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# Economies through transparency<sup>1</sup>

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## Abstract

The notion of transparency is widely used as an analytical tool and as a guideline to propose and enforce new configurations of economic life. Focusing on several transparency-making devices, this paper tries to explore both the pervasiveness of this notion and its ambivalence in a number of relevant sites. We begin by exploring the deployment of transparency in the economic literature at large. We identify three thematic areas, namely, markets and price discovery, corporate management and institutional investors, and state regulations and economic policy. We then tackle these three areas of meaning through three brief case studies: (1) transparency and anonymity in the context of exchange automation, (2) ballot statement controversies in the light of corporate governance principles and (3) the use of transparency at state level in the context of the EU financial regulation. In the concluding section, we try to condense our findings into a tentative typology. We point to an important, yet not always explicit distinction between 'literal' transparency and 'abstract' transparency, and we observe combinations between 'disciplinary' and 'enabling' uses of transparency-making devices. These articulations of transparency, we suggest, are central to the development of new instruments of government.

## Introduction

Wim Duisenberg, former president of the European Central Bank, asserted that the ECB, as compared to the Fed, follows a policy of total transparency; Pascal Lamy, while member of the EU Commission, said that transparency is a key component of the governance developments required by globalisation; the European Union has increased transparency to be closer to its citizens (Peterson 1995; Deckmyn and Thompson 1998). International treaties like the Aarhus Convention try to set norms of transparency for specific policy domains such as the environment. The director of the French financial markets' regulator and the governor of the Banque de France say that financial transparency is one of the conditions for the efficacy of markets (COB and Commission Bancaire 1998, p. 5-10). In the cover of a recent book about financial markets, electronic trading is said to bring liquidity, accessibility and transparency to the markets (Young and Theys 1999). Management scholars experience an increasing inclination to explore this term (Larsson and Lundberg 1998), and so do avant-garde essayists (Brin 1998). The International Corporate Governance Network (ICGN), a group of powerful institutional investors, calls for transparency in all aspects of the shareholders-management nexus; ICGN principles build on and amplify the OECD Principles of Corporate Governance (OECD 1999, revised in 2004). Law and administration are increasingly required to be transparent (Conseil d'Etat 1998). The Cromme Commission has recently amended the German Corporate Governance Code, whose aim is to make Germany's corporate governance rules transparent and understandable.

Do all or any of these instances of the notion of transparency share all or any of their dimensions? Does this vocabulary define a new way of representing accuracy and fairness in economic and political activities? Is it an answer to the increasing demand for ethics in the economy? Does transparency correspond to a new principle of socio-economic organisation? The analysis of the meaning and use of such a notion is far from straightforward. On the one hand, transparency is drowning in polysemy, misunderstandings, or empty statements. On the other hand, the notion is widely used by actors not only concerned with representing economic, social and political life, but also with intervening in it. The notion of transparency seems to be both relevant and ambiguous. The aim of this paper is not – and cannot be – to provide a definition of transparency that would embrace all its different uses. Rather, we would like to focus on a limited number of these in order to find out whether it is possible to identify common elements, an underlying logic that may help understand the rise of transparency.

This article is going to focus on transparency more as a ‘device’ or an ‘instrument’ than as a ‘principle’ (a dimension explored at length elsewhere in Garsten and Lindh de Montoya, forthcoming). We connect here with the Foucauldian analysis of technologies of government and, more precisely, with recent developments in the study of ‘governmentality’ (Miller and Rose 1990; Burchell, Gordon and Miller 1991; Rose and Miller 1992). A particular feature of advanced liberal democracies is, within this perspective, the reduction of the costs of control and the proliferation of ‘self-correcting’ actors. This practical economy of power is based on the development of devices (*dispositifs*) that are able to distribute control and enact autonomy at local levels. Accounting (Power 1996) and audit (Power 1997) are good examples of this array of devices (see Thedvall, forthcoming, for a cogent review). The history of statistical instruments provides other interesting illustrations (Desrosières 1998). In the area of public policy, the increasing use of one particular device, independent regulatory agencies, has led to terms like ‘regulatory state’ (Majone 1996, 1997) or ‘regulatory capitalism’ (Levi-Faur 2005), thus implying a particularly profound change enacted by such instruments.<sup>2</sup> These devices can easily be thought of, in some sense, as ‘transparency-making’ devices to the extent that they prompt some kind of visibility, calculability and accountability.

Is transparency thus becoming a general resource for governing contemporary economies? How does transparency activate (and deactivate) political instances? The trouble with claims for (or against) transparency is that they introduce intricate, pragmatic questions: who claims, against whom, how, by what means, and to what purpose? A claim for transparency first understood as a call for representative and public proofs can suddenly turn into a call for surveillance and authoritative supervision. Take the case of activists, say, opposed to nuclear energy, that condemn the opacity of a corporation or an institution, e.g. nuclear energy authorities, and therefore ask for more transparency (Chateauraynaud and Torny 1999). They are then inundated with massive, detailed, abstruse information on weekly incident reports, and are finally forced to demand some kind of *filtering*. The social meaning of transparency can be rendered explicit only through an inquiry into the mediations and delegations upon which it calls.

The purpose of this paper is to make such processes more explicit by looking at the different dimensions of transparency in concrete arenas. We aim at developing a typology of the uses of transparency which may help to clarify debates on transparency and limit misunderstandings caused by its contradictory uses. We begin by exploring the deployment of transparency in a leading economic literature database, so as to ascertain whether we are right in identifying both its rise and intrinsic polysemy. We identify three thematic areas, namely, markets and price discovery, corporate management and institutional investors, and state

regulations and economic policy. We then tackle these three thematic areas in the three following sections, through three brief case studies: (1) transparency and anonymity in the context of exchange automation at the Paris Bourse, (2) a ballot statement controversy in the light of corporate governance principles at CalPERS and (3) the use of transparency at a state level in the context of the EU financial regulation. In a final section, we try to condense our findings into a tentative typology, and go back to our guiding hypotheses and see if they still hold.

