

Snowdon, Christopher

Working Paper

Sock puppets: How the government lobbies itself and why

IEA Discussion Paper, No. 39

Provided in Cooperation with:

Institute of Economic Affairs (IEA), London

Suggested Citation: Snowdon, Christopher (2012) : Sock puppets: How the government lobbies itself and why, IEA Discussion Paper, No. 39, Institute of Economic Affairs (IEA), London

This Version is available at:

<https://hdl.handle.net/10419/313940>

Standard-Nutzungsbedingungen:

Die Dokumente auf EconStor dürfen zu eigenen wissenschaftlichen Zwecken und zum Privatgebrauch gespeichert und kopiert werden.

Sie dürfen die Dokumente nicht für öffentliche oder kommerzielle Zwecke vervielfältigen, öffentlich ausstellen, öffentlich zugänglich machen, vertreiben oder anderweitig nutzen.

Sofern die Verfasser die Dokumente unter Open-Content-Lizenzen (insbesondere CC-Lizenzen) zur Verfügung gestellt haben sollten, gelten abweichend von diesen Nutzungsbedingungen die in der dort genannten Lizenz gewährten Nutzungsrechte.

Terms of use:

Documents in EconStor may be saved and copied for your personal and scholarly purposes.

You are not to copy documents for public or commercial purposes, to exhibit the documents publicly, to make them publicly available on the internet, or to distribute or otherwise use the documents in public.

If the documents have been made available under an Open Content Licence (especially Creative Commons Licences), you may exercise further usage rights as specified in the indicated licence.

IEA Discussion Paper No. 39

SOCK PUPPETS

How the government lobbies itself and why

By Christopher Snowdon
June 2012



iea

Institute of
Economic Affairs

With some exceptions, such as with the publication of lectures, IEA Discussion Papers are blind peer-reviewed by at least one academic or researcher who is an expert in the field. As with all IEA publications, the views expressed in IEA Discussion Papers are those of the author and not those of the Institute (which has no corporate view), its managing trustees, Academic Advisory Council or senior staff.

Contents

About the author	4
Summary	6
Public choice theory and government	8
Public choice and pressure groups	10
The Iron Triangle	12
Charities	17
Charities turned service providers	22
Campaigners turned service providers	26
Case study: environmentalists and the EU	35
Case study: the Department of Health	40
Selling unpopular decisions	52
The shadow state	58
Solutions	60
References	65

About the author

Christopher Snowden is an author, journalist and researcher who focuses on lifestyle freedoms, prohibition and dodgy statistics. He is director of Lifestyle Economics at the Institute of Economic Affairs, writes for *City AM*, *Spiked* and *EA*, and regularly appears on TV and radio discussing social and economic issues. He wrote *Velvet Glove, Iron Fist: A History of AntiSmoking* (2009) and *The Spirit Level Delusion* (2010). His most recent book is *The Art of Suppression: Pleasure, Panic and Prohibition Since 1800* (2011) which looks at the prohibition of alcohol, drugs and tobacco. Born in North Yorkshire, he now lives with his wife and daughter in Sussex.

Summary

- In the last fifteen years, state funding of charities in Britain has increased significantly while restrictions on political lobbying by charities have been relaxed. 27,000 charities are now dependent on the government for more than 75 per cent of their income and the 'voluntary sector' receives more money from the state than it receives in voluntary donations.
- It has been argued that state funding weakens the independence of charities, making them less inclined to criticise government policy. This paper argues that there is a deeper problem if government funds and/or creates pressure groups with the intention of creating a 'sock-puppet' version of civil society which creates the illusion of grassroots support for new legislation. These state-funded activists engage in direct lobbying (of politicians) and indirect lobbying (of the public) using taxpayers' money, thereby blurring the distinction between public and private action.
- State-funded charities and NGOs usually campaign for causes which do not enjoy widespread support amongst the general public (e.g. foreign aid, temperance, identity politics). They typically lobby for bigger government, higher taxes, greater regulation and the creation of new agencies to oversee and enforce new laws. In many cases, they call for increased funding for themselves and their associated departments. In public choice terms, they are 'concentrated interests' compelling the taxpayer

to meet the costs that come from their policies being implemented, as well as the costs of the lobbying itself.

- State-funded activism is not an entirely new phenomenon. The EU's 'Green 10' and the Department of Health's anti-smoking groups offer two examples where the close relationship between pressure groups and the state has been well documented over a number of years.
- For political parties, the benefits of supporting 'sock-puppet' organisations extend beyond the short-term utility of progressing their legislative agenda whilst in government. Once the party loses power, these groups become a 'shadow state' using public money to promote the same political ideology. The new government must therefore choose between withdrawing the funding (which will prompt outrage from the threatened groups) and keeping it in place (which will mean funding politically hostile organisations).
- Government funding of politically active charities, NGOs and pressure groups is objectionable on three counts. Firstly, it subverts democracy and debases the concept of charity. Secondly, it is an unnecessary and wasteful use of taxpayers' money. Thirdly, by funding like-minded organisations and ignoring others, genuine civil society is cold-shouldered in the political process. The paper concludes by suggesting some solutions to help restore the independence of the voluntary sector, safeguard taxpayers' money and rebalance civil society in favour of grassroots activism.

Public choice theory and government

Public choice theory emerged from the simple observation that if individuals and businessmen are primarily motivated by self-interest, it is unlikely that politicians and bureaucrats are wholly driven by altruism. Those who desire profit and self-advancement in the private sector will not suddenly become saints if they get a job in the public sector, and there is little evidence that government bureaucracies attract a greater number of natural philanthropists.

The bureaucrat is, to use Niskanen's understated description, 'not entirely motivated by the general welfare or the interests of the state' (Niskanen, 1971, p. 36). This is not to say that 'public servants' do not sometimes use their power for the greater good, nor that businessmen are incapable of charity. It merely suggests that if individuals are self-interested and rational actors - as conventional economic theory maintains - those who work in government are not a different species.¹

By drawing attention to the fallibility and self-interest of government authorities, public choice theorists of the 1960s challenged the conventional belief that failures in the market can best be dealt with by state intervention. Whilst no one denied that businesses could

be inefficient and corrupt, the monopolistic nature of government, funded by taxpayers who cannot easily walk away, positively encourages nest-feathering, bribery and indolence.

A businessman might be entirely motivated by avarice and self-promotion, but so long as the market is reasonably competitive, he can only pursue his goals by giving the public what it wants at the best price. He may have no interest whatsoever in the public good, but he has an incentive to advance it nonetheless. Put the same individual in charge of a government department, however, and he will find that his own interests can be served by expanding his bureaucracy and inflating his budget. Once the willing and relatively well-informed customer becomes the unwilling and relatively uninformed taxpayer, the bureaucrat's desire to maximise his salary while minimising his workload can be achieved with scant regard for the common good. He can advance his career by increasing the size and prestige of his own department and forcing the taxpayer to foot the bill. Taken to a sociopathic extreme, society is better served by lazy officials than by diligent ones because, as Tullock argues, the idle man will spend less time exploiting the public (Tullock, 2006, p. 69).

What is the beleaguered individual to do about this? Bureaucrats are not elected and their empires are notoriously difficult to reform. Politicians can be unseated every four or five years, but the nature of party politics makes it virtually impossible for an individual to register his discontent about a specific policy. He may choose to vote for a single-issue party, but he knows this to be a wasted vote. Or he may decide that his vote is wasted no matter whom he casts it for. Knowing that the chances of his single vote deciding the election are vanishingly small, he may decide on a course of 'rational apathy' and 'rational ignorance', ignoring politics altogether and focusing on aspects of his life over which he has some control.

¹ Although they may have charitable instincts, 'these are not motives upon which we can depend for the motivation of long-continued efficient performance' (Tullock et al., 2000, p. 59).

Public choice and pressure groups

The bureaucrat is not alone in being able to take advantage of the democratic system. The businessman can also exploit the taxpayer by lobbying for legislation that will profit him. Public choice theory offers important insights into the way special interest groups bend the legislature at the public's expense. In *The Logic of Collective Action* (1965), Mancur Olson argued that the interests of well-organised pressure groups prevail despite the costs they impose on the wider society. Only a small minority benefits from an import tariff on steel, for example, but the rewards for those who work in the steel industry are large enough to make organising and funding a lobby group worthwhile. The public will pay the price for this policy of protectionism, but the per capita cost is too small for the individual to justify the time and money it would take to campaign against it. Consequently, the politician is lobbied heavily by the concentrated interest (the steel industry) while the diverse interest (everybody else) remains silent.

For his part, the politician knows that the industrial lobbyist is driven by profit and is wary of his claims, though bribery might make him stifle his doubts. He is more naturally sympathetic to the pleas of ordinary constituents, not least because they have the power to unseat him. Knowing that the politician is more trusting of grassroots voices, the industrialist argues his case by referring to the public interest (for example, by insisting that his desired policy will create employment). He may find it fruitful to ally himself with citizen's

groups who are less obviously motivated by profit. He may even set up front groups which appear to be run by ordinary men and women, but are actually funded and coordinated by industry. These organisations are sometimes known as 'astroturf' groups because they create the illusion of grassroots activism.

Small, concentrated interests not only have an advantage over large, diffuse interests, but the smaller the pressure group - within reason - the greater its advantage. Lobbying activity is most effective when the goal is clear and narrowly defined. A vague, sprawling agenda is a hindrance, as is a loose and overly-democratic leadership. The most successful pressure groups organise themselves along the lines of a business or political party, with a top-down leadership and a small committee of decision makers. Large coalitions are less likely to reach a consensus than centralised pressure groups and are more liable to acrimonious collapse (Olson, 1965, p. 46). One might contrast the success of the highly focused Anti-Saloon League and the League Against Cruel Sports with the relative failure of looser collectives with broader objectives such as Occupy Wall Street, the Countryside Alliance and the Tea Party.

It should be noted that those who work for pressure groups are susceptible to the same temptations as those who work in bureaucracies. Their power and prestige depends on the size and prominence of their cause in the public's mind and this is no less true of ideological campaigners than of commercial lobbyists. 'Moral entrepreneurs' who rely on alarming the public about threats to their health and safety have an incentive to exaggerate the peril in the short term and find new fears to exploit in long term. There is a tendency for pressure groups to become more dogmatic as they seek to justify their continued existence and a successful organisation will attract new recruits who are still more zealous. This leads to 'mission creep' - the shift from one area of charitable concern to another (Simmons et al., 2011, p. 378).

The Iron Triangle

Lobbying is not an inherent evil. It can provide valuable information to government and help prevent wrong-headed policies being enacted. Commercial lobbying exists to advance the interests of an industry, but these interests are often shared by its customers and employees. Lobbying by charities and private individuals might advance narrow or unpopular goals, but it might also expose politicians to government failure and injustice. There are enough shortcomings in the average representative democracy for us to doubt whether it is desirable for the winning party to implement its manifesto in full without consulting civil society. Nevertheless, it remains the case that the political process gives undue weight to the interests of concentrated pressure groups. Politicians 'preach the public interest but serve the special interests', as Caplan and Stringham put it (2005, p. 80).

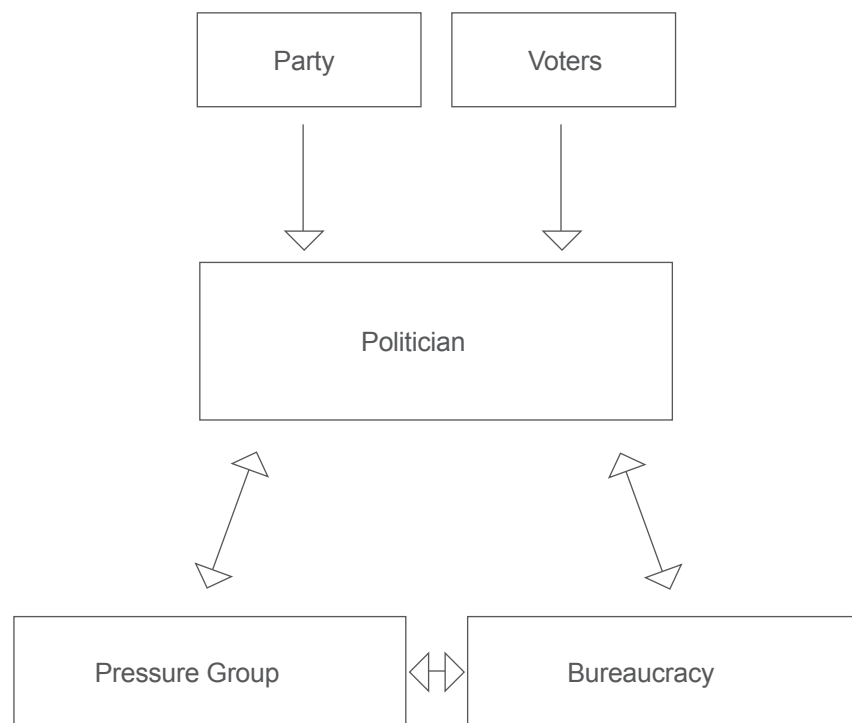
Public choice theory provides a plausible explanation for why governments fail to deliver what is expected of them, both in terms of public services (which are hampered by bureaucratic inefficiency) and legislation (which is hijacked by special interests). It explains why bureaucracies become ever more bloated and taxes rise ever higher, even under governments which come to power on a ticket of deregulation and smaller government. It explains why bureaucracies are so resistant to budget cuts and why it tends to be frontline services, rather than management, which bear the brunt of such cuts if and when they arrive. It explains why an organisation like the Food Standards Agency can go from having a tiny staff

investigating restaurant poisonings to having a staff of 2,000, a budget of £135 million and a mission that has expanded to campaigning against salt, fat and eating crisps during football matches.²

It also explains why so many prime ministerial autobiographies end with a lament about how little the author was able to achieve during his or her years in government. Political scientists sometimes refer to the tense, symbiotic relationship between the legislature, the bureaucracy and the pressure groups as the Iron Triangle (see Figure 1). The politician theoretically wields the most power, but he is under constant pressure to compromise his political vision and bend to the will of party, bureaucracy, pressure group and electorate. The bureaucrat, on the other hand, has more experience of his department, has access to sensitive information and is better connected to the rest of government. Consequently, he is able to outfox the elected official and sabotage his plans, a situation beautifully satirised in *Yes, Minister* - a sitcom directly inspired by public choice theory.

