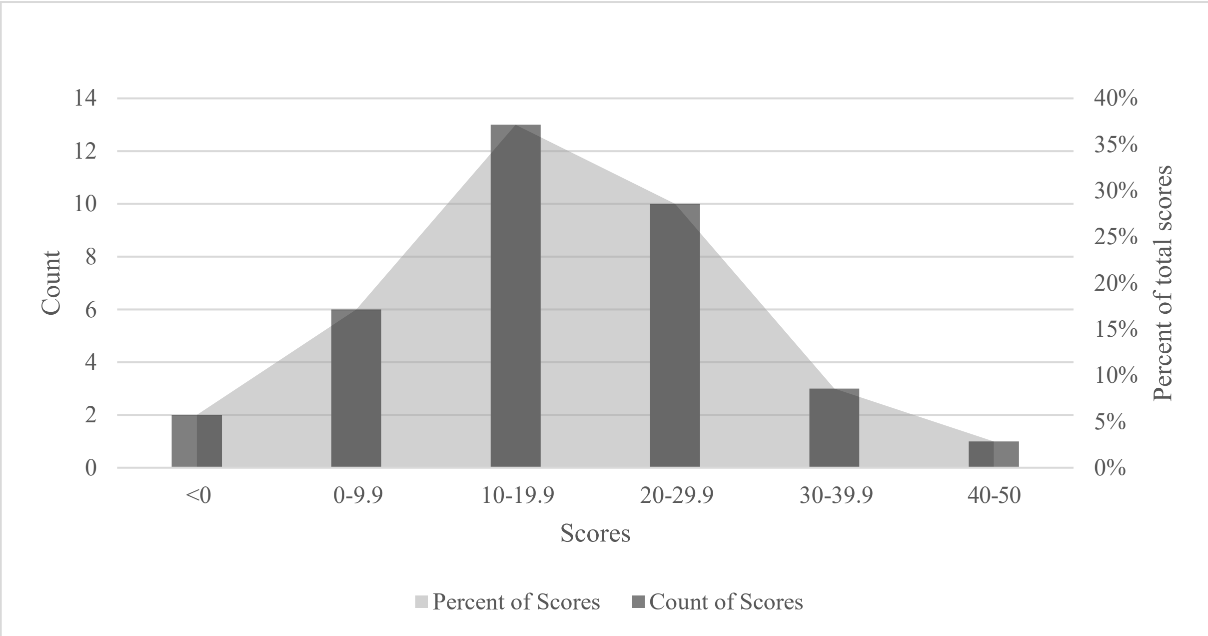

Figure IV: Scores distribution for Business Associations
Data source: Author's analysis – Wordscores assigned scores based on organization comment letters

Thus, this provides evidence to support *H2: Most Business Associations will have moderately low policy position scores*. Such discovery affirms the findings of previous studies (Bunea (2013)) and the general assumption that businesses, and by extension associations of businesses, will want and will lobby in favor of looser regulations, which in the case of this study are more relaxed ESRS disclosure requirements. The result normality analysis of Business Association scores in **Table III** and **Figure V** show normal distribution, with all 3 probabilities being higher than 0.05 (see the description for the results for all scores for a more detailed expiation).

Skewness and kurtosis tests for normality

Variable	Obs	Pr(skewness)	Pr(kurtosis)	Joint test: Adj chi2(2)	Joint test: Prob>chi2
Wordscores	**35**	**0.5825**	**0.5301**	**0.73**	**0.6952**

Table III: Skewness and kurtosis test for Business Association policy position scores *(output from Stata)*
Data source: Wordscores assigned scores based on organization comment letters