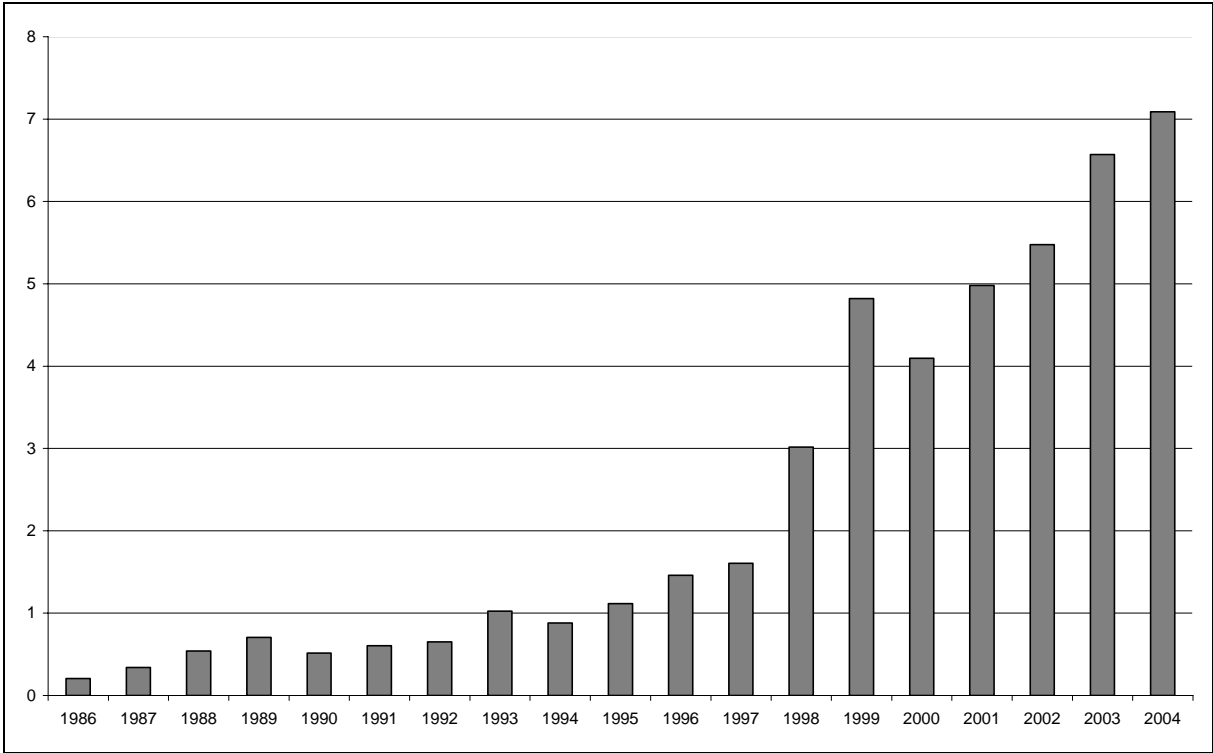
## **Pervasiveness and the polysemy of transparency: a preliminary appraisal**

We would like to explore two sets of intuitions in this section, with the help of rather basic quantitative techniques based on network analysis. The first one concerns the rise of transparency in economic and political discourses: are we really observing an increasing pervasiveness of transparency? The second relates to the polysemy of the notion: what people mean when they say ‘transparency’ may often be contradictory, unrelated, or thematically divergent.

We have chosen to use the Econlit database as a ‘corpus’ of reference. Maintained by the American Economic Association, and holding more than 630,000 records, Econlit coverage includes major economic and political journals’ articles, books, collective volumes, dissertations, working papers in economics and book reviews appearing in the *Journal of Economic Literature*. This impressive range of sources, types of documents and the international scope of this bibliographical database are our rationale for using it as a litmus test for the global development of transparency. Of course, we acknowledge the distance that may separate scholarly vocabulary from an actual use of a notion in practice. Media coverage, operational reporting or ethnographic interviews may provide textual material more suitable to a study of a notion ‘at work’. But the academic literature serves our purpose well for at least two reasons: first, efforts in the articulation of a notion (definitions, discussions, associations) are particularly visible in this kind of literature; second, current literature in economic sciences encompasses a wide array of disciplines that are often close to interventions in operational realms (such as accounting or financial engineering) and that feed, in a rather reflexive fashion, the construction of economic institutions (Callon 1998).

Let us get started with a simple indicator of relevance, which should allow us to answer how often transparency, or its adjectival or adverbial forms, e.g. ‘transparent’, appear in the economic literature, while controlling for the fluctuation in total number of records in

the database. We have displayed in Graphic 1 the result of dividing the hits of the search string */transparen\** by the total number of records in the Econlit database, computed for each year from 1986 onwards.<sup>3</sup> We notice a clearly increasing trend, with particularly sharp rises in 1998 and 1999, in the wake of the Asian crisis.



**Graphic 1: The rise and rise of transparency**  
 Hits of */transparen\** divided by total records in EconLit, times 1000.