² Wallop, H., 'Food Standards Agency spent £7m on "nannying" campaigns', *Daily Telegraph*, 10 September 2010.

Figure 1: The Iron Triangle



This paper asks an unusual and seemingly hypothetical question: what would happen if the government, which is to say the politicians and the bureaucrats, invaded one corner of the triangle and took over the pressure groups? What if the politicians and bureaucrats were able to not only silence the lobbyists, but to turn them into mouthpieces of the state? What would they say?

We will argue that state-owned pressure groups would not lobby for popular causes - there is no need to manufacture support for policies which already command respect. Nor would they argue for business interests - those interests are already well represented. Instead, we suggest that they would advance causes which do *not* command widespread support, but which are favoured by their political patrons. They would, for example, lobby for higher taxes, more regulation and the creation of new agencies. Acting as part of an extended bureaucracy, they would engage in the same empire-building as public choice theorists would expect from government departments, and the same rent-seeking as would be expected from pressure groups. These 'sock-puppet' organisations³ would masquerade as civil society while promoting the ideology of the political elite.

In summary, we see three likely outcomes if politicians and bureaucrats create and/or fund politically active organisations. Firstly, a concentrated interest group, once endowed with taxpayers' money, will promote its cause through political means. Its interest may be ideological rather than financial, but it will seek to impose its policies on the rest of society like any other lobby group. The taxpayer will be compelled to meet the costs that come from its policies being implemented, as well as being forced to pay for the lobbying which helped the group achieve its ideological goals - goals with which the taxpayer may profoundly disagree.

³ A sock-puppet is defined by Wikipedia as 'a false identity assumed by a member of an internet community who spoke to, or about himself while pretending to be another person.' The average sock-puppet uses pseudonyms to praise and endorse his own views.

Secondly, once state funding is provided, the pressure group will take on the characteristics of a bureaucracy. It will be in the self-interest of its employees to entrench their position and acquire more state funding. They will do this by exaggerating the importance of their cause and expanding their remit to other areas of political concern.

Thirdly, the concentrated interest group will become reliant on state funding and lose any independent voice it may once have had. It will speak loudly when it agrees with its funders, but fall silent when it does not. Those who are used as astroturf groups to promote the unpopular policies of the political elite will be most vulnerable to changes of government.

Furthermore, we will argue that none of this is wholly conjectural, but is a fair description of many charities and non-governmental organisations (NGOs) in the United Kingdom today.

Charities

The relationship between charities and the British state has been significantly transformed in the last fifteen years. There is a gulf between the public's perception of what is charitable - a traditional view still dominated by visions of self-sacrificing volunteers and jumble sales - and the third sector's view of itself as a more caring, semi-professional wing of the state. The public can be forgiven for being confused about a 'voluntary sector' which employs more than 600,000 people (Clark et al., 2010) and puzzled by the plethora of 'non-governmental' organisations which require an Office of the Third Sector to preside over them.

Between 1997 and 2005, the combined income of Britain's charities nearly doubled, from £19.8 billion to £37.9 billion, with the biggest growth coming in grants and contracts from government departments (Smith and Whittington, 2006, p. 1). According to the Centre for Policy Studies, state funding rose by 38 per cent in the first years of the twenty-first century while private donations rose by just seven per cent (ibid.).

This surge in government spending coincided with a politicisation of the third sector which was actively encouraged by the state apparatus from the Prime Minister down. Traditionally, lobbying activity could not be a charity's 'dominant' activity, but could only be 'incidental or ancillary' to its charitable purpose. In 2002, however, a report from the Prime Minister's Strategy Unit called for charities

to increase their lobbying activity and for the Charity Commission guidelines to be made 'less cautionary':

'Charities perform a valuable role in campaigning for social change. The guidelines on campaigning should be revised to encourage charities to play this role to the fullest extent.' (Cabinet Office Strategy Unit, 2002, p. 8)

The Charity Commission duly revised its guidelines on campaigning two years later, allowing all non-party political campaigning in furtherance of a charity's goals so long as this activity was not 'the dominant method by which the organisation will pursue its apparently charitable objects' (Charity Commission, 2005, p. 6).

A subsequent Cabinet Office report in 2007 called for the rules to be relaxed further still. Accepting that charities had 'considerable latitude ... for political campaigning under existing rules', the authors expressed concern about the range of legal and regulatory restraints which 'unjustifiably restricts political campaigning by third sector organisations' (HM Treasury/Cabinet Office, 2007, p. 25). Stressing the right of charities 'to undertake campaigns, regardless of any funding relationship with Government', the Cabinet Office argued that organisations whose purpose was wholly political should not be barred from charitable status (*ibid.*, p. 26).⁴

With this advice ringing in its ears, the Charity Commission revised its guidelines again in 2008. Although it fell short of allowing charitable status to those whose activities were entirely political, it relaxed the guidelines to allow charitable status to those for whom political campaigning was the 'dominant' activity. The only restrictions fell on charities for whom political campaigning was 'the continuing and sole activity' as well as those who were party political (Charity Commission, 2008, p. 3). So long as a charity can convince the Commission that its lobbying will 'achieve its charitable purpose', it can direct all of its resources towards legislative targets, though

4 'Provided that the ultimate purpose remains demonstrably a charitable one the Government can see no objection, legal or other, to a charity pursuing that purpose wholly or mainly through political activities.' (HM Treasury Cabinet Office, 2007, p. 26)

only 'for a period' (the duration of which has never been defined) (*ibid.*). This is essentially the opposite of US law, where political campaigning must be no more than an 'insubstantial' part of a charity's work. In the UK, an insubstantial amount of *non*-lobbying activity is enough to secure charitable status.⁵

As the rules on political lobbying were relaxed, statutory funding to charities continued to rise. By 2010, statutory funding of the voluntary sector had risen by 128 per cent in the space of a decade,⁶ with more than a fifth of the nation's 171,000 charities choosing to take the money. 27,000 charities became dependent on the state for more than 75 per cent of their income and more than a third of the sector's total income came from the state - some £12.8 billion in 2007/08 (National Council for Voluntary Organisations, 2010). When contributions from the National Lottery are taken into account, charities received more money from government in 2010 than they did from voluntary donations (*ibid.*).

The voluntary sector's increasing reliance on government largesse has provoked much discussion. Critics have accused governments of using statutory funding to silence belligerent charities and of politicising good causes (Whelan, 1999, p. 9). They have accused politicians of distorting civil society and debasing the concept of philanthropy. 'A charity that relies in the main part on taxes', wrote the blogger Guido Fawkes, 'is no more a charity than a prostitute is your girlfriend.'⁷ Others have complained that NGOs squander government grants on vanity projects which benefit neither the sick nor the poor (Boin et al., 2009).

5 Stanley Brodie has argued that the Charity Commission's guidance is irrelevant, misleading and without legal foundation because case law has ruled that political campaigning cannot be a charity's dominant activity (Brodie, 2010). See also 'Select Committee on Public Administration', 26 March 2008, <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmpublicadm/451/8032602.htm>

6 'Voluntary Sector services not a soft option for cuts', 21 April 2010, <http://www.ncvo-vol.org.uk/news/civil-society/voluntary-sector-services-not-soft-option-cuts>

7 'Big Society v Big Government', 'Guido Fawkes', 8 February 2011, <http://order-order.com/2011/02/08/big-society-v-big-government/>. A website — www.fakecharities.org — lists dozens of non-profits which lobby the state while in receipt of government grants.

Some of these concerns are shared by those who work in the sector. The National Council of Voluntary Organisations (NCVO) was worried as early as 2001 that 'the voluntary sector may be perceived as little more than an agent of the state' (Smith and Whittington, 2006, p. 20). More recently, the third sector's Independence Panel warned of the 'danger that parts of the voluntary sector which deliver public services could in effect become not for profit businesses, virtually interchangeable with the private sector.'⁸

Those who have debated the pros and cons of charities taking taxpayers' money have traditionally focused on whether the voluntary sector is being bribed into silence (Mulgan and Landry, 1995). The possibility that state-funding might actively encourage charities to lobby on the government's behalf seems not to have occurred to commentators until quite recently. Civitas (as it is now known) published two critiques of the state's relationship with the third sector in the 1990s without mentioning lobbying. By 2007, however, the issue had become unavoidable and Nick Seddon devoted a chapter of his book *Who Cares?* to the problem of politicisation.

'There is something unsatisfactory about taxpayers' money being used to fund charities that are campaigning for things that we may disagree with: the blurring is the issue. If it's a state department, then it should be acknowledged as such, and funded by the taxpayer in the normal way. But if it's really a quango masquerading as a charity, then it's disingenuous to present it as part of civil society.' (Seddon, 2007, p. 62)

Amongst the criticisms Seddon levelled at the Blair-era system of financial patronage were that politically incorrect causes were being left out of the loop; that charities were vulnerable to changes of government; that the third sector was becoming homogenous in outlook, and that frontline services were being sacrificed to make way for lobbying and advocacy. He noted the tendency of the Labour government to commission like-minded charities 'to write "independent" reports that validate other "independent" reports

⁸ Butler, P., 'Charities scared to speak out amid cuts, says report', *The Guardian*, 9 January 2012

commissioned by the government, so that a body of material can be built up to support the government's projected policy direction' (ibid., p. 69).

A different, but related, issue was raised in a Conservative Party research document entitled *Government Lobbying Government* (2008) which identified a 'growing tendency by central public sector agencies to hire public affairs companies to attempt to influence and lobby central government. The taxpayer is effectively paying for the government to lobby the government itself' (Conservative Party, 2008, p. 2).

Interestingly, *Government Lobbying Government* makes an explicit reference to public choice theory:

'Such lobbying creates a bias within government for more public expenditure and more regulation. This is 'public choice' theory in action – state bureaucracies spending money to justify their own existence.' (ibid., p. 4)

A system in which politicians fund their supporters who, in turn, expand their bureaucracies, comfortably fits the image of politics presented by public choice theorists. The political elite has an incentive to transmit its message to the public via third parties because voters regard almost anyone as being more trustworthy than politicians. If the government's message is relayed by 'independent' and 'objective' citizen's groups, so much the better.

Enter the charities. A 2010 survey found that 75 per cent of the public believes that most charities are 'trustworthy and act in the public interest' (Independence Panel, 2012, p. 7). A different survey conducted a year earlier found that only 44 per cent trusted civil servants and just 13 per cent trusted politicians.⁹ Machiavellian though it may be, politicians have a motive for buying favour with respected organisations in the hope of using them as their mouthpieces.

⁹ Campbell, D., 'Trust in politicians hits an all-time low', *The Guardian*, 27 September 2009.

Charities turned service providers

Most British charities are small organisations which take no money from government. Income distribution in the sector is highly uneven, with 75 per cent of charities sharing less than four per cent of revenue¹⁰ while the richest one per cent have annual incomes of over £5 million and receive two-thirds of the sector's revenue.¹¹ Of these 'super-charities', some remain wholly independent from the state, including the Donkey Sanctuary, Cats Protection and the Royal National Lifeboat Institution (RNLI).¹²

At the other end of the scale are organisations such as Keep Britain Tidy, Citizen's Advice and the Brook Advisory Centres which are heavily dependent on state-funding, but are politically inactive. These bodies are essentially service providers which could easily be incorporated into government departments if it were deemed necessary. Most people are probably unaware that they are registered charities at all and they rarely, if ever, use their charitable halo to influence public opinion and lobby for legislation.

10 http://www.charitycommission.gov.uk/About_us/About_charities/factfigures.aspx (As of 31.12.11).

11 http://www.charitycommission.gov.uk/About_us/About_charities/factfigures.aspx (As of 31.12.11)

12 The Donkey Sanctuary had an income of £26 million in 2009/10, including £18 million in legacies. In the same year, Cats Protection received £33 million, including £17 million in legacies, and the RNLI received £163 million, including £91 million in legacies. All donations came from the public.