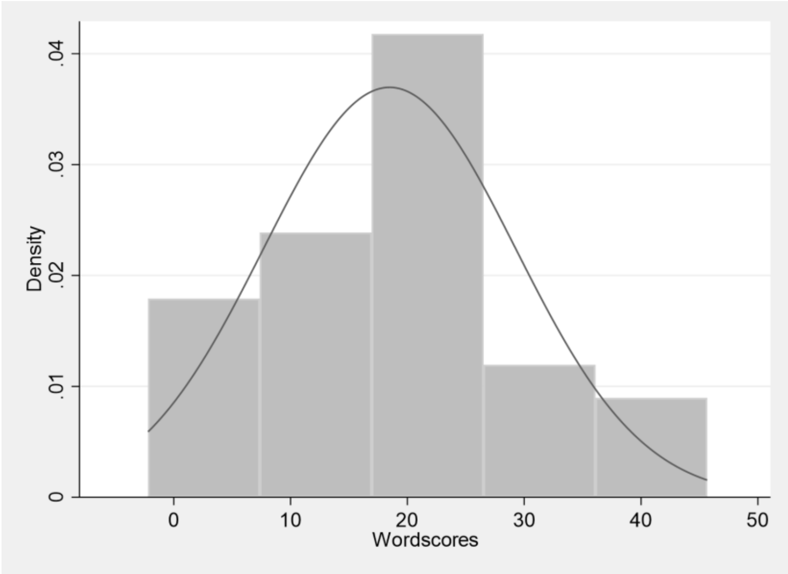

Figure V: Histogram with Bell Curve for Business Association policy position scores *(output from Stata)*
Data source: Author's analysis – Wordscores assigned scores based on organization comment letters

Figure VI shows the score distribution for ESG organizations. They, same as Business Associations, have the most policy positions categorizes as having a score between 10 and 19.9, however, the range is more compact with only 3 organizations having scores outside this range. This indicates that there is a greater homogeneity among ESG organizations than in Business Associations. It is reasonable to conclude this, due to the Business Associations representing groups of businesses whereas ESG organizations are usually single entities dedicated to a particular topic or issue.

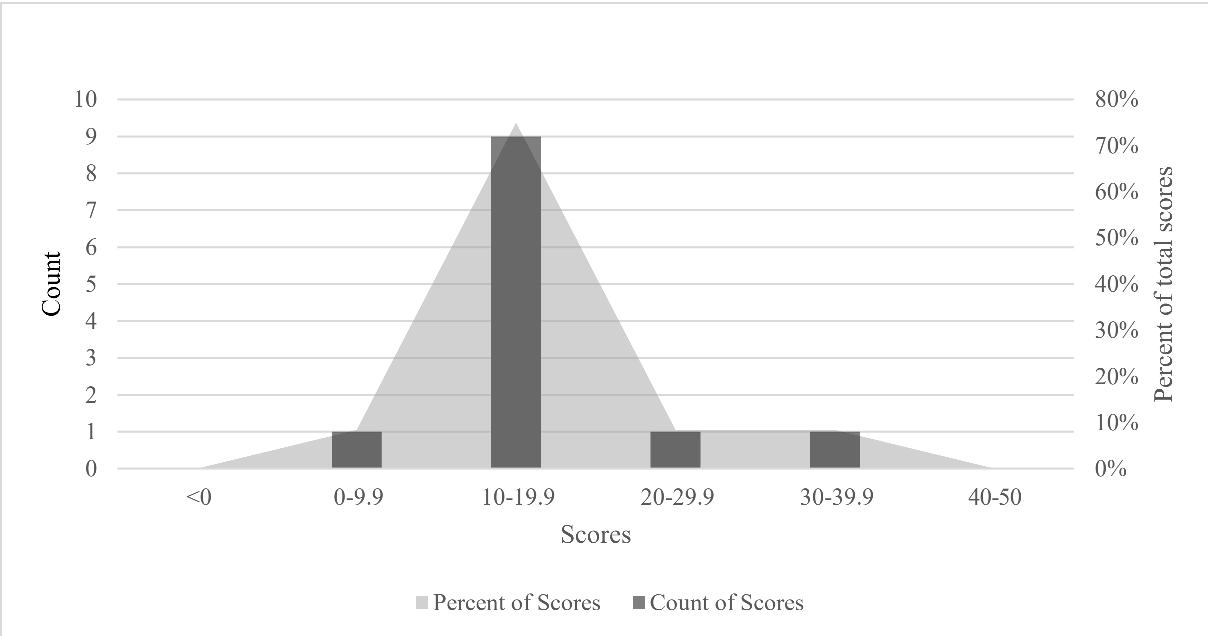

Figure VI: Scores distribution for ESG organizations
Data source: Author's analysis – Wordscores assigned scores based on organization comment letters

Table IV and Figure VII illustrate the results of the normality tests for ESG organization policy position scores. They too follow a normal distribution, although the probability values are much closer to the 0.05 threshold for rejection of the null hypothesis that data are normally distributed, however, this most likely is due to the sample size for ESG organizations being only 12 compared to almost triple that for Business Associations.