What is transparency ‘made of’? What terms do we find it associated with? Based on previous encounters with the notion, we expected a set of clusters or ‘regions of usage’. We have therefore extracted optimized clusters of terms that tend to appear in the same abstracts in the Econlit ‘*/transparen\** corpus’, in order to check our impression of the variety of meanings associated with this notion (see Table 1). Although the technique is far from perfect, we can tentatively recognize a number of regions of usage that fit quite interestingly with our expectations.<sup>4</sup>

<i>Cluster</i>	<i>Associated terms</i>
Central banks	<i>/bank/ /central/ /inflation/ /monetary/ /policies/ /rate/ /stabilisation/ /target/</i>
Taming governments	<i>/accountability/ /government/ /institution/ /political/ /public/ /reform/</i>
Budgets and taxes	<i>/budget/ /debt/ /fiscal/ /macroeconomic/ /tax/</i>
Euroclerosis	<i>/europe/ /growth/ /level/ /model/ /performance/</i>
Risky funds	<i>/asset/ /fund/ /management/ /pension/ /risk/</i>
Privatized corruption	<i>/business/ /competition/ /corrupt*/ /privatization/</i>
Liquid exchanges	<i>/credibility/ /exchange/ /liquidity/ /stock/</i>
Shareholders in control	<i>/companies/ /control/ /corporate/ /equity/ /sharehold*/</i>
The Asian crisis	<i>/asia/ /crisis/ /disclosure/ /international/ /standards/</i>
Prices/trade	<i>/cost/ /finance/ /firm/ /information/ /invest*/ /market/ /price/ /rule/regulat*/ /trade/</i>

**Table 1: Transparency clusters**

Optimized clusters in our Econlit */transparen\**/ corpus.

<i>Sample quote (from abstracts):</i>	<i>Source:</i>	<i>Area of meaning:</i>
‘[O]rder flow <b>transparency</b> , which is supported by an electronic trading platform, improves price discovery.’	Chng (2004)	Market microstructure, design of financial exchange, quality of price formation (or ‘price discovery’), visibility and calculability of prices, with references to their public display (at-a-distance), emphasis on quantitative data and considerations of a game-theoretical kind.
‘[T]he decrease in market <b>transparency</b> does not compromise market liquidity.’	Tse and Hackard (2004)	
‘In all cases, less <b>transparent</b> sellers have an advantage in bidding relative to more <b>transparent</b> sellers.’	Wilson and Dahl (2004)	
‘[D]espite increasing disclosure requirements, a firm’s net risk profile may not be <b>transparent</b> to shareholders.’	Hallerbach and Menkveld (2004)	Corporate governance, information disclosure to shareholders (with an emphasis on misperceptions), risk assessment, with reference to reporting, to accounting, to information systems and to indicators (qualitative and quantitative).
‘We investigate corporate <b>transparency</b> , defined as the availability of firm-specific information to those outside publicly traded firms.’	Bushman, Piotroski and Smith (2004)	
‘[W]ith institutional investors as stakeholders in the holding company, this structure is suited for more <b>transparency</b> and disclosure.’	Loulmet (2004)	
‘[P]rivate-sector economists do not consider the ECB <b>transparent</b> .’	De Haan, Amtenbrink and Waller (2004)	
‘Monetary Policy <b>transparency</b> improves the workings of financial markets, enhances central bank credibility and eliminates market uncertainties and volatilities.’	Nel and Lekalake (2004)	Economic policy, with an emphasis on central banking and on public understanding of monetary policy, with a national or continental scope, and considerations on procedures of communication and control at a state level.
‘In order for an international arms trade tax to work, the level of <b>transparency</b> in the international arms trade would need to increase.’	Brzoska (2004)	

**Table 2: Transparency samples**

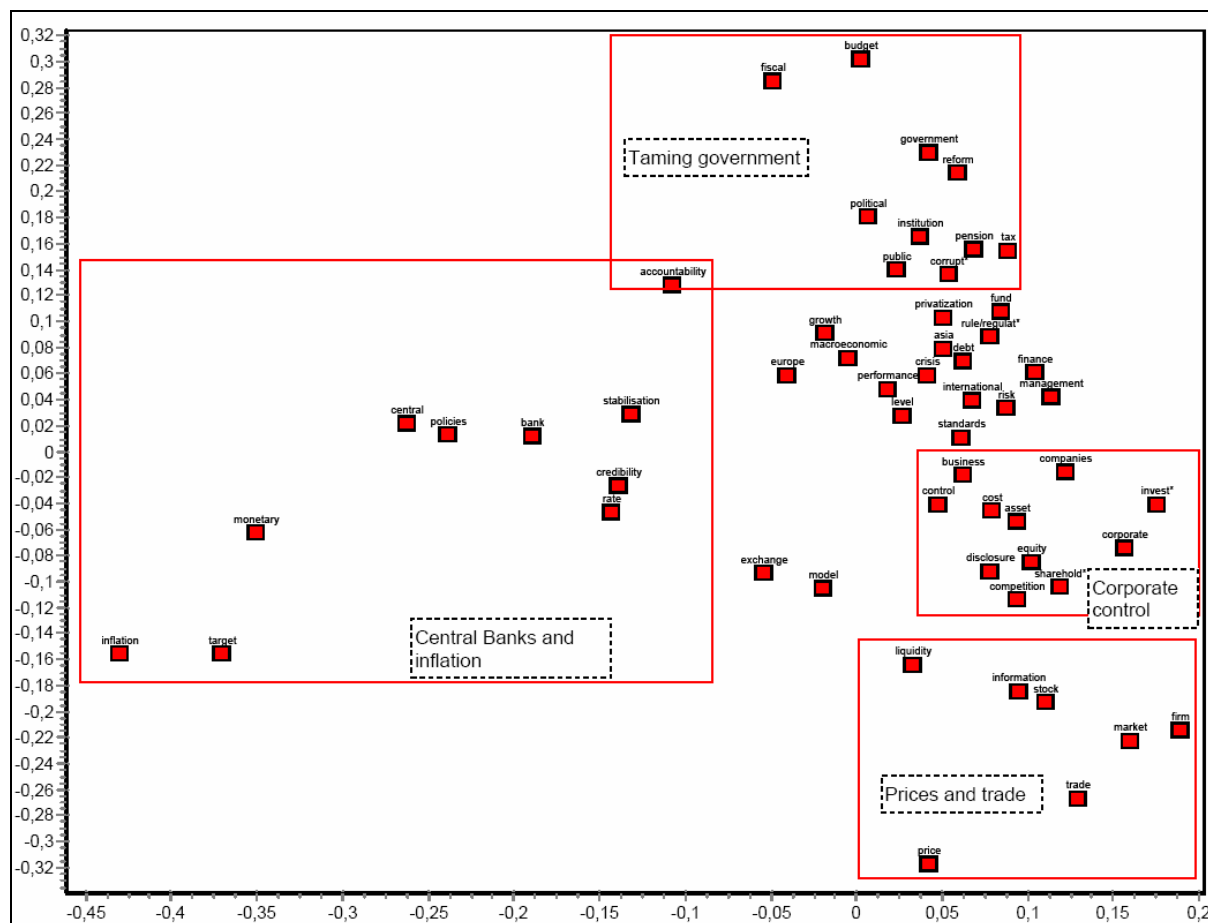
Excerpts containing */transparen\**/ from 2004 abstracts included in the EconLit database.