But there are many charities which receive substantial government funding while seeking, at least in part, to influence government policy. Most of these non-profit organisations were set up independently and have been subcontracted as service providers by government bureaucracies in their middle and later years. Many have always had a campaigning agenda of some sort and can reasonably argue that the legislation they fight for will further their charitable purpose (this being one of the Charity Commission's few requirements).

Take the case of the National Marriage Guidance Council, founded in 1938 by the clergyman Dr Herbert Gray as a counselling service for husbands and wives. The Home Office began funding the charity ten years after its inception and by the end of the 1950s was providing an annual grant of £15,000.¹³ In the context of the £1,000,000 then being spent subsidising divorce cases under the Legal Aid and Advice Act, marriage reconciliation represented a probable saving to the taxpayer and was viewed as a legitimate public service which benefited society.¹⁴ In 1988, the organisation changed its name to Relate and broadened its remit to include unmarried couples, same-sex couples and children. Today, it remains heavily dependent on a grant from the Department for Education. This grant, combined with funding from the National Lottery, represents 95 per cent of its voluntary income.¹⁵

Relate is not unusual in having relied on state-funding for most of its history. Few would deny that its work has value and that its primary purpose is charitable. Like other state-funded NGOs, Relate carries out work which the government might do itself if it could do it more efficiently. However, if the government did take on this work itself, it might not employ a public relations firm and a full-time

13 Hansard, 'National Marriage Guidance Council (Grant)', 11 April 1957

14 Hansard, 'National Marriage Guidance Council Oral Answers to Questions — Home Department', 4 December 1958

15 'Relate's 'Reports & Accounts for the year ended 31 March 2011', Charity Commission, p. 24. Voluntary income was £2,036,320, of which £31,680 came from donations, gifts and legacies. A further £2,033,306 came from charitable activities, most of which were counselling and supervision service provision.

lobbyist to 'inform the government and political audiences about the work it does' (as Relate has done since 2004),¹⁶ nor would it have a 'manifesto' which calls for changes to employment law and the national curriculum.¹⁷ Having moved from being a marriage reconciliation service to a general counselling organisation, Relate's mission creep has led it to concerning itself with such issues as child poverty and anti-social behaviour while lobbying for flexible working hours and legal rights for unmarried couples.

This is quite typical of many service-providing charities in the twenty-first century. I use Relate as a mild example because the service it provides is not controversial and its politics are not particularly extreme. Barnardo's, Shelter, the Catholic Agency for Overseas Development (CAFOD), Scope, Oxfam, Christian Aid, Action Aid, Age UK (previously known as Age Concern) and many other large charities receive millions of pounds from central government, town councils and the National Lottery while devoting some part of their budget to political campaigning. They all began as independent charities to relieve poverty, hunger or sickness before being contracted by the state in the post-war years. They were never silent on matters of policy before they received statutory funding and there is no compelling reason for their freedom of speech to be curtailed now. They surely deserve to have their voices heard, but the post-war funding arrangement resulted in the government helping a select group of charities - who are, in public choice terms, 'concentrated interests' - to amplify their voices, thereby making them more effective in campaigning for policies which have a cost that is widely dispersed amongst the public as a whole.

Charities insist that restricted grants given by government are not used to pursue a legislative agenda, and it is impossible to prove otherwise, but there is little doubt that state-funding bestows an unusual degree of wealth and status upon a favoured few. Aside from the money, a relationship with government provides access to ministers and bureaucrats. Meetings must be held with the relevant government departments and it is unlikely that charities

16 'Relate hires Silver ahead of agency appointment', *PR Week*, 17 September 2004

17 <http://www.relate.org.uk/manifesto/index.html>

never take these opportunities to promote their agenda. It is equally unlikely that politicians never use meetings and 'site inspections' to promote *their* agenda.

William Beveridge often stressed the importance of private charity and 'voluntary action' when he laid the foundations of the welfare state in the 1940s, but private charity was inevitably squeezed when government departments began providing 'charitable relief'.¹⁸ The state cannot be blamed for seeking partnerships with those who have the passion and experience to deliver services effectively, just as charities cannot be blamed for taking government money when private donations dwindle, but the result has been the creation of 'insider-outsider' groups who cloud the definition of civil society. They prefer to see themselves as 'critical friends' rather than 'agents of the state', but true independence is contingent on financial independence - industry-funded groups which claim to be fully independent are treated with justifiable skepticism - and their sovereignty has inevitably been compromised as they have been incorporated into the welfare state.

The third problem we earlier identified with the government funding of charities is also evident. Charities can become captured by the state and lose their independence. They come to fear the state because of their dependent relationship. A survey in 2006 found that only 26 per cent of charities subcontracted to provide public services felt they were 'free to make decisions without pressure to conform to the wishes of funders' (Charity Commission, 2006, p. 4). When charities faced government cuts of £3 billion in 2012, the third sector's Independence Panel expressed concerns that charities were afraid to speak out against government policy for fear of 'reprisals'.¹⁹ This does not inspire faith in the sector's sovereignty. Those who worry about saying the wrong thing to avoid reprisals will likely say the right thing to reap rewards.

18 Beveridge clearly defined voluntary action as 'private action, that is to say action not under the directions of any authority wielding the power of the State' (Beveridge, 1948, p. 8).

19 Butler, P., 'Charities scared to speak out amid cuts, says report', *The Guardian*, 9 January 2012

Campaigners turned service providers

When organisations have a primary purpose that is charitable in the commonly accepted sense of helping and raising money for those in need, their lobbying is often incidental to their main purpose of providing charitable relief. The issue becomes somewhat cloudier when a charity is set up with the primary or sole purpose of being a pressure group and is then contracted by a sympathetic state to provide loosely defined services related to 'raising awareness', 'educating the public' and 'policy development'. Stonewall, for example, was founded in 1989 to oppose Section 28 and became a charity in 2003 'to advance the education of the public on the discrimination experienced by lesbians, gay men and bisexuals'.²⁰ It has received funds from the Arts Council, Department for Trade and Industry, Department of Health, Home Office, Scottish government, Welsh Assembly, Greater London Authority and the Equality and Human Rights Commission.²¹ Most of these grants are restricted, typically for 'education', 'research' and 'health policy'.

Or take the humble Pedestrians Association, founded in 1929 as a response to careless motoring which was then killing 6,000 people a year (Spray, 2004, p. 4). Always primarily a lobby group, the charity successfully campaigned for pavement provision and compulsory speedometers in cars, as well as driving licences and

20 Stonewall Equality Ltd, 'Financial Statements for the year ended 30 September 2009', Charity Commission; p. 4.

21 Ibid., p. 15.

speed limits. For the last twenty years it has received financial support from the government to encourage children to walk to school, and since changing its name to Living Streets in 2001, it has received grants from the Department of Health, the Department of Transport, the Scottish government and the National Lottery which now account for well over half of its income.²² Today, Living Streets lobbies for laws which would arguably further its charitable purpose, such as year-round British Summer Time and 20 mph speed limits, as well as legislation which seems tangential at best, such as tightening planning permission restrictions for high street shops.²³

Living Streets' traffic calming/anti-motorist agenda is shared by the organisation formerly known as Transport 2000, which was founded by the National Union of Railwaymen in 1972 to oppose the closure of several rail lines. Now known as the Campaign for Better Transport – 'better' meaning 'public' – its employees and volunteers lobby Ministers, MPs, regional government and local authorities, making sure sustainable transport issues are kept high on the political agenda.²⁴ The charity claims credit for the scrapping of several road-building schemes and lobbies for higher aviation taxes, road-pricing for lorry drivers and reducing 'car dependency'. Although its financial accounts are somewhat hazy, it is clear that the charity has received significant funding from the Department of Transport, Transport for London and various local councils, as well as companies with a vested interest in promoting public transport, such as Network Rail, the Railway Industry Association, Stagecoach and National Express.²⁵

Like many non-profit pressure groups, the Campaign for Better Transport's stated charitable purpose is educational ('to advance the education of the public on transport and related topics and their impact upon environment and society, including biodiversity, health

22 'Living Streets (The Pedestrians' Association) Report and Financial Statements 30 September 2010', Charity Commission

23 <http://www.livingstreets.org.uk>

24 'Campaign for Better Transport Charitable Trust Report and Financial Statements for the year ended 31 March 2011', Charity Commission; p. 4

25 'Campaign for Better Transport, 'Review of activities covering the year ending 31 March 2007', Charity Commission. 'Campaign for Better Transport: Review of activities covering the year ending 31 March 2011', Charity Commission.

and poverty').²⁶ Education is a laudable goal and a valid charitable purpose (it is, indeed, the purpose of the Institute of Economic Affairs), but it is qualitatively different from feeding the homeless or caring for the elderly. Education and 'raising awareness' can be indistinguishable from advocacy and lobbying (the most common method for bypassing anti-lobbying rules in the USA is to redefine campaigning as education) and one man's education is another man's propaganda. When these pressure groups are given state funding, the services they typically provide involve training, policy development, consultancy and/or the production of literature, all ultimately aimed at influencing public opinion.

The Fawcett Society, for example, is a long-established charity which can trace its roots back to the Suffragette movement. Today, its aims are 'raising awareness' and 'advancing education in equality and diversity'.²⁷ In 2001, the Home Office began funding the Fawcett Society to 'provide gender expertise on criminal justice policymaking'²⁸ and grants have also been made by the Equality Office, the Electoral Commission and the Equal Opportunities Commission. The charity has used funding from London councils and the London Development Agency for its 'Sexism and the City' campaign which 'lobbied the Government for reforms to lapdance club licensing'²⁹ and has campaigned for an end to the UK's opt-out from the EU Working Time Directive.³⁰

The Child Poverty Action Group (CPAG) was founded in 1965 by a group of social workers and sociologists who were disturbed that - as they declared in a letter to Harold Wilson - 'at least half a million children in this country are in homes where there is hardship due to poverty'.³¹ A registered charity since 1986, CPAG now uses a

26 Ibid., p. 2

27 'The Fawcett Society: Report and Financial Statements year ended 31 March 2010', Charity Commission; p. 2. The charity's objective is to 'promote equality and diversity' and to 'eliminate gender discrimination'. All its trustees and staff are women.

28 <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmhaff/263/263we38.htm>

29 'The Fawcett Society: Report and Financial Statements year ended 31 March 2008', Charity Commission, p. 4.

30 <http://www.fawcettsociety.org.uk/index.asp?PageID=682>

31 Philip, A. F., 'Letter to Prime Minister', 22 December 1965; <http://www.cpag.org.uk/>

very different measure of deprivation to campaign on behalf of the '3.8 million children living in poverty'³² - not so much a case of mission creeping as goalpost shifting. CPAG's work is dominated by calls for progressively larger welfare payments and launching occasionally successful legal test cases. Its policy proposals include increasing the top rate of tax, increasing inheritance tax and giving benefits to illegal immigrants. By the end of the Blair years, it was receiving close to half a million pounds a year from statutory sources, notably HM Revenue and Customs and the Scottish Executive, to provide 'tax credits publications, advice and training'. This far exceeded the £76,000 it received in donations and legacies.³³

These are by no means isolated examples. They have been selected only to illustrate the variety of causes espoused. Many dozens of campaigning charities have been gifted taxpayers' money in the past decade. Pressure groups which focus on the environment (especially climate change), public health (especially lifestyle modification), international development, inequality (racial and economic) and women's rights have been particularly blessed with government grants. In some cases, they have relied on statutory agencies for 100 per cent of their income (e. g. Connections for Development). Some were founded by the government itself (e. g. the Equality Challenge Unit) because the Charity Commission does not forbid the state from setting up a charity so long as the resulting organisation is 'exclusively charitable'.³⁴ Charities such as the School Food Trust - created by the Department for Education after Jamie Oliver's school dinners campaign - act as special advisors to the government and are essentially part of the bureaucracy. ASH Wales, an influential anti-smoking group which receives the bulk of its

32 <http://www.cpag.org.uk/povertyfacts/index.htm>

33 'Child Poverty Action Group: Report and Financial Statements 31 March 2008', Charity Commission; p. 11, p. 21.

34 'Charity law is clear that governmental authorities can set up charities. Just because a body has been set up by the State does not prevent it from being a charity. Nor is it a bar to charitable status that the body has been created with a view to taking on a government function. What is important is that the purposes for which the new body exists should be exclusively charitable. The mere fact that the body will help a governmental authority to carry out one of its functions does not undermine the body's claim to charitable status. The motive of the promoter is irrelevant in deciding whether or not a body is a charity. In practical terms, this means that a charity can be set up to carry out a function of government where there is a charitable purpose that coincides with the governmental function' (Charity Commission, 2004, p. 2).

income from the Welsh Assembly, received just £870 in private donations in 2007/08, less than 0.4 per cent of its revenue.³⁵ The following year, the Independent Living Association, a Sussex based charity with an income of more than £1 million, received a grand total of ten pounds in private donations.³⁶

Amongst the numerous other activist groups which have received significant funding from the state in recent years are Sustain, the Green Alliance, Alcohol Concern, the Women's Environmental Network, Action on Smoking and Health, the London Sustainability Exchange, Forum for the Future, Consensus Action on Salt and Health, the Fatherhood Institute, the Pesticide Action Network, the Climate Group and the Children's Rights Alliance for England.³⁷ A non-exhaustive list of the causes championed by such groups include universal free school meals, flexible working hours, 'traffic light' labelling on food, 'environmental justice', lowering the voting age to 16 and minimum pricing for alcohol, as well as bans on battery farmed chickens, 'junk food' advertising, numerous pesticides, incandescent light bulbs, alcohol advertising, and smoking in private vehicles. In many instances, it is difficult to see what services the charity provides beyond policy development, lobbying and enforcement. Certainly they would struggle to demonstrate that their lobbying activity is - as the Charity Commission once required - 'incidental or ancillary' to their main purpose. In so far as their objective is to 'raise awareness' and 'educate the public', they do so principally by producing policy documents for government and promoting new legislation via the mass media.