Skewness and kurtosis tests for normality

Variable	Obs	Pr(skewness)	Pr(kurtosis)	Joint test Adj chi2(2)	Joint test Prob>chi2
Wordscores	**12**	**0.0794**	**0.0924**	**5.57**	**0.0617**

Table IV: Skewness and kurtosis test for ESG organization policy position scores *(output from Stata)*
Data source: Wordscores assigned scores based on organization comment letters

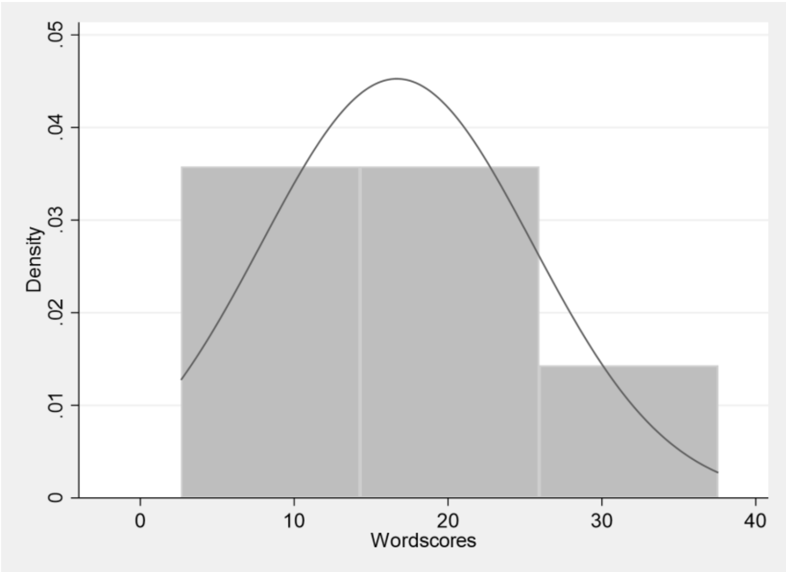

Figure VII: Histogram with Bell Curve for ESG organization policy position scores *(output from Stata)*
Data source: Author's analysis – Wordscores assigned scores based on organization comment letters

6.1.2 Limitations

As discussed earlier in the paper, there are some concerns regarding the precision of score assignments using the Wordscores technique for policy position estimation.

The detailed pre-processing of comment letters aimed to address the possible limitations of the method by ensuring that only relevant information in a unified format is used to obtain a policy position score.

When working with quite formal texts with similar opinions on matters, there is a possibility of either over-processing of material that results in close to identical input text or human-factor error in removing text parts that do contain relevant information on a policy position. Pre-processing resulted in an average of 84% (see **Table I**) of words from cleaned texts being used for score allocations, meaning that only 16% of cleaned texts were not indicative of the policy position. This assures that an appropriate and consistent process of pre-processing of texts took place.

Human error could also impact the choice of reference texts, as they were chosen by reading through all comment letters and hand-picking the ones that were interpreted to have the most categorical preferences expressed. Increasing the number of reference texts from the recommended 2 to 5 was an attempt to maximize the likelihood of having correctly identified policy position references. The normality test was performed afterward that showed that the scores assigned do in fact follow a normal distribution, thus validating the scores as appropriate for use in statistical testing in both parts of this study.

Lastly, the limitations of the Wordscores method were considered when designing the study, and thus the research question posed focuses on the effects of characteristics on the policy positions rather than the policy positions themselves since the policy positions are relative to other organization positions and reference texts and the scores assigned are based on an arbitrary scale. Nevertheless, due to this study being a case study, this can be seen as an advantage since this provides a better indication of in-sample relationships and allows for greater case-specificity of results used to evaluate their fit with the theory tested in this study.

6.2 Regression analysis

To be able to answer the research question for this study and test the third hypothesis *H3: Being a Business Association will have a negative effect on policy position score* regression analysis using all defined independent variables is performed. For the purposes of isolating the individual effects of organization characteristic groups, 3 additional regressions are performed.

Policy position scores obtained in the first part of the study are used as dependent variables in a regression analysis.

6.2.1 Results

The output of Regression 1 is presented in **Figure VIII.** In this regression, the policy position scores were regressed on the organization-type group variables. The R-squared value of 0.042 means that these 3 variables – *Is_BA, Is_not_for_profit,* and *ESG_related* – explain only 4.2% of differences (variance) in the policy position scores between the organizations. Combined with the p-value of the F-value being 0.6 this indicates that on their own the variables are not good and reliable predictors of the scores, thus the analysis would benefit from the inclusion of additional variables, as that typically has a positive effect on the R-squared value and leads to the lowered p-value for F-value.