Sometimes openly imprecise, sometimes carefully framed and defined, the notion of transparency refers to several kinds of objects: firms, prices, governments, etc. The way in which these objects are referred to is also variable: declarative disclosure, quantitative monitoring, etc. Connotations of the use of this notion are primarily positive, although sometimes warnings against excesses of transparency can be raised. In Table 2, we provide some isolate – out of context – excerpts from the 2004 sample that can give the flavour of the dominant vocabulary associated with transparency.

We would now like to identify three ‘areas of meaning’ that correspond, roughly, to price discovery, corporate governance and economic policy. These areas are far from exhaustive and exclusive, but they seem to make sense, at least, at a macroscopic level. In Graphic 2, we confront this intuition with a correspondence analysis: i.e. a map that organizes the associations between terms that are most frequently present in abstracts containing the notion of transparency.

As is visible in the scatterplot (Graphic 2) the two dimensions of the correspondence analysis have identified, quite sharply, an X axis that goes from monetary policies of central banks to firms and corporate governance, and an Y axis from trade and price formation in markets to a (less clear) focus on budgetary restraint and the perverse consequences of privatization (i.e. corruption). A central region is shared by all ‘use regions’, which stresses the potential ambiguities of the notion. Trust, confidence, regulation and disclosure, control, standards and performance are thus the shared vocabulary of transparency.



**Graphic 2: A map of transparency**

Words appearing in the same abstract containing */transparen\*/i> (from 1996 to 2004) are associated and displayed here graphically through a correspondence analysis scatterplot.*

## Representing through prices

Let us focus on the area of financial markets, understood in the sense of the ‘exchange’, i.e. the trading environment where the formation of equity prices is organized. In this area, we find some of the keywords associated with what economists call ‘market microstructure’ or ‘price discovery’: liquidity, efficiency, volatility, that is to say, the vocabulary developed to describe the behaviour of prices. The notion of transparency is quite present in this vocabulary. It is used in market microstructure literature (e.g. Madhavan 1996, 2000; Bloomfield and O’Hara 2000), a literature that is particularly present in the above-mentioned corpus.

In this kind of semiotic environment, the word ‘transparency’ to a large extent refers to the ‘disclosure’ of market information. Market information can embody very precise and varied definitions: price of executed trades, quantities, bid or ask price for standing orders,

market depth (i.e. unexecuted limit orders that are waiting in the order book of a stock), but also the identity of the parties who place those orders (identity of stockbrokers and intermediaries, or identity of investors). Lee (1998, p. 97-99) identifies not less than eighteen parameters that can enter in the definition of transparency in this precise context. This kind of procedural, often quasi-algorithmic, discussion on transparency is often associated with the rise of electronic mediation in financial exchanges.<sup>5</sup> According to this kind of literature, the type of transparency can have an effect on the behaviour of prices and the efficiency of allocation.<sup>6</sup> It can also open (or close) opportunities for strategic behaviour. For instance, if traders can recognize the identity of potential counterparts, collusion is likely to be enhanced, whereas a blind auction protocol may reduce such kind of behaviour.

An interesting shift of meaning can be observed precisely with regard to the identification of counterparts and the introduction of anonymity in financial exchanges. The notion of transparency has been often employed in a 'literal' sense: a market is transparent if market participants can see or recognise each other, as is the case for stockbrokers in an open outcry market. In this sense, a market in which the anonymity of counterparts is enforced is perceived as opaque. But this meaning of transparency is not stable. With the rise of electronic trading, anonymity can be conceived of as a quality criterion and thus be an element of transparency. It is not unusual, nowadays, to read that a marketplace guarantees *both* 'the transparency of prices and price-setting rules' and the 'non-discrimination and anonymity of participants'.<sup>7</sup>

Let us explore this phenomenon with a close look at the case of the Paris Bourse, which became a fully automated stock exchange in the late 1980s: the open outcry institution (the exchange 'floor') was abolished and replaced by an electronic quotation system that conducted the 'price discovery' process automatically (see Bacot, Dubroeuq and Juvin 1989 for a first-hand account). The notion of transparency was used by bankers to push for this innovation (Commission Pérouse 1981, vol. II, p. 185-195). It was about breaking the 'closed' culture of the *agents de change*, the French stockbrokers that were monopolizing trading at that time. But the *agents de change* had also an argument for transparency: they needed to recognize each other in order to guarantee a sound and liquid trading process.<sup>8</sup> The engineers in charge of the reform decided to publicize the identity of the *agents de change* among themselves in their new trading terminals (through an identification code). The new trading architecture was said to be transparent because it allowed stockbrokers (but not investors) to observe each other in their trading screens. This gave stockbrokers the capacity to detect and contact each other individually (through the telephone) and arrange bilateral deals *below* the public order book.