35 'ASH Wales Financial Statements Year Ended 31st March 2008', Charity Commission, p. 9.

36 'Independent Living Association: Trustees' report and consolidated accounts for the year ended 31 March 2009', Charity Commission, p. 13.

37 Under 'What We Do', the Children's Rights Alliance for England explains 'CRAE protects the human rights of children by lobbying government and others who hold power'. In 2006/07, the charity received £64,720 from the Department of Children, Schools and Families (Children's Rights Alliance Management Council Report and Financial Statements, 31 March 2007, p. 18). It has since received significant funds from the Big Lottery Fund, the European Commission, and the Equality and Human Rights Commission.

Charities which distribute foreign aid seem particularly inclined to lobby for political change. There is no better illustration of the changing face of charity than the contrast between 1985's Live Aid concert and its successor Live 8 in 2005. Whereas the first concert raised over £50 million by appealing to the public for donations to provide relief in famine-stricken Ethiopia, the second sought only to raise awareness of third world poverty with the aim of pressuring government into providing more foreign aid. 'We don't want your money', ran the slogan, 'we want you'. Like all free lunches, this was anything but. The leaders of the G8 agreed to double aid to developing countries from \$25 billion to \$50 billion. At the risk of stating the obvious, this money did not fall out of the sky, but was taken from the general population regardless of whether they agreed with the agenda of Bono, Geldof et al. (and, indeed, regardless of whether they believed that the state would distribute aid more wisely than a private charity). It is not necessary to ponder the efficacy or morality of this arrangement for us to observe that this form of charity is both political and coercive.

Foreign aid filters down to the developing world via charities and NGOs - the Department for International Development (DFID) handed £395 million to NGOs between 2008 and 2011 (Boin et al., 2009, p. 9) - who then lobby for more money and legislation. State-funded super-charities such as Christian Aid, Action Aid, CAFOD and Oxfam are unashamedly political.³⁸ The literature of aid charities is crammed with references to 'economic justice', 'climate justice' and 'tax justice', and their campaigns include ending biofuels, curbing 'supermarket power' and - inevitably - calling for the state to increase the foreign aid budget. Every anti-poverty charity worth its salt has at least one policy manager and one public relations manager. Anyone wishing to contact Oxfam can choose to speak to their Director of Campaigns and Policy, Communications Director, Senior Policy Advisor, Policy and Advocacy Advisor, Head of Media, PR & Media Executive, Media Relations Manager, Ethnic Media

38 It is difficult to quantify how much of a charity's income is spent on lobbying, but Action Aid records spending £2.7 million on campaigning in 2009/10, which amounted to 4 per cent of its expenditure. (Action Aid Trustees' report and accounts 2010, Charity Commission; p. 28) Christian Aid reports spending 16 per cent of its revenue on "campaigning, advocacy and education" (2010/11 accounts; p. 46).

Press Officer, Senior PR Manager, PR Press Officer, Junior Press Officer, Senior Climate Change Policy Advisor, Climate Change Campaign Manager, International Artist Liaison Manager, Media and Communications Executive, Media and Communications Officer, and numerous Press Officers, Senior Press Officers, Media Campaigners et cetera ad infinitum.³⁹

Foreign aid charities argue - with some justification - that their goals can only be met through political change, but the policies they propose are often controversial. Christian Aid's Head of Campaigns explicitly blamed free trade and privatisation for poverty abroad at the time of Live 8.⁴⁰ Health Poverty Action, which relies on the EU and DfID for most of its £8 million budget, is one of a number of state-funded NGOs to campaign for a 'Robin Hood tax'.⁴¹ CAFOD and Christian Aid have both campaigned against the proposed new airport in the Thames Estuary ('Boris Island'), an issue that is not obviously within their remit as foreign aid workers.⁴² And while War on Want's stated objective is 'to advance the education of the public into the causes of poverty',⁴³ its notion of what causes poverty is highly contentious. War on Want's campaigns include 'fighting supermarket power', abolishing the World Trade Organization, 'justice for Palestine', boycotting Israeli goods, occupying Waitrose and 'working closely with trade unions, UK Uncut and the Tax Justice Network to highlight the devastating impact of swingeing cuts to public services.'⁴⁴

39 'Oxfam spokespeople: Media contacts', www.oxfam.org.uk

40 'Christian Aid predict Make Poverty History will be massive', *Socialist Worker*, Issue 1941, 5 March 2005. (Christian Aid received £9.8 million from DfID and £5.8 million from the EU in 2010/11. Its total income was £95 million.)

41 'Health Limited t/a Health Poverty Action, Trustees' Report & Financial Statements for the year ended 31 March 2011', Charity Commission, p. 11, 17.

42 Letter in the Daily Telegraph, 20 January 2012.

43 'War on Want: report and accounts for the year ended 31 March 2010', p. 4. The charity's stated activity, as registered with the Charity Commission, is to 'campaign for human rights and against the root causes of global poverty, inequality and injustice.'

44 www.waronwant.org/campaigns (retrieved 07/03/12).

As a staunch opponent of what it calls the EU's 'strategy of unfettered free trade'⁴⁵, it is a surprise to find that the EU is the War on Want's single largest donor, closely followed by DfID.⁴⁶ The charity's website - which is overwhelmingly devoted to political campaigns - is also paid for by the EU, albeit with a disclaimer saying that its webpages 'can under no circumstances be regarded as reflecting the position of the European Union.'⁴⁷

Who is pulling whose strings in these relationships? The Fawcett Society needs no prodding to campaign against lap-dancing clubs, and the Child Poverty Action Group's default setting is to demand an expansion of the welfare state. Both of these charities existed before they won government grants and neither is entirely dependent on the state. If their aims are shared by the governing party, this might be viewed as a happy accident. There is, however, nothing accidental about the government's decision to fund some organisations and ignore others. Throughout the Blair-Brown years, public money was directed towards pressure groups which broadly shared the outlook of the Labour Party. The government then proposed policies which were controversial with the public but too tame for the activists. These activists then used public consultations, parliamentary briefings and the media to urge politicians to go further, thereby giving the impression of grassroots support for greater intervention, and finally congratulated the government when the legislation was passed in a less compromising form than originally proposed. Age Concern, the Equality Challenge Unit and the Fawcett Society all successfully lobbied for a toughening up of the 2010 Equality Bill, for example, with the latter boasting that its campaigning 'directly shaped' its content.⁴⁸ Similarly, a campaign by Action on Smoking and Health led to the government abandoning a manifesto commitment by allowing no exemptions to the English smoking ban (Health Act, 2006).⁴⁹

45 'War on Want: report and accounts for the year ended 31 March 2010', Charity Commission, p. 9.

46 Ibid., p. 22. The European Commission gave War on Want £368,989 in 2009/10.

47 <http://www.waronwant.org/campaigns/fighting-supermarket-power>

48 'The Fawcett Society: Report and Financial Statements year ended 31 March 2008', Charity Commission, p. 3.

49 Arnott, D. and I. Wilmore, 'Smoke and mirrors', *The Guardian*, 19 July 2006.

For all their talk of engaging with civil society, it is most unlikely that politicians will fund groups with whom they seriously disagree. Disgruntled motorists might be a large and under-represented group in civil society, but the government is no more inclined to fund the Automobile Association than it is to give a grant to a pro-life or pro-smoking group. The EU will not give money to a eurosceptic or climate sceptic organisation even if, as is surely the case, their views are under-represented in Brussels. And although the Blair government funded left-wing think tanks such as Demos, the Institute for Public Policy Research and the New Economics Foundation (Sinclair, 2009, p. 40), it did not fund those on the right, nor would anyone have expected it to. Realpolitik dictates that you do not finance your enemies. The question is whether it is morally defensible to use public money to finance your friends.

Case study: environmentalists and the EU

The EU's tendency to subsidise overtly political lobby groups is well-documented, with projects such as Europe for Citizens and Youth in Action supplying grants to such organisations as Active Sobriety Friendship and Peace (whose aim is a 'world free from alcohol'), the International Union of Socialist Youth and the Young European Federalists.⁵⁰ Environmental groups are particularly well represented in the list of EU grant recipients (Boin and Marchesetti, 2010). Of the 'Green 10' - the ten largest environmental non-profits - only Greenpeace does not receive EU funding and only because it has refused the offer.⁵¹

The Green 10 can hardly be described as a shadowy organisation. They have their own website where they proudly explain that their role is to lobby for legislation.

'We work with the EU law-making institutions - the European Commission, the European Parliament and the Council of Ministers - to ensure that the environment is placed at the heart of policymaking.

50 'Youth in Action - 4.1 - Support for bodies active at European level in the field of youth: FPA granted for 2012 (Year 2)' <http://eacea.ec.europa.eu> (Each of the three groups named received €50,000).

51 The full list is: Birdlife International, Climate Action Network, European Environment Bureau, European Federation for Transport and Environment, Health and Environment Alliance, Friends of the Earth Europe, Greenpeace, Friends of Nature International, WWF European Policy Office, Central and Eastern Europe Bankwatch Network: <http://www.act4europe.org/code/en/about.asp?Page=39>

While campaigning at EU level, Green 10 NGOs:

- encourage the full implementation of EU environmental laws and policies in the Member States;
- lobby for new environmental proposals, as appropriate⁵²

Originally, EU funding for these groups was limited to no more than 50 per cent of their annual income, but when members of the Green 10 complained that they were unable to attract enough voluntary donations to match the EU's grants, the limit was raised to 70 per cent (Boin and Marchesetti, 2010, p. 10). This is rent-seeking of the least ambiguous kind.

A 2008 European Commission document discusses at length how funding of the Green 10 and forty-three other green organisations is designed 'to promote the activities of European environmental NGOs' who will, in turn, 'support policy development' (EC, 2008, pp. 2-3).

'Examples of activities are lobbying and preparation of coordinated press releases, position papers and memoranda to EU presidencies. NGOs also reply regularly to public consultations providing useful input and perspective to the policy process.' (ibid., p. 6)

'NGOs carry out activities in view of raising awareness of public and decision-makers, for example through campaigns, events and awards which often attract high press coverage, production and translation of information material, as well as environmental education targeting various groups like children, officials and professionals. In this area the NGOs have the advantage of being close to the ground and having high credibility with the public and therefore a high potential of achieving effective awareness and outreach. NGOs are also actively raising awareness and promoting EU environmental policy beyond EU borders' (ibid., p. 7).

52 <http://www.green10.org/>

This strategy has been most effective. The Green 10 has lobbied for changes to the Common Agricultural Policy and Common Fisheries Policy. They take the credit for various policies enshrined in the Constitutional Treaty and the Sustainable Development Strategy⁵³ and boast of having helped secure 'an increase in the power of the European Parliament'.⁵⁴ Friends of the Earth Europe, which relies on the EU for most of its income, boasts of securing the Kyoto Treaty and 'getting eight Acts of Parliament passed in eight years' (Parvin, 2007, pp. 13-14).⁵⁵

EU bureaucrats' justification for giving more than €8 million a year to nine environmental lobby groups is that there is an 'imbalance in the capacity of civil society to catch up with the level of participation of industry/business' (Agra CEAS, 2005, p. 18). In 2007, after the BBC uncovered the scale of this funding, an official from the European Directorate said: 'Industries and companies involved are much richer and they will be here and the NGOs have to be on an equal footing.'⁵⁶

There is no doubt that many industries have both the money and inclination to lobby for rent-seeking policies, but does the EU's redistribution of wealth help balance competing interests? The Green 10's access goes beyond the dreams of any commercial lobbyist, including regular meetings with the Council and the Commissioner for Environment, as well as monthly meetings at the Directors' level.⁵⁷ The very fact that the EU is prepared to fund such groups implies that they are more open to their arguments, even though environmental groups are by no means guaranteed to offer

53 <http://www.green10.org/>

54 'Forms of Civil Society cooperation at the European level', European Environmental Bureau (EEB), P2P study visit/DG ELARG-Brussels, 18 September 2008 (Powerpoint presentation); p. 18

55 Friends of the Earth Europe is mainly funded by the EU and Friends of the Earth International reports that 86.5 per cent of its income is 'subsidies received from government agencies and foundations' (<http://www.foei.org/en/resources/publications/annual-report/annual-report-2009/financial-report/funding-and-membership-support/funding-and-membership-support>).