Coefficients for the variables show that being a Business Association decreases the policy position score by 5.35 points and a not-for-profit organization increases the score for almost the same amount – by 5 points. Surprisingly, being an organization that deals with ESG topics (in the data set – all ESG organizations and 1 Business Association fit this category) would lower the score by 11.65 points. However, all the coefficients having p-values much larger than 0.05 or even 0.10 means that these findings are not statistically significant at 5% or 10% level, and thus the null hypothesis of regression that these parameters of an organization do not influence the policy position cannot be rejected.

Source	SS	df	MS	Number of obs	=	47
				F(3, 43)	=	0.63
Model	202.752066	3	67.5840219	Prob > F	=	0.6020
Residual	4640.5336	43	107.919386	R-squared	=	0.0419
				Adj R-squared	=	-0.0250
Total	4843.28566	46	105.288819	Root MSE	=	10.388

Wordscores	Coefficient	Std. err.	t	P>|t|	[95% conf.	interval]
Is_BA	-5.3447	12.72317	-0.42	0.677	-31.00342	20.31402
Is_not_for_profit	5.01227	8.04684	0.62	0.537	-11.21573	21.24027
ESG_related	-11.65419	10.54009	-1.11	0.275	-32.91031	9.601925
_cons	24.15419	12.8473	1.88	0.067	-1.754863	50.06325

Figure VIII: Regression output for model 1*(output from Stata)*
Data source: Author's analysis – Wordscores assigned scores based on organization comment letters; organization answers to Surveys 1 and 2 from EFRAG

Regression 2 tests the effect of being subject to the CSRD regulation, thus having to report using ESRS, on the organization's policy positions. Outputs can be observed in **Figure IX**.

Source	SS	df	MS	Number of obs	=	47
				F(3, 43)	=	1.09
Model	343.554751	3	114.51825	Prob > F	=	0.3618
Residual	4499.73091	43	104.644905	R-squared	=	0.0709
				Adj R-squared	=	0.0061
Total	4843.28566	46	105.288819	Root MSE	=	10.23

Wordscores	Coefficient	Std. err.	t	P>|t|	[95% conf.	interval]
Is_SME	-.2718961	3.805762	-0.07	0.943	-7.946947	7.403154
Is_user_or_preparer	-4.119347	3.783292	-1.09	0.282	-11.74908	3.510388
Subject_to_CSRD	-3.694225	3.458644	-1.07	0.291	-10.66924	3.280795
_cons	22.95581	4.432058	5.18	0.000	14.01771	31.89391

Figure IX: Regression output for model 2*(output from Stata)*
Data source: Author's analysis – Wordscores assigned scores based on organization comment letters; organization answers to Surveys 1 and 2 from EFRAG

The R-squared value for this regression is 7% which is higher than the value for regression 1 but does indicate that only a small part of the variance of position scores can be predicted by the regulatory relationship variables. The p-value for F-value is 0.36, close to half of the first regression one, however, it is still not significant at the 10% or 5% level. The independent variable coefficients to have non-significant effects, thus, the null hypothesis for regression 2 cannot be rejected meaning these variables have no effect on the position score.

Results from Regression 3 can be seen in **Figure X**. The maturity level of sustainability disclosures varies among EU member states as each state determines if and what data should the companies report. For example, the Nordic countries' sustainability reporting is considered a normal practice while Eastern

Europe countries are just now starting to pay attention to ESG topics (*KPMG International, 'Survey of Sustainability Reporting 2022'*). However, the location of organizations on its own is not a predictor of the position opinion expressed and has no effect on the opinion score, due to the failure to reject the null hypothesis.