This prerogative lasted until quite recently. But in April 2001, with the advent of the new Euronext market model, the Paris Bourse decided to enforce full anonymity in its trading system – a decision that caused discontent among Parisian stockbrokers.<sup>9</sup> One may see in this decision an effect of the struggle between competing trading platforms in Europe. The Paris Bourse needed to attract big international intermediaries (and especially big Anglo-American brokers and investors) that are usually inclined to trade in more anonymous environments (such as quote-driven markets). But the decision was also justified in more transparency-friendly terms. If the market allows for the recognition of individual counterparts, then the publicity of price formation cannot be guaranteed.<sup>10</sup> Bilateral trades typically correspond to an ‘over the counter’ procedure, whereas the principle that guarantees the production of liquidity in an order-driven, centralised market is precisely the fact that the order book of an equity is public (at least for market professionals). In this case, market transparency is strictly associated with the visibility of prices and volumes (bid-ask spread and market depth), and not with the identification of the ‘personal element’, to use a Simmelian notion.

Perhaps this distinction between two meanings of transparency, one associated with the identity of market participation and another associated with a strictly price-mediated visibility, can be seen as an instance of a more encompassing distinction between ‘literal’ and ‘abstract’ transparency.<sup>11</sup> While literal transparency intends to preserve traits of the actor or object so that they can be easily recognised (we can *see* through the device), abstract transparency reorganises the task of representing so that they can be easily transported and processed (we can only see *through* the device). We can translate this to an economic domain. Literal transparency would refer to a kind of face-to-face environment such as an open outcry market, or to a mediated type of exchange where the identity of the parties is maintained (a telephonic conversation with a broker or a market-maker, or a screen-trading interface that allows the identification of the agents that are intervening in the market). On the contrary, abstract transparency could characterize an anonymous bidding protocol, or a clearinghouse-type of exchange in which the counterpart is, by definition, not ‘chosen’ but determined by an algorithm and participants are translated through their abstract expression – prices and quantities. We may understand this move from literal to abstract transparencies as a shift in the architecture of different regimes of coordination. Literal transparency roughly corresponds to a world of networks *à la* Granovetter (1985) in where commercial transactions requires personal recognition and inter-personal entanglement, whereas abstract transparency better matches the neoclassical leitmotiv of an impersonal exchange mediated by a mechanical auctioneer (Ingrao and Israel 1990).<sup>12</sup>

## Monitoring corporations and avoiding monitors

Transparent is a hard state to be in, since it diminishes your opportunities to behave freely, i.e. your actions will be scrutinized so as to check whether they are in accordance with the standards you are expected to follow. In this section we focus on an obscure controversy around ballot statements to further explore the elusive functions and actions of transparency as wielded in the ongoing battle between corporate managers, boards of directors, banks, governments and institutional investors over control of economic life; a battle in which investors have of late managed to score some points by increasing corporations' transparency. We cannot provide a detailed background to this massive displacement of economic power<sup>13</sup> that appears in the right-hand section of our map, in which transparency has been playing a crucial role. To outline the rationale of this long-standing battle between managers and shareholders, we may turn to a crucial *synchronising* actor (Luque 2001): the OECD. This 'public' think-tank of global capitalism framed the necessity of launching an initiative on corporate governance principles addressed at 'governance problems that result from the separation of ownership and control' (OECD 1999, p. 2, p. 12 in the 2004 version, which we use henceforth). Here the framework sets out to 'ensure that timely and accurate disclosure is made on all material matters regarding the corporation, including the financial situation, performance, ownership and governance of the company' (p. 22). Transparency, thus defined, comes to be a central element in addition to 'proper incentives for the board and management to pursue objectives that are in the interest of the company and shareholders', by facilitating 'effective monitoring' (p. 11).

A telling example of how a powerful actor attempts to alter its relationships to other actors by means of transparency, is provided by the powerful retirement fund for California public employees, CalPERS.<sup>14</sup> CalPERS has been the spearhead of the global 'activist shareholder' movement to redesign corporate law and financial market regulations to allow shareholders to more closely control the governance structures of corporations. It is a founding member of the International Corporate Governance Network<sup>15</sup> (ICGN), and together they press for the worldwide adoption of the Global Corporate Governance Principles, which amplify the OECD Principles to which we refer above. We would like to focus on section IV, *Disclosure and Transparency* of the ICGN version (ICGN 1999), which demands 'accurate, adequate and timely information [...] so as to allow investors to make informed decisions about the acquisition, ownership obligations and rights, and sale of shares'. Among the information required we find that the ICGN 'asserts that corporations should disclose upon appointment to the board and thereafter in each annual report or proxy statement sufficient

information on the identities, core competencies, professional backgrounds, other board memberships, *factors affecting independence*, and overall qualifications of board members and nominees [...]’ (our emphasis).

This sounds familiar and sound enough. But CalPERS of course has a Board of its own, whose members are elected after publicising a ballot statement that is the sole source of information for CalPERS voters. We learn that the Board intended to amend section 554.4 on Candidate Statements in the regulations by which CalPERS abides.<sup>16</sup> This amendment prevented candidates from stating the following: their ‘education and background, and a list of organizations to which the candidate belongs, and positions held in those organizations’ and ‘statements indicating the candidate’s opinion or positions on issues of general concern to the System’s membership may be included’. The amendment also denied the Election Coordinator the right to ‘request the candidate to verify the truthfulness of any factual statements’, for which ‘[t]he candidate shall provide timely verification upon such request’, under the risk of being ousted from the ballot if she did not comply. That is to say, incumbent CalPERS Board members rejected the very transparency guidelines they so forcefully press for elsewhere, since at least the positions held in other organisations by candidates are certainly ‘factors affecting independence’. The devil of transparency is mostly in the details: other candidates may challenge statements, but with a scarce five day deadline *after mailing* for filing these. These complaints must then follow an expensive procedure of private arbitration. Disincentives for information seeking and publicity are the equivalent to decoy and deception in satellite countermeasures, as they alter the cost structure of transparency-based control. In fact, the displacement of controversies to ‘private’<sup>17</sup> and expensive areas could precisely be part of the definition of non-transparency.