56 'EU "wasting" cash on lobby groups', BBC News, 6 December 2007.

57 'Forms of Civil Society cooperation at the European level', European Environmental Bureau (EEB), P2P study visit/DG ELARG-Brussels, 18 September 2008 (Powerpoint presentation), p. 16.

expert, impartial advice about genetically-modified crops, pesticides and fishing. A pound spent on lobbying by Friends of the Earth goes much further than a pound spent by British Petroleum. By their own admission, most politicians are more likely to be persuaded by a charity than by a business.⁵⁸

The EU portrays the supposed dominance of commercial interests in decision-making as a market failure to be put right with government action: 'This asymmetry of power implies that a free market solution would be sub-optimal. An element of public funding to environmental NGOs can therefore be seen as correcting for market failure' (Agra CEAS, 2005, p. 51). But what is being referred to here is not market failure but government failure. If, as the European Environmental Bureau claims, environmental groups need state-funding because they would 'otherwise have no access to EU decision-makers',⁵⁹ this is a democratic deficit that would be better dealt with by opening access to all rather than issuing large cheques to selected special interests. Cash is not a prerequisite for access. There are cheaper and easier options, as John Redwood noted when the Labour government gave £750,000 to thirty charities so that they could 'have their voices heard' in 2009:

'The government knows who these groups are. Why doesn't it just invite them in for a free meeting with a minister to talk about their concerns?'⁶⁰

58 62% of MPs said they were 'more persuaded by arguments put forward by charities than businesses' (31% disagreed) (Parvin, 2007, p. 24).

59 'Forms of Civil Society cooperation at the European level', European Environmental Bureau (EEB), P2P study visit/DG ELARG-Brussels, 18 September 2008 (Powerpoint presentation), p. 14.

60 'Charity plan "not waste of cash"', BBC, 8 April 2009.

If engaging with the policy-making process is the real issue, a chat and a cup of tea would be the cheaper and no less effective option. In reality, EU grants to the Green 10 are unrestricted and can be used for any purpose. It is the nature of campaign groups not only to persuade legislators but to persuade the public, and the Green 10 spends much of its time on grassroots lobbying.⁶¹ The websites of environmental groups are dominated by calls to action, e-mail petitions and accounts of local activism. This, as Boin and Marchesetti (2010, p. 9) put it, is 'propaganda by proxy'. Many of these organisations, including half of the Green 10, are dependent on European and/or national government for the lion's share of their income (ibid., p. 8). If they were funded by industry to the same extent, we would call them front groups.

61 Although less blatant than the EU, the Department for Environment, Food and Rural Affairs has sought to use environmental activists for the same purpose: 'Defra will be working with stakeholders to further explore the ways in which Defra and the third sector can work better together to mobilise action at the grassroots which helps people make more informed day to day decisions to tackle climate change.' (HM Treasury Cabinet Office, 2007, p. 23)

Case study: the Department of Health

The use of state-funded activist groups to mould policy has been taken to an almost pathological degree by the Department of Health (DH). In 2010/11, the DH gave more than £65 million to a wide range of non-governmental organisations, including Action for Advocacy, the Centre for Policy on Ageing, the Bat Conservation Trust, the Association of Chief Executives of Voluntary Organisations, Advocacy in Action, the Race Equality Foundation, Gaydio and the Leeds Animation Workshop.⁶²

Under the 1968 Health Services and Public Health Act, the DH is permitted to issue Section 64 grants to non-profit organisations for the provision of health services which would otherwise be offered by the NHS.⁶³ From its inception, these grants have gone to service providers such as hospices, centres for the disabled and family planning clinics, but during Blair's second term the scope was broadened to include 'voluntary organisations in England whose

62 FOI reply from Department of Health to Josie Appleton, 7 February 2012: <http://www.whatdotheyknow.com>. In 2010/11, Section 64 grants totalled £23,505,000; Financial Assistance Fund grants totalled £10,610,000; Social Enterprise Investment Fund grants totalled £33,213,000.

63 Section 64 'applies to a voluntary organisation whose activities consist in, or include, the provision of a service similar to a relevant service, the promotion of the provision of a relevant service or a similar one, the publicising of a relevant service or a similar one or the giving of advice with respect to the manner in which a relevant service or a similar one can best be provided.' (Health Services and Public Health Act 1968)

activities support the Department of Health's policy priorities'.⁶⁴ The 1968 Act made no mention of 'policy' and no amendment has been made to the law to reflect this change of emphasis. Nevertheless, it has allowed the DH to fund any group whose stated objective can be incorporated into a broad range of public health goals, especially those involving eating, drinking and smoking.

Statutory funding for campaigns against drinking and smoking pre-date the wave of New Labour's state-funded activists by many years. The public health historian Virginia Berridge has charted the role of 'professional volunteerism' in making health policy, tracing its origins back to the 1960s. The first of the main insider-outsider organisations was Action on Smoking and Health (ASH), formed by a small group of medics in January 1971. A £1,500 loan from the Royal College of Physicians set it on its way, but it was incorporated as a charity in the belief that it would be sustained through public donations in the long term.⁶⁵ Early attempts at grass-roots fund-raising failed, however, and it soon became clear that the original aim of attracting £500,000 a year from private donors was hopelessly unrealistic.⁶⁶ By April 1971, ASH had applied for the first of the health department grants that would keep it afloat

64 This phrase is now frequently used in relation to Section 64 grants and has been in circulation since at least 2003: <http://www.publications.doh.gov.uk/ahpbulletin/ahpbulletin20.htm>

65 'The Royal College of Physicians has lent A.S.H. £1,500 to cover the initial running costs ... Apart from the cheque from the College, A.S.H. has received no money so far' (Royal College of Physicians Finance Sub-Committee, 25 Dec. 1970, ASH archive, Steering Committee Documents July-Oct 1970, Wellcome Library). At one point, ASH considered asking the tobacco industry for a donation. Wrigleys, the chewing gum company, offered to make an anonymous donation, but they 'required to know what they would gain from this'. ASH noted that 'we could not give any commitment that we would advertise their gum, but only imply that if they are helpful, we will be too.' ('Publicity sub-committee, 28.4.1971', Steering Committee Documents Jan-May 1971, ASH archive, Wellcome Library)

66 T. W. Hurst, president of the National Society for Nonsmokers, wrote in September 1970: '...the new National Council [as ASH was then known] must have teeth and to have teeth it must have financial support. It would be reasonable to expect that the member organisations of the Council should contribute annually, but this sum would obviously be limited and in my view a National Appeal should be launched as soon as possible for say £500,000 to enable the work of the Council to proceed effectively. I am sure this sum could be raised and in this connection the question of the new Council being registered as a Charity for tax purposes should be considered.' ('National Council on Smoking and Health: Comments by T. W. Hurst, J. P.', 16 September 1970 - Steering Committee Documents July-Oct 1970, ASH archive, Wellcome Library)

for years to come (Berridge, 2007, p. 175).⁶⁷ Initially, these grants were marked as 'start up' funds, and although each grant application was accompanied by an assurance that alternative sources of funding were being pursued, the charity was still dependent on the state for 90 per cent of its income at the end of its first decade (ibid.). It was still mainly funded by the DH in 1993 when its grant application lamented that 'Anti-smoking activity is not a popular cause for donors.'⁶⁸

The case of ASH is illuminating because it has existed long enough for archive documents to have emerged showing what the government expected of the group in terms of lobbying and policy formation. The charity is, as Berridge (2007, p. 182) describes it, 'the model of an outside campaigning group, but also linked inextricably to government, both financially and in strategic terms.' From its inception it has been 'an external pressure group, urging government to greater activity, but at the same time part of the policy network, working with the DHSS [Department of Health and Social Security] while it was agitating outside' (ibid., p. 176). ASH's model of 'state-funded activism' (ibid., p. 16) set the template for temperance groups such as Alcohol Concern (founded in 1984 with a £350,000 government grant)⁶⁹ as well as a more intensely funded wave of anti-smoking lobbyists created by the DH in the 2000s.

Documents from the National Archive, brought to light by Berridge, show how and why state-funded activism came about. As early as 1962, Enid Russell Smith, an official at the Ministry of Health, lamented that 'There is at present very little in the way of an anti-smoking lobby.' She continued:

67 The government start up fund was £25,000 (Berridge, 2007, p. 175).

68 'Application to the Department of Health for renewal of Section 64 Core funding' (ASH archive, Wellcome Library). ASH noted that 'we have made repeated and determined efforts to raise funding elsewhere and to earn income through our own efforts, without making any significant contribution to core costs.'

69 Alcohol Concern (magazine), vol. 1, issue 1, January 1985, p.8. The idea of setting up a temperance group in the same mould as ASH emerged in 1982. ASH assisted in the process by forwarding its director's job description and the name of its solicitors. (Letter from David Simpson to Prof. J. A. Strong, 13 September 1982, Alcohol Concern Collection, Wellcome Library). The two groups corresponded regularly throughout the 1980s. Like ASH, Alcohol Concern attempted to become a mass membership organisation but it was forced to abandon regional meetings in 1988 as a result of 'very low attendances'.

'...the most effective measure to limit smoking would be the promotion of a voluntary anti-smoking movement. It would be much easier for the Government and the local authorities to take regulatory measures against smoking if there were a body of opinion pressing them to do so.' (Berridge, 2007, p. 167)

The absence of a grassroots anti-smoking movement was a source of frustration for some in government. The only existing group was the obscure and somewhat fanatical National Society for Non-Smokers which had been formed in the 1920s. The idea of the government manufacturing a more professional outfit lay dormant until the end of the 1960s when it was revived by Sir George Godber, the Chief Medical Officer, who hoped that such a group would move ahead of public opinion to lobby for tougher action against smoking. 'A voluntary group may be a thorn in our flesh', Godber wrote, 'but only if we are inert and deserve it' (ibid., p. 169). Here we see a conscious attempt to create a 'critical friend' whose criticisms would be privately welcomed. This point was made quite explicitly by David Owen, Minister of Health, at a 1974 ASH conference:

'The facts of life are that Government in this area will respond to pressure, and I, instead of acting defensively on the pressure that you will put me under, am coming to you with a different message, which is to say "Put me under as much pressure as you like."' (ibid., p. 176)

ASH fully understood the nature of this arrangement. As one of its directors, David Simpson, later recalled 'it was a curious form of brinkmanship, having in one's daily work to attack the government that was funding you. But this was expected, and encouraged, so that there was a lot of cooperation behind the scenes' (Simpson, 1998, p. 211).

What was agreed 'behind the scenes' was then acted out in public, thereby allowing politicians to give the impression that they were yielding to the will of civil society. In its first thirty years, ASH's agenda was to raise tobacco taxes, restrict advertising and encourage smoking bans in public places. The public was largely ambivalent about such

policies, as evidenced by the continuing near-absence of voluntary action groups and the paucity of public donations to ASH.⁷⁰

Once it became clear that ASH would never become the mass movement its founders envisaged, its staff focused on networking with the political and media elite of London. It began to fulfil the criteria of a successful pressure group as set out by Mancur Olson in *The Logic of Collective Action* - a small but concentrated interest of professional anti-smoking activists against a larger, diffuse interest group of smokers. Perversely blessed with a small membership and a handful of employees (its English office had just six paid staff in 1979), it was able to avoid bickering and maintain a sharp focus on each policy objective. Peter Hollins, Director General of the British Heart Foundation, said in 2007, 'ASH is a casebook example of how a small but well-organised and effective group can stimulate and guide a powerful movement.'⁷¹ The assortment of lobby groups which ASH coordinated to fight for the smoking ban between 2004 and 2006 was the very definition of what William H. Riker termed the 'minimum winning coalition' (Riker, 1962); big enough to win, but small enough to be sustainable in the long-term.

ASH continues to influence public and politicians through its media appearances, press releases and parliamentary briefings. In 2010/11, it responded to no fewer than fourteen public consultations, often in support of measures ASH itself had recommended to the DH, which continues to fund them.⁷² In Westminster, it works through the All-Party Parliamentary Group on Smoking and Health, which was set up by ASH director Mike Daube in 1976 in the hope of persuading individual MPs to table Private Members' Bills and Early Day Motions on ASH's behalf.⁷³ The APPG was originally known, more tellingly, as the All-Party Parliamentary Group for Action on Smoking and Health and ASH continues to dominate its activity.

70 'As late as the 1990s, a Department of Health civil servant could comment on how little voluntary pressure group activity there was for smoking by comparison with other areas of social concern' (Berridge, 1998, p. 153).

71 'ASH Financial statements for the year ended 31st March 2007', Charity Commission, p. 5.

72 'Re: Final progress report Section 64 grant 2010-11', Letter from ASH to Department of Health, 28 April 2011 (FOI request).

73 'Meeting of all-party Action on Smoking and Health group' (23.2.76), ASH archive, Wellcome Library.