Source	SS	df	MS			
Model	287.211003	4	71.8027508	Number of obs	=	47
Residual	4556.07466	42	108.477968	F(4, 42)	=	0.66
				Prob > F	=	0.6219
				R-squared	=	0.0593
				Adj R-squared	=	-0.0303
Total	4843.28566	46	105.288819	Root MSE	=	10.415

Wordscores	Coefficient	Std. err.	t	P>|t|	[95% conf.	interval]
Is_Nordic	4.944983	8.504037	0.58	0.564	-12.21686	22.10682
Is_German	-2.39855	7.840335	-0.31	0.761	-18.22099	13.42389
Is_Southern	-3.4694	8.504037	-0.41	0.685	-20.63124	13.69244
Is_Central	-.1219167	7.763088	-0.02	0.988	-15.78846	15.54463
_cons	18.64085	7.364712	2.53	0.015	3.778259	33.50344

Figure X: Regression output for model 3*(output from Stata)*
Data source: Author's analysis – Wordscores assigned scores based on organization comment letters; organization answers to Surveys 1 and 2 from EFRAG

All dummy variables exceed the 10% significance level. The intercept coefficient, which in the case of this regression represents the Eastern Europe countries, has a p-value of 0.000, however, due to all other variables being dummies, this value will always be 0. The R-squared is just 6% and F-value is not significant at the 10% or 5% level.

From the 3 regressions discussed above it can be concluded that none of the individual organization parameter groups can be used to explain the different policy position scores meaning that there are independent variables not included in the models (omitted variables) that explain the variation in the policy positions, however, due to all parameters being insignificant omitted variable bias is not present here. In addition to all parameters having no statistically significant effect on the scores, the R-squared values of the regressions being under 10% and all F-values exceeding significance thresholds no group can explain the variations of organization policy position scores.

Regression 4 included all 10 independent variables combining all 3 parameter groups used in the previous 3 regressions into a single model. The results can be seen in **Figure XI**.

The R-squared value is significantly larger than the other model value indicating that regression 4 predicts more than a fourth of the variance in the policy position scores. This makes regression 4 more reliable than the previous regressions.

Source	SS	df	MS		Number of obs	=	47
					F(10, 36)	=	1.27
Model	1265.15023	10	126.515023		Prob > F	=	0.2818
Residual	3578.13544	36	99.392651		R-squared	=	0.2612
					Adj R-squared	=	0.0560
Total	4843.28566	46	105.288819		Root MSE	=	9.9696

Wordscores	Coefficient	Std. err.	t	P>|t|	[95% conf.	interval]
Is_BA	-.6916697	12.88478	-0.05	0.957	-26.82321	25.43987
Is_not_for_profit	1.720347	8.137404	0.21	0.834	-14.78307	18.22377
ESG_related	-7.165424	10.61953	-0.67	0.504	-28.70283	14.37199
Is_SME	1.163574	3.848058	0.30	0.764	-6.640649	8.967796
Is_user_or_preparer	-5.919148	3.909522	-1.51	0.139	-13.84803	2.00973
Subject_to_CSRD	-7.571027	3.838146	-1.97	0.056	-15.35515	.2130941
Is_Nordic	11.22047	8.50751	1.32	0.196	-6.033562	28.4745
Is_German	-.3838335	7.707421	-0.05	0.961	-16.01521	15.24754
Is_Southern	-3.992818	8.485514	-0.47	0.641	-21.20224	13.2166
Is_Central	1.843175	7.627328	0.24	0.810	-13.62576	17.31211
_cons	25.49582	14.58205	1.75	0.089	-4.077946	55.06959

Figure XI: Regression output for model 4*(output from Stata)*
Data source: Author's analysis – Wordscores assigned scores based on organization comment letters; organization answers to Surveys 1 and 2 from EFRAG

The probability associated with the F-value does exceed the 10% significance level leading to the failure to reject the null hypothesis of the model using this combination of independent variables does not influence the dependent variable of the policy position scores. However, it is smaller than any of the probability values in regressions 1, 2, and 3, meaning that although the variables in regression 4 model cannot be used to reliably predict an organization's policy position, the model with all 10 variables does predict the position more reliably than using only a part of the variables.

As for what the results mean for the *H3: Being a Business Association will have a negative effect on policy position score* – the first variable, *Is_BA*, does have a coefficient of -0.69, however, it is not statistically significant meaning that there is insufficient evidence to say that a non-zero correlation and thus an effect on policy position score exists for this variable. Based on the lack of statistical significance, H3 is determined to be incorrect even though the coefficient is negative.

By examining other individual variables and their p-values it can be observed that only one variable has a significant coefficient. Variable indicating if the organization is subject to the CSRD regulation has a p-value of 0.056 which is lower than the pre-determined significance level of 0.1 and it exceeds the standard 0.05 significance level by 0.006. With 0.006 being such a small number, the coefficient of *Subject_to_CSRD* could be viewed as generally very statistically significant, even if the 10% significance level is employed. The coefficient is -7.57.