What we witness in this jungle of rules and amendments is a fight for control waged around transparency devices: actors A(ctivists) were trying to discipline actors B(oard) by forcing them to provide a flow of information that would enable other actors V(oters), who could exert control on B, to form a judgment on their behaviour, as meeting (or not) a standard for public control. We would like to stress here that it is through a reference to a legally constructed ‘prudent person’ that the legal/moral character of their behaviour will be appraised. The California Constitution, in its Article XVI, section 17(b), states that ‘[t]he members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims’. Transparency means here ensuring the flow of information that allows those concerned to

verify this character of conformity to public standards, and discipline the deviants accordingly.

A second moral of the ballot statement story is related to the crucial issue of resources in transparency-making. As a US municipal bond market watchdog put it, '[i]t is not just getting the information, it is getting the information out there to investors who know what to do with it'.<sup>18</sup> When challenging ballot statements, costs were very easily out of reach for individual claimants. Literal transparency of this kind may be replaced by abstract transparency, which means that another actor (the Attorney General was suggested at one point) will bear the brunt of verifying and controlling the production of the flow of information... but at a price. There will be *increased* opacity in the transparency-generating procedures – there are, after all, instances of Bruno Latour's *black boxes* (Latour 1987). As the software programmers' motto goes, good, cheap, fast, pick two.

But how relevant is the ballot statement story in the overall 'shareholders vs. managers' epic? Here we should stress how relatively minor changes on what must appear where and when can profoundly affect corporate governance. In a recent rule issued by the Securities and Exchange Commission (see Yenkey, forthcoming, for full treatment of this crucial 'transparency-maker'), investment companies are required to disclose 'how they vote proxies relating to portfolio securities they hold'.<sup>19</sup> This should enable shareholders to monitor the proxy voting policies of the funds they have invested in, or in which they are about to invest. However, the matter of costs emerges again: how accessible<sup>20</sup> is this information? As in the case of executive compensation, SEC rules may be next to avoided in practice if they are 'literally' followed, providing the required information in diverse and incompatible types of documents which require time- and money-consuming processing. Format, then, is of the essence in transparency matters.

## **Keeping the state at a(n increasing) distance**

This section discusses several instances of the strengthening of transparency in financial regulatory policy. The rise of transparency in this area must largely be seen as the product of a changing view of politics in general, i.e. a means of introducing permanent scrutiny and a tendency towards 'open government' (Curtin 1998, p. 108).

The simplest and one of the most developed devices of transparency in this area is *access to documents*. It usually takes the form of ensuring disclosure, publicity and accountability of policy processes and public finance. Access to documents reverses the very

logic of state secrecy. The state now has to disclose all information and quickly. Furthermore, if it does not disclose, it has to motivate and justify its refusal to do so. This strongly contrasts with *'étatiste'* traditions like that of France, where the reference to *raison d'Etat* used to be enough to ensure the secrecy and opacity of large areas of public policy (but see Conseil d'Etat 1998). The European Union has pushed the debate on transparency further than most of its member states. Since 1993, the EU has 'opened up' its policy process as a response to criticisms concerning its opacity and complexity and as an attempt to bring citizens closer to EU-level political processes. Since Maastricht, the right to access EU documents is written down in article 255 of the EC Treaty. As a consequence, the EU has quickly surpassed most member states concerning access-to-documents regulation<sup>21</sup> (for an overview, Peterson 1995). In European financial regulatory policy, as in most other regulatory policy areas in the EU, the access-to-documents procedure is mainly used by financial firms themselves or lawyers and professional lobbyists working for them.<sup>22</sup>

Most firms' representatives or lobbyists, however, hardly ever have to go as far as to formally request a document. Commission officials usually send even preliminary documents rapidly to their contacts in the industry.<sup>23</sup> Moreover, the widespread use of *white* and, especially, *green papers* or *books* which was taken from the British civil service ensure systematic consultation of market actors. The green paper implies a pro-active attitude of the administration. It seeks to inform the public on the administration's projects and asks for reactions and comments that may be included in a later policy proposal (Lodge 1994, p. 349).<sup>24</sup> The Financial Services Action Plan (FSAP), which is to remove remaining obstacles to the Single Market for Financial Services by 2005 (European Commission 1999), has started with a wide consultative procedure with 'Forum groups' discussing its main issues. Even though many participants were still unhappy about the actual input of these groups into the policy process, the Commission did circulate early drafts – i.e. even before green papers were issued – of most legislative proposals among the actors. In the case of the creation of a European securities' committee, a Wise Men group published a first report in November 2000, which was submitted to consultation to the industry<sup>25</sup>, well before the publication of the final report in February 2001 (Lamfalussy 2001, p. 13).

This kind of procedural transparency appears in this context as a means of promoting the integration of financial and banking markets in the EU. Consultation of market participants means to increase the efficiency of regulatory policy, as well as the legitimacy of these measures. Their implementation depends, especially in the area of – non-binding – 'soft law', on the good will of the actors themselves. For instance, a recent voluntary code of business conduct laid down the rules of a European Standardised Information Sheet (ESIS) on



home loans. Credit institutions across Europe are to respect the format of this sheet in order to render data on home loans more comparable and, thus, transparent (EMF 2001).

Transparency has another meaning in the context of EU financial regulation: it implies controlling and limiting state participation in the economy.<sup>26</sup> The so-called EU ‘transparency directive’ governs the financial relations between public authorities and public undertakings. Any public funds made available to public undertakings are to appear separately and be clearly stated in the latter’s accounts.<sup>27</sup> The idea behind this is that state intervention will *necessarily* distort market competition. It is part of the more general policy of controlling and restricting state aids of any kind in the Single Market. The application of the ‘market investor principle’ is to ensure that the state as an entrepreneur demands competitive rates of return, if it is to avoid the accusation of state aid (Pesaresi and Rochefordière 2000).