The avenues that APPGs open up to lobbyists have received surprisingly little discussion in the popular press. The Register of All-Party Groups says that APPGs are 'essentially run by and for Members of the House of Commons and House of Lords.'⁷⁴ If this was ever true, it is true no longer. When Robin Fenwick investigated All-Party Groups in 2011 he concluded that APPGs have been 'comprehensively invaded by vested interests seeking to buy access to our legislators.'⁷⁵ Of the 534 APPGs on the register, 77 were run by public affairs agencies and 98 were 'run by charities with agendas to promote.' The All-Party Parliamentary Group on Smoking and Health falls into the latter category. ASH pays for printing, stationery and group receptions, as well as providing briefing material.⁷⁶ The group's secretariat is ASH's current director Deborah Arnott and its last Annual General Meeting was attended by just four MPs, alongside three members of ASH and ten representatives from other charities.⁷⁷ The group is used as a vehicle for ASH to brief MPs, lobby for funding and send press releases.⁷⁸

Ministers have repeatedly denied that government grants to ASH are used for lobbying⁷⁹ and the DH says that it does not provide grants for research.⁸⁰ The government no longer provides ASH with core funding (i.e. for administration and upkeep) and since the

74 Register of All-Party Groups (as of 23 December 2011), p. 3.

75 Fenwick, R., 'All Party Groups: The Next Big Scandal?', 24 July 2011, <http://www.iaindale.com/posts/all-party-groups-the-next-big-scandal>

76 Register of All-Party Groups (as of 23 December 2011), p. 512.

77 APPG on Smoking and Health AGM Minutes, 11 July 2011.

78 The APPG has sent letters to the Department of Health and the Treasury lobbying against cuts to the tobacco control sector (e.g. Stephen Williams to Danny Alexander, and Stephen Williams to Andrew Lansley, both dated 29 September 2010). The APPG sent a press release calling for a ban on smoking in cars on 16 November 2011. The British Medical Association launched an identical campaign on the same day, suggesting a degree of collusion.

79 Dawn Primarolo, 2008: 'ASH has received this grant specifically to carry out a defined project entitled "Capitalising on Smokefree: the way forward". None of this funding is to be used for lobbying purposes.' (Hansard, 16 October 2008). Anne Milton, 2011: 'Action on Smoking and Health (ASH) has received funding from the Department in the past, through the Department's "Section 64 General Scheme of Grants to voluntary and Community Organisations". ASH received these grants specifically to carry out defined projects. None of this funding was, or could be used, for lobbying purposes.' (Hansard, 15 June 2011)

80 'The Department's policy is not to award grants if ... the grant will support research - we define research as 'creative work carried out systematically to increase knowledge' (Department of Health, 2004, p. 7).

charity has never provided smoking cessation services, this raises the question of how a full-blooded pressure group uses its money if not for campaigning. Its DH grant for 2008-11 amounted to £572,500 and was earmarked for a project entitled 'Capitalising on Smokefree: the way forward'. This project was rather non-specific, with the stated aim of ensuring that 'ASH recommendations' were 'acted on by policy makers'.⁸¹ These recommendations included a smoking ban in prisons, higher tobacco taxes and limiting 'promotional opportunities for tobacco products both on and off the packet'.⁸² Contrary to the DH's claim that it does not fund external research, ASH promised to provide 'policy development research, research and analysis for DH, and for other government departments'.⁸³ Contrary to ministerial assurances that 'none of this funding is to be used for lobbying purposes',⁸⁴ ASH specifically pledged to use part of this Section 64 grant for 'media advocacy and lobbying'.⁸⁵

In recent years, ASH has managed to secure non-governmental funding from the British Heart Foundation and Cancer Research UK, as well as from ASH International, a Washington-based outfit that is funded by the pharmaceutical company Pfizer (which sells various stop-smoking drugs). Donations from the public remain negligible - representing less than two per cent of its income⁸⁶ - and its sister organisations in Scotland and Wales are even more dependent on government grants. ASH Scotland's annual budget exceeded £1 million in 2008/09, of which 91 per cent came from the Scottish government and NHS Scotland.⁸⁷ In the same year, more than half of ASH Wales' income came from the Welsh Assembly, with further contributions coming from the British Heart Foundation and Pfizer.⁸⁸ With such heavy reliance on government grants, it is

81 'Capitalising on Smokefree: the way forward' grant application, Action on Smoking and Health, 2008 (FOI request).

82 Ibid., p. 3.

83 Ibid., p. 4.

84 Hansard, 16 October 2008.

85 'Capitalising on Smokefree: the way forward', grant application, Action on Smoking and Health, 2008 (FOI request)

86 'Action on Smoking and Health: Financial Statements for the year ended 31 March 2011', Charity Commission, p. 17.

87 'Action on Smoking and Health (Scotland) Report and Accounts 31 March 2009'.

88 'ASH Wales statement of accounts 2008/09', Charity Commission.

difficult to believe that taxpayers' money is not being used to lobby and yet ASH Scotland claims exactly this, stating on its website:

'You may not realise that we cannot use the public funding we receive to finance our campaigns. Instead we rely on individual donations to maintain the high profile that tobacco has on the public health agenda and in the minds of policy makers, MSPs, and the media.'⁸⁹

Since individual donations typically make up less than £10,000 - or 1 per cent - of its annual income, this implies that ASH Scotland conducts its numerous campaigns in an extraordinarily frugal and efficient manner.⁹⁰ After all, campaigning is hardly incidental to its existence; it lists its 'main activities' as 'parliamentary lobbying, campaigning, action-based projects and taking forward our partnerships and alliances'.⁹¹ ASH Wales, meanwhile, lists its top three activities as 'Lobbying', 'Media Representation' and 'Smoke free legislation'.⁹²

All told, various arms of government have been supplying the three ASH groups with around £1.5 million per annum in recent years. This, however, only scratches the surface of the government's funding of activists in this corner of politics. Since 2008, the NHS and the Department for Children, Schools and Families have been the primary sources of income for the UK Centre for Tobacco Control Studies (UKCTCS). With a budget of £3,694,498, this organisation aims to provide the scientific basis for the latest tobacco control policies, but it is a lobby group in its own right, sharing staff with ASH and pledging to 'actively contribute to the formation of tobacco control policy in England'.⁹³

89 <http://www.ashscotland.org.uk/about-us/support-donate>

90 'Donations, fund-raising & other income' amounted to £6,068 in 2008/09, of which only £828 was unrestricted (less than 0.1 per cent of income). The latest available accounts (2010/11) show a total income of £1,357,676, of which £941,564 came from statutory sources, including the National Lottery. 'Donations, fund-raising & other income' amounted to £23,103, of which £8,968 was unrestricted.

91 <http://www.ashscotland.org.uk/about-us>

92 'ASH Wales Limited: Financial Statements for the year ended 31 March 2011', Charity Commission, p. 3.

93 UKCTCS Annual Report 2008/09, p. 6.

UKCTCS employs a media monitoring agency and measures its work by the impact it has on policy. Its political ambitions are evident in its annual reports. Of one publication the Centre produced, it said that 'our intention was that the report and its attendant publicity will help make the case for further extensions of smoke-free regulations to include public areas frequented by children and private vehicles.'⁹⁴ The Centre 'contributed substantially to radio, TV and newspaper coverage of the proposal to ban point of sale tobacco displays' and it produced a report which claimed, despite copious evidence to the contrary, that the smoking ban had no ill-effect on the British pub trade, and thereby 'helped ensure that the legislation was not rolled back'.⁹⁵ It has openly lobbied for tax rises, licensing of tobacco retailers, plain packaging and adult-certification for films which show smoking.⁹⁶

Perhaps the most significant development in the self-lobbying of government in this area is the creation of several regional campaign groups funded by NHS primary care trusts (PCTs). These bodies, the largest of which are FRESH North-East, Tobacco Free Futures (formerly Smokefree North-West) and Smokefree South-West, were originally set up to campaign for the smoking ban, but have been maintained to fight for retail display bans, vending machine bans and other prohibitions in the years since. Since they are QUANGOs rather than registered charities, their financial accounts are not publicly available, but their combined income comfortably exceeds that of the ASH groups. Smokefree North-West received nearly £1.9 million from PCTs in 2008⁹⁷ and Smokefree South-West was given £468,462 in 2011/12 for its campaign on plain packaging alone.⁹⁸

94 UKCTCS Annual Report 2009/10.

95 UKCTCS Annual Report 2010/11

96 Written evidence from the UK Centre for Tobacco Control Studies (PH 18), HC 1048-III Health Committee, June 2011. Although the Centre was launched as an academic institution, by 2012 the BBC was understandably describing it as a 'campaign group'. ('Budget 2012: Calls for "2p a cigarette" rise', BBC News, 3 March 2012)

97 NHS North West board meeting, 2 September 2009, p. 17.

98 FOI request 1112 394 (£100,398 was earmarked for billboards, £127,685.77 for digital advertising, £99,146 for community events and £141,232.29 for other social marketing opportunities).

These regional groups spend hundreds of thousands of pounds advocating policies via billboard, newspaper and digital advertising. Smokefree North-East claims to have achieved '£3.4m in PR value' in 2010/11.⁹⁹ They are also free to use their funding to create still more tiers of state-funded activism. Smokefree Liverpool, for instance, founded and finances D-MYST. Standing for Direct Movement by the Youth SmokeFree Team, D-MYST is the very model of an astroturf group. It campaigns for a ban on smoking being depicted on television before the watershed, but its website provides no indication that it is financed by the state. Instead, SmokeFree Liverpool gives quite the opposite impression with its slightly implausible claim that 'D-MYST was formed by young people in the city who were concerned that they were being targeted by tobacco companies in their favourite films.'¹⁰⁰ Local PCTs have also used public money to set up unbranded websites to campaign for other policies, including the minimum pricing of alcohol.¹⁰¹

In addition to grassroots lobbying, this network of indentured campaigners replies en masse to public consultations by using public money to produce and distribute pre-written postcards to staff and supporters. The 2008 consultation on the 'future of tobacco control' is a prime example of how DH's network of activist groups takes a policy from concept to legislation. Its genesis lay in a report ASH prepared for the DH entitled *Beyond Smoking Kills* which laid out a smorgasbord of policies which the DH then incorporated into its consultation. As ASH later recalled, 'the Government announced the public consultation on the future of tobacco control. The document took a similar approach to that of "Beyond Smoking Kills" and identified the same areas for action.'¹⁰²

99 <http://www.freshne.com/Campaigns>

100 <http://www.smokefreeliverpool.com/>

101 For example: www.minimumpricing.info. A Freedom of Information request revealed that the website was set up with £467.33 from NHS Blackpool.

102 'ASH statement of accounts for the year ended 31 March 2009', Charity Commission, p. 5.

The resulting consultation attracted 96,000 responses, of which 49,507 (52 per cent) came from Smokefree North-West. A further 10,757 (11 per cent) came from D-MYST. Combined with 8,128 responses from FRESH North-East and 1,562 responses from the Smokefree Action Coalition, at least 73 per cent of the total was solicited by organisations which were overwhelmingly funded by the Department of Health (DH, 2008, p. 8).¹⁰³ Consequently, the consultation found a uniformity of quasi-public opinion that strained all credibility. There was 'over 99 per cent agreement' that there should be further restrictions on the advertising of tobacco accessories and 'almost 98 per cent' were in favour of plain packaging (ibid., pps. 19, 25). The gulf between public consultation and public opinion can be gauged by an ASH survey carried out in the same year which found that plain packaging was supported by just 43 per cent of the population (ASH, 2008, p. 37).

Ultimately, the consultation resulted in bills being put before Parliament to ban vending machines and retail displays, just as ASH had recommended in *Beyond Smoking Kills*. When these bills eventually became law, it 'marked the culmination of a year of intensive lobbying by ASH', the charity noted in its annual report.¹⁰⁴

This exercise in manufacturing consent led then-shadow health secretary Andrew Lansley to comment:

'It will come as no surprise to us if the Department of Health has funded organisations that provide the responses to consultations that the Government is looking for. The public are understandably cynical about the way Labour consults the public - it's time we had a Government that treats the public and their views with the respect they deserve.'¹⁰⁵

103 These pre-written e-mails and postcards preferred to use vague sentiments rather than explaining clearly what the policy proposals were. The consultation document (DH, 2008) notes that: 'The phrasing was often generic, for example, "I support measures to protect our children from tobacco marketing."¹⁴⁰ Those who agreed with this - and who wouldn't? - were assumed to be in favour of display bans and plain packaging.

104 'ASH statement of accounts for the year ended 31 March 2010', Charity Commission, p. 4.

105 Swaine, J., 'Government "fixing health consultations" with taxpayer-funded groups', *Daily Telegraph*, 2 January 2009.

There is, however, little indication that the influence of DH-funded pressure groups has declined since the 2010 change of government.