An interpretation of this finding is that if an organization is subject to the CSRD regulation, it will express policy opinions with a 7.57 points lower score than organizations that are not subject to CSRD.

The constant (intercept) being statistically significant on the 10% level means that with other parameters taking a value of 0, a policy position will have a score of 25.5, which works as the baseline score those other parameters either increase or decrease based on their coefficients. 25.5 is higher than the average assigned score (see **Table I**) – an observation suggesting that other parameters (more likely those not looked at during this study) have a negative impact on a policy position. What is interesting is that taking the 2 statistically significant variables and subtracting 7.57 (*Subject_to_CSRD* coefficient) from the intercept by assuming that an organization is subject to CSRD, the result is a policy position score of 17.92, which is extremely close to the average score of 18.02 (see **Table I**). This does reaffirm that these variables are indeed indicative (with a degree of reservations mainly due to the 10% significance level) of the policy position score that an organization might have.

6.2.2 Discussion

Looking at the results from regression 4 the initial instinct might be to disregard the findings as irrelevant and unimportant due to the lack of statistical significance for the variable coefficients and key model statistics. However, I argue that not finding the existence of connections between the type or characteristics of an organization and its policy scope preference position in relation to the aim of this study is as important as finding an effect would be.

6.2.2.1 Interpretation

Since being subject to the regulation is a policy position-determining parameter, the belief that actors subject to restrictions –in this case, a demanding regulation – will try to influence the terms to be more favorable to them holds true, thus the study finds lobbying to take place.

The results show that apart from being subject to the regulation no other characteristic of Business Associations or ESG organizations influenced the policy position means the answer to the question "*What are the factors that drive organizations to have stronger opinions for receding the scope of the European Sustainability Reporting Standards?*" is that the opinions expressed were independent of the organization parameters tested.

Based on the findings of this study and the data analyzed I propose an explanation for the results to lay with the subject matter of this study – the ESRS themselves. This is supported by the findings of Klüver (2011) that the complexity and saliency of policies influence the positions expressed and the success of interest groups.

Looking at policy position scores in **Figure I** majority of participants did wish to see reduced ESRS scope. The regression analysis in **Figure XI** demonstrated that the organization parameters tested did not meaningfully contribute to the policy positions expressed. If the basis for opinions expressed did not come from the organizations, then the logical conclusion is that the subject of the discussions – the

ESRS – prompted the opinions. As already discussed in this paper, the ESRS have extremely detailed and extensive reporting requirements, with whom complying would be very costly, millions of euros per company each year according to cost-benefit analysis, regardless of the organization's current data collection and reporting level. This does violate the principles of the public interest theory[54]. It states that government regulation should be designed to ensure the best possible welfare while ensuring that the costs of the regulations on society are outweighed by the benefits the society gains. This would also explain why ESG organizations do not hold distinctly different views from Business Associations.

6.2.2.2 Significance of findings and further research possibilities

The findings are of significance, as they provide strong support for the explanation of policy positions and the homogeneity among them being prompted by that the ESRS themselves rather than some outside factor.

Additionally, they show that descriptive characteristics like organization types are not indicative of the policy position of the organization, as seen with ESG organizations having lower position scores on average compared to Business Associations, meaning that policy makers (although the same applies to everyone) must evaluate the opinions received holistically based on the contents and the author, rather than just the latter. This does contradict the findings of Bunea, Mahoney, and Klüver that organization parameters like type and size are key determinants of lobbying decisions and thus policy position. However, due to the results from regression 4 explaining only a quarter of the variance in policy positions, it could be that other omitted, not-so-apparent organization characteristics like organization interconnectedness as per Bunea's research or aspects like the industry as suggested by Stubbs et al. (2013) and current level of sustainability reporting are what affect the policy positions and thus lobbying. Research into the in-organizational aspects that shape an organization's opinion on sustainability matters, including repotting, would be beneficial to further understand the full process of how an organization comes to a decision to express one or the other opinion in regard to policies affecting society at large.

6.2.3 Limitations

The limitations of analysis in the second part of the study are mainly related to the results of the first part – the Wordscores analysis and the position score assignment. Limitations concerning this are discussed after the Wordscores analysis, but the incorrect score assignments would impact the resulting independent variable coefficients in the regression analysis.