This line of thinking in the financial area has led to two notorious interventions on behalf of the Commission. In the case of the bankruptcy of the then state-owned French bank Crédit Lyonnais, the French state had to negotiate its rescue with the Directorate-General for Competition. Massive subsidies were eventually accepted on the condition that the bank be returned to the private sector by October 1999 (European Commission 1998).<sup>28</sup> More recently, a complaint against the system of state guarantees for German public banks has been filed by the European Banking Federation. German public banks had been targeted by an earlier complaint in 1993 and the transparency directive explicitly aimed at their particular corporate structure. In December 1999, a new complaint argued that liability guarantees granted to public banks by its owners distorted competition by yielding normally high ‘ratings’ which would not be justified on purely economic grounds (EBF 2000). As a consequence of the complaint, the guarantees will be removed by the end of 2005. Transparency here becomes a means of ensuring the limited and exceptional character of state intervention in the economy.

The ‘transparency phenomenon’ has thus two main expressions in European financial regulatory policy. What we term procedural transparency is meant to ensure the openness and the legitimacy of the policy process. Actors are to be consulted and informed to avoid inefficient regulatory policies. Their input to the policy process shall also ensure the respect of regulation and the efficiency of markets. A second type of transparency protects the same market efficiency from state intervention. Intrinsically suspect, the state is put under closer scrutiny and its role in the economy is progressively restricted. The latter is clearly more abstract than the first, even if, as we will see in the concluding section, it is difficult to use the same terms to describe all dimensions of transparency.

## Concluding remarks

This section tries to pull together some threads from the preceding discussions. One of the major similarities in our examples is that transparency is about making things accurate, visible and comparable. Now, how is accuracy achieved? What is being compared to what, through what means of representing, and with what purpose? What forms of accountability and calculation derive from such arrangements?

We can at least try to begin answering these questions. We may distinguish two main ‘regions of practice’ where transparency gathers distinct meanings. We may call these ‘disciplinary’ and ‘enabling’ deployments of transparency. What is characteristic of the first type (disciplinary) is the effect of holding a type of behaviour to account in relation to a public standard, through a description as detailed as possible of events and decisions. An interesting instance of this meaning of transparency would be [MinistryWatch.org](http://MinistryWatch.org), a Christian charity watchdog<sup>29</sup> that publishes a Transparency Grade ranking, and issues ‘Donor Alerts’ when a given biblical organisation fails to provide IRS data or audited financial statements. The core of the second type of transparency (enabling) is the setting up of an infrastructure for coordinated action (typically around exchange), where the amount of information about the intervening actors and objects is key to the initiation or stabilisation of joint operations.

To this we can add the dimensions of ‘literal’ and ‘abstract’ transparencies, which focus on the *means* of translating actors and objects into manageable entities. Making representations more or less mobilisable, more or less public, letting actors see through devices or not, depends on the regime of coordination at work, on the political economy of the monitoring or exchange that is enacted. In fact, some deployments of transparency are intimately connected to anonymity, whereas others are meant to enhance the mutual identification of the actors involved. In both cases, the ‘public’ is constructed differently. Literal transparency stresses the individual engagement in the collective. It furthers intervention and participation. The public born out of literal transparency, so to say, is a gathering of mutually observed and entangled beings. But the existence of mutual arrangements make it difficult, or at least problematic, to gain an overarching, panoptical view. With abstract transparency, publicity is fostered but the public is ‘abstracted’. Representations can be aggregated more easily because the stress is put on procedures and mechanisms of visibility (read ‘of calculability’). Any participation that is not performed through these visibility devices may be seen, at best, as ‘noise’ (or, at worst, as a disturbing element that hinders the functioning of the mechanism).

So we would be left with something like Table 3, in which we have placed a number of illustrative examples. It is obvious that not all examples discussed above can be easily fit into a single case. Access to documents, for instance, is clearly literal, but can be both disciplinary and enabling. We can, however, satisfactorily locate a good part of the instances of transparency deployment in our rather minimal typology. Say that institutional investors would like to control the ‘ecological dimension’ of the companies in which they may invest, in the light of the Kyoto process or the likely consequences of global warming awareness in the economy. A convenient way to shift the costs of this control to those very corporations is to force them to report on their carbon emission level. The Carbon Disclosure Project<sup>30</sup> builds such a regime, where companies become subject to performance, comparison (whether with competitors or themselves in time) in terms of their carbon emissions. From the point of view of individual investors, for example, their Climate Leadership Index becomes an ‘abstract-disciplinary’ instance of transparency.

<i>Uses of transparency</i>	<i>Means of representation</i>	
	LITERAL	ABSTRACT
DISCIPLINARY	Ballot statements regulations in corporations	Market investor principle (EU competition policy)
ENABLING	Access to documents and green books in the context of the EC Treaty	Paris Bourse’s trading system after anonymity (Euronext market model)

**Table 3: A tentative classification of uses of transparency and means of representation**

The refraction of transparency into this assortment of devices and discourses could perhaps better be understood within the remarkable framework of ‘justification regimes’ provided by Boltanski and Thévenot (1991).<sup>31</sup> For these authors, a justification regime corresponds to a ‘common world’ which is governed by a particular ‘order of worth’<sup>32</sup> and characterised by a ‘common superior principle’. This principle may be referred to when invoking justice in situations of conflict or dispute. According to this approach, several ‘orders of worth’ can coexist. But agreements may be reached easily when arguments are compliant with a common metric, i.e. with a suitable justification principle.