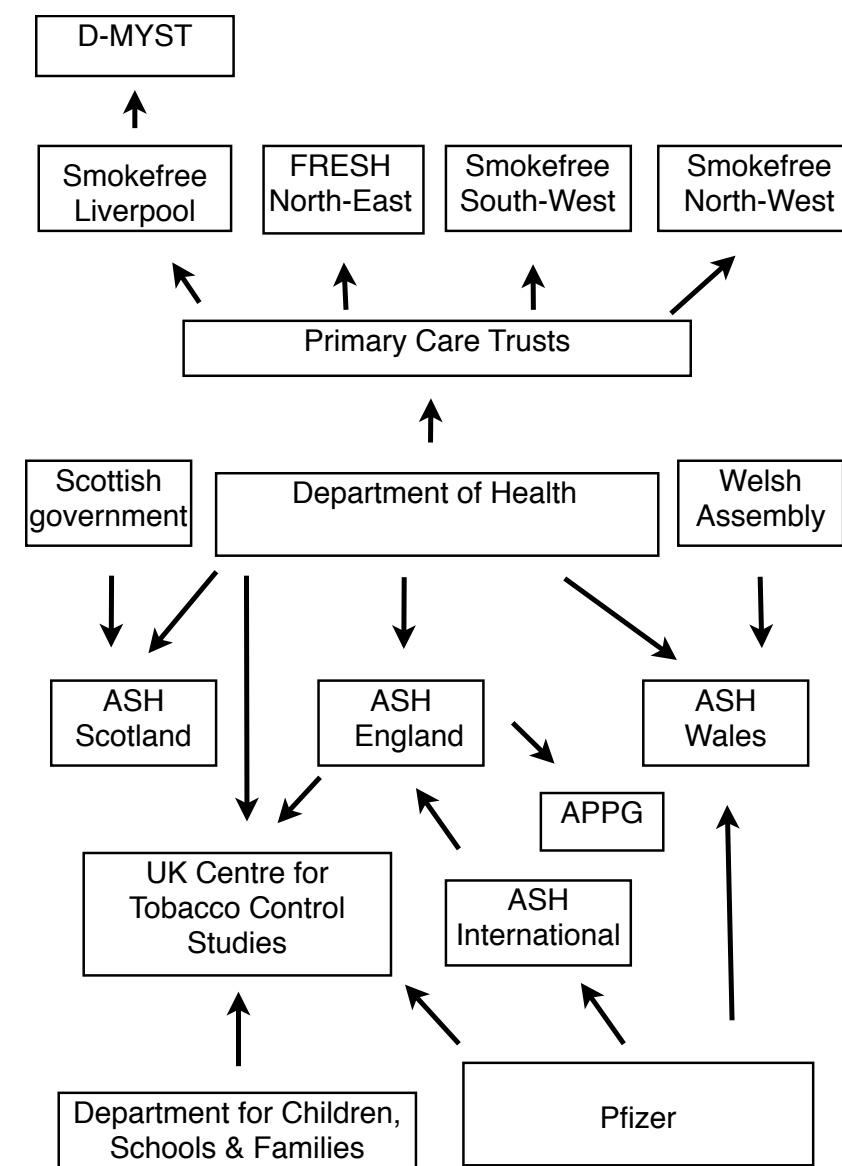
In a final twist, those who work in the anti-smoking programme effectively get to mark their own exam papers. An 'Inquiry into the effectiveness and cost-effectiveness of tobacco control' was published in 2010. Conducted by the All-Party Parliamentary Group on Smoking and Health and based on evidence given by members of ASH and UKCTCS, it concluded that the current system represented 'excellent value for money' and was unable to find a single fault amongst any of the policies that ASH, UKCTCS and the Smokefree groups campaigned for. If it had a complaint, it was only that more funding was required (APPG on Smoking and Health, 2010).

Selling unpopular decisions

The state-funded groups shown in Figure 2 have become the de facto policy-makers in matters related to smoking, successfully campaigning for a wave of legislation, much of which is of minimal interest to the general public. As with all the pressure groups discussed in this paper, the merit or demerit of their legislative agenda is not the issue. We merely observe that the campaigns were neither borne of a swell of popular outrage, nor sustained by genuine grassroots activism. In each case, the decision to legislate was made by technocrats within the bureaucracy, including the insider-outsider groups which then promoted the policy to the media, public and politicians.

The case of ASH is perhaps an extreme example, but only because its relationship with the state has long been unusually cosy. If the government's patronage of the third sector continues as it did between 2000 and 2010, sock-puppet organisations may yet hold a similar grip on other areas of public policy. There is evidence that the same process is already at an advanced stage in the realms of climate change, foreign aid and public health issues.

Figure 2



Whether the government uses taxpayers' money to amplify the voices of sympathetic charities or creates pressure groups from whole cloth, the result is the same. Unpopular causes are made to look like mass movements and minority views are put centre-stage in a distorted re-imagining of civil society. It is telling that so many state-funded charities campaign for causes which are viewed with ambivalence, if not hostility, by the electorate. Foreign aid, climate change, sin taxes, temperance, anti-smoking, 'sustainable development', radical feminism and support for the EU are causes which the political elite believe are under-represented in civil society, but they do not draw from this the obvious conclusion that an absence of voluntary activism is indicative of public indifference.

Foreign aid, for example, is notoriously unpopular with voters and has been for many years (Caplan and Stringham, 2005). This, presumably, is why DfID spent £50 million on a Development Awareness Fund to persuade the public that it is worthwhile (Harris and Boin, 2010). National governments and the EU give substantial grants to climate change activists, but less than 5 per cent of charitable giving in the UK goes to environmental groups (compared with 19 per cent donated to medical research and 16 per cent given to religious organisations).¹⁰⁶ Despite climate change being the green lobby's greatest concern, around a third of the British population considers the threat to be greatly exaggerated, and the rest are by no means universally supportive of Friends of the Earth's policies. Only one in four of us supports green taxes, for example,¹⁰⁷ and policies such as road pricing and bin taxes - which the IPPR promoted whilst in receipt of over £1 million from the Blair government - have never gained popular support.¹⁰⁸

While EU-funded charities such as the NSPCC, One World Action, Action Aid and Oxfam acted as cheer-leaders for the Lisbon Treaty,¹⁰⁹

106 Dugan, E., 'Green charities lose out as donors ignore environmental issues', *The Independent*, 4 October 2007.

107 'Belief in climate change "drops" in the UK', BBC News, 11 June 2010. Cooper, R., 'Rise of the climate change sceptics', *Daily Mail*, 7 December 2011.

108 'Taxpayers' cash "used for Labour research"', *Telegraph*, 1 June 2007.

109 Hannan, D., 'Four pro-EU "charities" got £34,597,219.16 last year', *ConservativeHome*, 6 May 2008; <http://conservativehome.blogs.com/platform/2008/05/dan-hannan-mep.html>

more Britons want to leave the EU than want to remain in it.¹¹⁰ The general public's interest in the militant agendas of the likes of the Child Poverty Action Group, War on Want and the Pesticide Action Network is likely to be minimal and anti-smoking policies tend to be unpopular with smokers and of little interest to non-smokers.¹¹¹

As for higher taxes on alcohol, they are 'intrinsically unpopular with the population', or so a World Health Organisation conference concluded in 2004 (WHO, 2005, p. 18). This conference, splendidly entitled 'The Seventh Futures Forum on Unpopular Decisions in Public Health', highlighted why governments increasingly rely on state-funded activism to achieve their goals. It was openly admitted that policies favoured by bureaucrats and single-issue campaigners have little support amongst the electorate, but the notion that a democratic society might therefore abandon them seems not to have entered delegates' minds. Instead they offered advice on how to manipulate the media and lead the public in the desired direction. 'Making and launching unpopular decisions is everyday business for top-level policy-makers in public health', they cheerfully admitted (*ibid.*, p. 1). Four case studies were used to illustrate this fact: closing hospitals, charging for doctor's appointments, banning smoking in public places and implementing 'restrictive alcohol policies'.

Hostility to business, suspicion of the media and a dismissive attitude towards the general public were running themes. As the following passage suggests, there is an irreconcilable division between 'the authorities' and the electorate.

'In the end, it is not the mass media that are making an unpopular decision. It is the minister who makes it, with the legitimacy and mandate given to this post. In a way, in democratic societies, the mass media will never be totally fair and loyal partners to the authorities; they will most likely primarily be on the side of the general public.' (*ibid.*, p. 8)

110 Clark, T., 'EU referendum: poll shows 49% would vote for UK withdrawal', *The Guardian*, 24 October 2011 (only 40 per cent said they wanted to stay in.).

111 For example, in 2003, before ASH began its campaign, only 20 per cent supported a total smoking ban (ASH, 2008, p. 3).

In each case, the 'unpopular decision' is taken by a technocratic elite - in this instance, public health professionals - long before the public hear about it. The decision itself is not open to question; all that follows is a carefully crafted campaign to stifle opposition, be it from the media, industry or grassroots groups. Civil society is viewed as an unruly beast and even the politicians are seen as fickle and unreliable. Suggestions for best practice included not conducting opinion polls 'before the decision [is] launched' ('Feeling the pulse of public opinion may help but may sometimes mislead a politician, blurring the vision...'). Veterans of the Irish smoking ban campaign emphasised that 'preparations were made to confront business, with plans for how to do this, so they did not get too strong' (ibid., pp. 12-13). Austrian officials, by contrast, lamented that their failure to win the public relations battle in their efforts to close hospitals meant that 'small citizens' groups were formed to protect the existing structures' (ibid., p. 4).

This is not civil society; it is the muzzling of civil society. It could be argued that what is being discussed is no more than effective campaigning. In purely Machiavellian terms, a system of professional activism which rubber-stamps executive decisions has a certain appeal. As a method of imposing policy without resorting to compromise, it is relatively efficient. If it does not entirely kick away the corner of the Iron Triangle marked 'pressure groups', it weakens it significantly.

The system does, however, suffer from one crippling drawback. It relies entirely on the decision-makers within the bureaucracy being both infallible and incorruptible. There is no good reason to expect such faultlessness from bureaucrats, nor from their pet pressure groups. As discussed at the start of this paper, they have the same incentives to seek rent, build empires and magnify threats as corporations and individuals. Though they may claim to act in the

public interest - and may sincerely believe they are doing so - this cannot be assured.¹¹²

If the bureaucrat and his allies are mistaken or misguided, their machinations have rendered genuine civil society too feeble to retaliate. In buying off and excluding independent voices, the authorities have weakened important checks and balances upon which democracy depends. The parody of civil society that they have created excludes citizens' groups, lay experts and concerned individuals in favour of an amen corner which will not, or dare not, fundamentally disagree with its funders. It should be no surprise that this subverts democracy, for that is exactly what it was designed to do. It may have the benefit of being able to carry a policy from brainstorm to statute book with effortless efficiency, but it is a system that can only be applauded if democracy itself is to be condemned.

112 On the subject of rent-seeking, in 2011 Sir Stephen Bubb called on the government to introduce a tax on bankers' bonuses and for the money raised to be given to the third sector. Speaking as the Chief Executive of the Association of Chief Executives of Voluntary Organisations (ACEVO), Bubb was not entirely without financial incentive to call for such a policy. Like most charities which represent the sector, ACEVO is largely funded by the taxpayer. As Robert Whelan caustically notes, 'A voluntary sector which cannot fund its own representative body without taxpayers' money does not inspire confidence' (Whelan, 1999, p. 3).

The shadow state

This paper has focused on state-funding of charities in the New Labour era. Although some activist groups received statutory funding prior to 1997, the practice became endemic thereafter. It is too early to say whether the current coalition government, or any future Conservative government, will perpetuate or reverse the process. It is entirely possible that a future administration could withdraw its funding from the charities favoured by the Blair-Brown government and divert taxpayers' money towards right-wing pressure groups, libertarian think-tanks, free trade associations and advocates of privatisation. Or it might choose to spend millions of pounds amplifying the voices of religious charities, pro-life groups, cigar aficionados, gun-owners or any other group that it decides is 'under-represented' in civil society.

The system is therefore inherently unstable. Those who benefit from political patronage are highly vulnerable to changes of government. It is an onerous task for a government to replace one set of sock-puppets with another, but the politician may consider the risks of inaction to be too great. As we have seen, governments tend to fund groups which share the same political outlook. If there is a divergence of views, it is only because the group is more extreme than the official party line, but that has the benefit of making the government appear moderate. A party which holds onto power for many years will be able to build up a significant base of support amongst its favoured charities, pressure groups and NGOs, whose allegiance will remain with that party when in opposition.

Consequently, the benefits of creating sock-puppet organisations extend beyond the short-term utility of assisting the politician's legislative agenda whilst in power. Once the party loses power, these groups become a 'shadow state' using public money to promote the political causes of its original funders.¹¹³ This activity will not be overtly party political - Charity Commission rules forbid it - but it will do a left-wing opposition no harm at all to have third sector groups campaigning against budget cuts while continuing to promote the need for identity politics, income equality, higher taxes and 'economic justice'.

The new government may choose to weed out its predecessor's sock-puppets and replace them with state-funded activists who are more to its liking, but the threatened groups will surely use their formidable campaigning skills to provoke public protest.¹¹⁴ Even if the government succeeds in uprooting the shadow state and installing its own version of civil society, it will lose an election sooner or later and the whole process will be repeated once more. This is wasteful, time-consuming and destructive. Since the whole system depends on forcing the public to finance groups with whom they may vociferously disagree, it must also be regarded as immoral. Rather than encourage the successive creation, abolition and resurrection of mini-empires, the government should take measures to bring this game of cat-and-mouse to an end.