The decision to set the significance level at 10% instead of 5% could bring up some concerns, however, only 1 independent variable between all 4 regressions was significant at the 10% level with a p-value

[54] M.Hantke-Domas, 'The Public Interest Theory of Regulation: Non-Existence or Misinterpretation?', *European Journal of Law and Economics,* vol. 15, no. 2, 2003, pp. 165–194

of 0.056, which is in reasonable proximity to 5% significance level, thus the chosen significance level did not result in misclassifying of insignificant variables as significant.

The sample size of the study – 47 organizations – does bring up some limitations for the results, as the sample did not provide enough observations at every policy position score level for potential significant trends to be identified and could be the reason that it was found that the parameters had no effect on a policy position. This could be remedied by performing the study on either all respondents to the consultation survey for ESRS regardless of their origin country or organizational type or, as done in studies by Bunea and Mahoney, using the feedback provided in consultation processes for multiple different sustainability-related policies and policy instruments.

7. Conclusion

Since the public consultation process in the EU is designed to give a voice to everyone there is a possibility that an organization or a group of organizations will misuse the system to shape policies to benefit them instead of the intended target – typically society. Thus, it is crucial that policy makers do evaluate the feedback received not only based on opinions and reasoning expressed but also who or what provided the opinion and what reasons they might have for preferring a certain outcome.

The findings from this study indicate that Business Associations and ESG organizations had similar positions regarding the scope of the ESRS based on the scores obtained by using Wordscores analysis. Additionally, organization parameters tested for effects on policy positions, with the exception of being subject to the CSRD regulation, showed no significant effects in the regression models.

From the results of the study, it was concluded that in this particular case the subject of the consultation – the ESRS – elicits opinions that lean towards scope reduction, due to the graduality of the standards. This is somewhat supported by previous studies on lobbying.

On 23rd of November 2022, EFRAG submitted a draft set of ESRS to the European Commission[55]. The standards submitted differed from the ones used in the consultation process, as they were adjusted to the feedback received. Notable changes include the removal of the rebuttable presumption, consolidation of the 2 governance standards into 1, and the data points to be disclosed reduced by almost half. These changes do in fact reduce the scope of the ESRS, especially by removing rebuttable presumption. EFRAG did listen to the feedback they received and adjusted the standards accordingly, thus, the organizations that argued for a reduction of scope succeeded in obtaining their desired results – they will have to disclose less information. Arguably, the changes made are overcorrecting for the extensive scope that the ESRS initially had, and therefore now they lose what would have made them more effective tools for reshaping organization operations.

Altogether, this study shows that an organization's position on policies, specifically ESRS and other ESG topics, cannot be inferred just by variables like the type or size of the organization, since organizations are complex systems. Decision-making is a nuanced process, especially when topics of sustainability are discussed. Further studies on the interactions between organizations and policy creation in the area of sustainability would be beneficial to develop a potential model for determining the position an organization would take on given issues so that lobbying could be predicted and identified much more effectively leading to less biased regulations.

[55] EFRAG, *EFRAG delivers the first set of draft ESRS to the European Commission* [webpage], https://efrag.org/news/public-387/EFRAG-delivers-the-first-set-of-draft-ESRS-to-the-European-Commission, (accessed December 2022)

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9. Appendices

9.1 The ESRS public consultation surveys

(1) Overall substance of the Exposure Drafts (*survey 1*)

1A. Architecture

1B. Implementation of CSRD principles

1C. Exposure Drafts content

(2) ESRS Implementation prioritisation / phasing-in (*survey 1*)

(3) Adequacy of Disclosure requirements (*survey 2*)

3A. Cross cutting standards

3B. Environmental standards

3C. Social standards

3D. Governance standards

9.2 Likert scale

Level of Acceptability

Original scale		Reference text scale	Assigned score scale		Opinion on scope of the ESRS
1	Totally unacceptable	0	<0	Extremely low score	Scope is completely inappropriate and needs revising
2	Unacceptable	5	0-10	Low score	Scope needs to be highly reduced
3	Slightly unacceptable	10	10-20	Moderately low score	Scope needs moderate reduction
4	Neutral	15	20-30	Medium low score	Scope needs some reduction
5	Slightly acceptable	20	30-40	Moderately high score	Scope needs some adjustments
6	Acceptable	25	40-50	High score	Scope needs some clarifications
7	Perfectly Acceptable	30	50-60	Extremely high score	Scope is acceptable