¹¹³ I am grateful to John Meadowcroft for suggesting the term 'shadow state' to describe the assortment of state-funded NGOs which remain in place after a government loses office.

¹¹⁴ There is some evidence that the Tory-led coalition which came to power in 2010 is withdrawing funding from some of its more vocal critics in the third sector. Alcohol Concern (which, like ASH, was formed under a Conservative government) became more militant during the Brown years and in 2011 accused the coalition of siding with 'big business' and 'private profit'. State funding has since been withdrawn (Trigg, N., 'Health groups reject "responsibility deal" on alcohol', BBC, 14 March 2011).

Solutions

Any regulations aimed at solving the problems we have identified must not restrict freedom of speech nor, indeed, restrict government use of non-profit organisations for service delivery where it is believed that is an appropriate mode of delivering government policy outcomes. This paper does not suggest that charities receive no income from the state, or that independent charities should not educate the public on policy-related matters which may sometimes spill over into campaigning. However, a prudent government would wish to ameliorate the incentives that public choice economics predicts could give rise to bad policy - in particular policy that imposes widespread costs on society and concentrated benefits on a particular group. As such, action should be taken so that:

- Government funding of a charity or other non-profit organisation is not used to promote the organisations' interests in the policy sphere. Campaigning and education around such interests should be entirely privately financed.
- The government is not financing charities in such a way that there are people working within that charity whose interests might be strongly aligned with the continuation of government funding and who have an ability or incentive to campaign in favour of more government funding.

- Politicians and bureaucrats who wish to pursue unpopular - or even popular - political causes should not be able to do so by setting up a charitable or NGO-front that gives the veneer of independence.

One possible solution to the problems outlined in this paper would be for the UK to adopt the US approach which bars organisations from charitable status if they spend more than an 'insubstantial' proportion of their resources on lobbying. In theory, these restrictions are very tight. Not only do they cover direct lobbying to politicians, but they also include grassroots lobbying, which is defined as 'Any attempt to influence any legislation through an attempt to affect the opinions of the general public or any segment thereof.'

This would seem to prohibit almost any effort to change public opinion when legislation is in the offing. In reality, however, US charities climb through the gaping loophole which allows them to call their lobbying 'education' or 'advocacy'. Closing this loophole would entail a significant infringement of free speech and would be neither practical nor desirable. Instead, we suggest four simple measures which would help restore the independence of the voluntary sector, safeguard taxpayers' money and rebalance civil society in favour of grassroots activism.

1. The government should cease giving unrestricted grants to charities. Of the £12 billion that flowed from the state to the third sector in 2006/07, £4.2 billion came in the form of grants (Clark et al., 2009, p. 16). The remainder came from earned income for providing services. Charities have much to offer in the way of innovation and passion, and partnerships between government and charities have often been fruitful. However, taxpayers' money should be used to carry out clearly defined public services. The public has a right to know how its money is being spent, whether by government departments or third parties. As we have seen, *restricted* grants are, in reality, often used for a wide variety of purposes. There can be no justification for giving *unrestricted* grants to private entities. Either the money should be earmarked for the provision of a service that the state would otherwise

provide, or the payment should stop. If the restricted grant is provided for services, those services should be clearly defined and assessed upon completion. Non-specific services such as 'raising awareness' and 'advancing the education of the public' should not be amongst them. The state should be capable of carrying out public information projects without recourse to third parties. If it wishes to pump out propaganda, the public should be informed that it is coming directly from government.

2. Political advertising by government departments should be prohibited. It is wasteful and inappropriate for one arm of government to spend taxpayers' money campaigning for legislation which has neither been subject to a public consultation, nor debated in the House of Commons. Government departments and their ancillaries should be forbidden from using any form of advertising to influence public opinion about legislation that has not been passed by Parliament. All other forms of informational and educational advertising would, of course, be permitted. This could be regulated by the Advertising Standards Agency.

Similar regulations already apply to local councils, which are no longer able to employ lobbyists to campaign for 'pet funding projects and new regulations.'¹¹⁵ The practice was banned in 2010 by Eric Pickles, Secretary of State for Communities and Local Government, who echoed many of the concerns voiced in this paper:

'Taxpayer-funded lobbying and propaganda on the rates weakens our democracy. So-called town hall newspapers are already closing down scrutiny from independent local papers. Now lobbyists are being used sidestep transparency laws and shadowy figures are peddling more regulation and special favours.

¹¹⁵ 'Eric Pickles: New measures to stop "lobbying on the rates"', 5 August 2010, <http://www.communities.gov.uk/news/corporate/1666074>

'Local activism and localism don't need lobbyists. If local politicians want to change the way government operates, their council should send a letter or pick up the phone. Councillors can campaign for change at a personal or party political level, rather than throwing away other people's council tax on the corrosive and wasteful practice of government lobbying government. These tough new rules will lower the cost of politics and increase transparency.'¹¹⁶

3. A new category of non-profit organisation should be created for organisations which receive substantial funds from statutory sources. There is no doubt that the word 'charity' carries a halo and that this halo is tarnished by the charitable sector's association with the state. A major objection to the government's astroturfing of the third sector is that it debases the currency of charity.

There is undoubtedly greater PR value in a charity calling for restrictions on liberty than would be the case if the message came directly from a bureaucrat or politician. The charity worker is assumed to be driven by altruism. We might not agree with her, but we afford her respect because we imagine her to be committed, earnest and caring. The same message delivered by a government spokesman is likely to sound like hectoring from on high; not a fellow member of civil society, but a paid servant of the state. This, of course, is precisely why governments prefer to speak through sock-puppets and why the concept of charity must be reclaimed for civil society.

As noted earlier, most charities receive no funding from the state. People who voluntarily give up their time to help the needy deserve to be distinguished from professional third sector service-providers. At the same time, it is both appropriate and desirable for governments to outsource work to the private sector, including charities, and barriers should not be put in the way. One solution would be to create a second tier of non-profit organisations for groups which receive a significant proportion of their funding

¹¹⁶ Ibid.

from statutory sources (perhaps ten or twenty per cent of total revenue). These groups would go under another name, such as a 'non-profit', and would be subject to a total ban on political lobbying.

If they chose, charities could split themselves into a state-funded, service-providing arm (the non-profit) and a politically active, charitable arm funded by public donations (the charity). The non-profit arm would have the same VAT and corporation tax status as a charity and the same status with regard to tax on investment income, but not the same status with regard to gift aiding of donations. It would thereby have only two sources of funds - income from services and income from other charities. The charitable arm would be permitted to fund the service-providing arm, but not vice versa. This would stop charities using taxpayers' money to lobby, without barring those who wish to be politically active from accepting government contracts. It would also prevent restricted grants being covertly used to fund or subsidise political campaigning.

4. Charity Commission regulations for political campaigning should be clarified, with guidelines set out according to existing case law. If the recommendation set out above is considered impractical or unpalatable, the government should at least restrain the lobbying activities of charities. The current system is effectively a free-for-all, with some charities seemingly able to engage in political lobbying on a permanent basis. As previously mentioned, long-standing rules on political lobbying were relaxed at the behest of the Blair government and the Charity Commission's advice that charitable status can be given to organisations for whom lobbying is the 'dominant' activity has no legal foundation. As Brodie notes, the rules pertaining to lobbying by charities are based on case law. The 1948 case of *National Anti-Vivisection Society v. Inland Revenue Commissioners* established that sustained political campaigning is not a legitimate charitable purpose and no subsequent case has found otherwise (Brodie, 2010, p. 11). The Charity Commission should revert to previous guidelines which forbade charities from making political campaigning their dominant activity.

References

- APPG on Smoking and Health (2010) 'Inquiry into the effectiveness and cost-effectiveness of tobacco control: Submission to the 2010 Spending Review and Public Health White Paper Consultation process', All Party Parliamentary Group on Smoking and Health.
- ASH (Action on Smoking and Health) (2008) *Department of Health consultation on the future of tobacco control: Submission from Action on Smoking and Health*, London: ASH.
- ASH (Action on Smoking and Health) (2008) *Beyond Smoking Kills: Protecting Children, Reducing Inequalities*, London: ASH.
- Agra CEAS (2005) *Final report for The European Commission*, Brussels: Agra CEAS Consulting Ltd.
- Berridge, V. (1998) 'Science and policy: The case of postwar British smoking policy' in S. Lock, L. Reynolds, E. M. Tansey (eds), *Ashes to Ashes: The History of Smoking and Health*, Amsterdam: Rodopi.
- Berridge, V. (2007) *Marketing Health: Smoking and the Discourse of Public Health in Britain, 1945-2000*, Oxford: Oxford University Press.
- Beveridge, W. (1948) *Voluntary Action*, London: Allen & Unwin.

Boin, C., J. Harris and A. Marchesetti (2009) *Fake Aid*, London: International Policy Network.

Boin, C. and A. Marchesetti (2010) *Friends of the EU: The costs of a taxpayer-funded green lobby*, London: International Policy Network.

Brodie, S. (2010) 'The Charity Commission: Politicised and politicising', *Economic Affairs*, 30, 3, 9-13.

Cabinet Office Strategy Unit (2002), *Private Action, Public Benefit*, London: Cabinet Office.

Caplan, B. and E. Stringham (2005) 'Mises, Bastiat, Public Opinion, and Public Choice', *Review of Political Economy*, 17, 1, 80.

Charity Commission (2004) *RR7 - The Independence of Charities from the State*, London: Charity Commission.

Charity Commission (2005) *RR12 - The Promotion of Human Rights*, London: Charity Commission.

Charity Commission (2006) *Stand and Deliver: The future for charities providing public services*, London: Charity Commission.

Charity Commission (2008) *Speaking Out: Guidance on campaigning and political activity by charities*, London: Charity Commission.

Conservative Party (2008) 'Government Lobbying Government', London: Conservative Party.

Clark, J., D. Kane, K. Wilding and J. Wilton (2010) *The UK Civil Society Almanac 2010*, London: National Council for Voluntary Organisations.

Clark, J., J. Dobbs, D. Kane and K. Wilding (2009) *The State and the Voluntary sector: Recent trends in government funding and public service delivery*, London: National Council of Voluntary Organisations.

Department of Health (2004) *Section 64 General Scheme of Grants: Notes of guidance 2005 to 2006*, London: Department of Health.

Department of Health (2008) *Consultation on the future of tobacco control: Consultation Report: December 2008*, London: Department of Health.

EC (Commission of the European Communities) (2008) 'Commission Staff Working Document on the implementation of the programme for financial support to European non-governmental organisations primarily in the field of environmental protection', SEC (2008) 2633, Brussels: Commission of the European Communities.

Harris, J. and C. Boin (2010) 'Injecting optimism' in the UK: How DfID has wasted millions on the Development Awareness Fund', London: International Policy Network.

HM Treasury/Cabinet Office (2007) *The future role of the third sector in social and economic regeneration: final report*, London: TSO.

Independence Panel (2012) *Protecting Independence: the voluntary sector in 2012*, London: Baring Foundation.

Mulgan, G. and C. Landry (1995) *The other invisible hand*, London: Demos.

National Council for Voluntary Organisations (2010), *UK Civil Society Almanac*, London: NCVO Publications.

Niskanen, W. A. (1971) *Bureaucracy and Representative Government*, Chicago: Aldine.

Olson, M. (1965) *The Logic of Collective Action*, Cambridge, Mass.: Harvard University Press.

Parvin, P. (2007) *Friend or Foe? Lobbying in British Democracy*, London: Hansard Society.

Riker, W. (1962) *The Theory of Political Coalitions*, New Haven, CT: Yale University Press.

Seddon, N. (2007) *Who cares? How state funding and political activism change charity*, London: Civitas.

Simmons, R., R. Yonk and D. Thomas (2011) 'Bootleggers, Baptists, and Political Entrepreneurs', *The Independent Review*, 15, 3, 367-381.

Simpson, D. (1998) 'ASH: Witness on smoking' in S. Lock, L. Reynolds and E. Tansey (eds) (1998) *Ashes to Ashes: The History of Smoking and Health*, Amsterdam: Rodopi.

Sinclair, M. (2009) *Taxpayer funded lobbying and political campaigning*, London: TaxPayers' Alliance.

Smith, R. and P. Whittington (2006) *Charity: The spectre of over-regulation and state dependency*, London: Centre for Policy Studies.

Spray, J. (2004) *The History of the Pedestrians Association: A Seventy-Five Year Campaign for Living Streets*, London: Living Streets.

Tullock, G. (2006) *The Vote Motive*, London: Institute of Economic Affairs.

Tullock, G., A. Seldon and G. Brady (2000) *Government: Whose obedient servant?*, London: Institute of Economic Affairs.

Whelan, R. (ed.), *Involuntary Action*, London: IEA Health and Welfare Unit.

WHO (World Health Organization) (2005) *Seventh Futures Forum on unpopular decisions in public health*, Copenhagen: World Health Organisation Europe.

The Institute of Economics Affairs
2 Lord North Street
London SW1P 3LB
Tel 020 7799 8900
email iea@iea.org.uk