Is transparency a (or *the*) constituent element of a particular ‘common world’? Transparency could fit as a justification principle of the ‘market world’ since it is a notion through which the categories of mercantile principles can be developed: harmonious competition and revelation of desires and forces through prices. Interestingly enough, the idea of transparency happens to be central to the vocabulary of mainstream economics. But the ‘industrial world’, the universe of organisation and machinery, could also be linked to specific uses of the notion of transparency that are close to the imagery of hierarchies and engineering. In computer engineering, in an interesting twist of meaning, a transparent network

architecture is one that allows the user *not* to notice that several hosts are performing tasks within it. However, in their study of contemporary forms of capitalistic legitimacy, Boltanski and Chiapello (1999) have identified the justification regime that characterises the ‘connectionist world’, a world of management where activities are shaped around ‘projects’. These authors explicitly underline that the notion of transparency is not specific to this ‘connectionist world’: while the market is supposed to be transparent in order to enhance a price formation process, networks (the main leitmotiv in the ‘connectionist world’) are recognizable only at local levels (Boltanski and Chiapello 1999, p. 194). An elucidation of the status of transparency as a justification principle in our contemporary economic world would call for an inquiry into the specific trials in where this notion is invoked and put to the test.

Have we located the seeds, then, of a new ‘justification regime’? Probably not. Although transparency has come to be highly regarded in a number of spaces of public controversy, it does not seem to be the source of a ‘common metric’ for those spaces. But although not the source, it is certainly the precondition for increasing the ‘tension’ of the ‘trials’ (Boltanski and Thévenot 1991). Calls for transparency would seek, in our reading, a redistribution of resources to hold to (public) justification, to construct accountability, within diverse regimes, and thus with diverse and often incompatible meanings and implementations. In fact, one of the most remarkable properties of transparency – as our analysis points out (but see also Garsten and Lindh de Montoya, forthcoming) – is its ambivalence. Calls for transparency can hardly be stable and finite statements. Calls for transparency tend to engender (further) calls for explicitness. In order to be effective (i.e. politically relevant), transparency needs to be decoded and recoded, i.e. rendered explicit in a number of multiple ways. Should it translate into ‘full access’ or ‘filtering’, into ‘publicity’ or ‘recording’, the notion of transparency often needs to be folded into concrete (and differentiated) devices.

In a political context of ‘advanced liberal government at a distance’, as the governmentality school would put it, the matter of the (political) representation of forces and interests seems to be intimately associated with the proliferation of transparency-making devices: access-to-documents protocols, price discovery mechanisms, reporting methods and indicators, etc. On one hand, this proliferation is ‘expensive’, in the sense that it requires strong ‘investments in forms’ (Thévenot 1984) and, sometimes, the demolition of deeply rooted institutions (the transition from open outcry markets to automated exchanges is a good example). On the other hand, it is ‘economic’, in the sense that it is usually driven by a ‘cost efficiency’ philosophy, by a concern about economising (the reduction of the state’s scale is usually presented in this way). Is this the reduction of the costs of control that for decades haunted the liberal utopia of a (transparent) market as the ideal interface between ‘self-

correcting' selves? Probably yes. Only it is important to keep in mind the variety of styles and modalities of transparency and to make the effort of decoding the many versions of these transparency-enabled entities.

Finally, what socio-political changes does transparency both perform and codify in these recent years of its ascent? The co-production of governance by civil society, market and state actors is likely to be a candidate. Monitoring is both transferred to and embraced by NGOs in the largest sense<sup>33</sup>, as the Aarhus Convention shows. The distribution of power among actors, insofar as transparency is waged as a disciplining device *and* is defined by certain costs structures, must be taken on board too, as in the rise of institutional investors. The transformation of state action from being a central player to securing the framework for other players may be another leitmotiv of current changes.

But in all these displacements the devil is in the details, which takes us to our initial stance of considering transparency as a set of devices, not as a principle. In the latter case, we may get carried away by the promises of enhanced mutual control, decentralized power, a longer set of *dramatis personae* in democratic life. Our focus on arrangements shows that how transparency is enacted (see Saward 2003) has a huge impact in defining what actors do get into the show, and their chances to have some say in how it is run. In suggesting our taxonomy of enabling and disciplinary deployments of transparency, we have tried to disentangle transparency when used as a technology of exchange from its use as a technology of government. As suggested by 'Anglo-neo-Foucauldians', transparency may well be an ongoing project to shift control costs to the very agents to be controlled, whereby they are expected to render themselves amenable to regulation by providing the means of surveillance. Thus, they increase their self-regulation, allowing 'government at a distance', but are in the process turned into subjects<sup>34</sup> of 'performance', colonized by the very indicators they must provide about themselves (Dean 1996).

## Notes

<sup>1</sup> A modified version of this paper is forthcoming in *Transparency in a new global order: unveiling organizational visions*, a volume edited by Christina Garsten and Monica Lindh de Montoya (Cheltenham: Edward Elgar Publishing). A preliminary version of this paper was presented at the workshop ‘Organizing visions: the ambiguity of transparency in science, technology and politics’, Department of Science and Technology Studies, Cornell University, Ithaca (April 19-21, 2002) and at the seminar ‘Illégitimité et légitimation du secret: approches pluridisciplinaires’, Ecole des Hautes Etudes en Sciences Sociales, Paris (December 10, 2002). We thank Dominique Cardon, Eve Chiapello, Christina Garsten, Ellen Hertz, Stephen Hilgartner, Cyril Lemieux, Vincent Lépinay, Javier Lezaun, Monica Lindh de Montoya and Anna Maerker for their remarks and suggestions. Authors’ names appear in alphabetical order.

<sup>2</sup> See Lascoumes and Le Galès (2004) for recent developments.

<sup>3</sup> We counted about 1486 abstracts including */transparen\*/i> for the period 1986-2004; 1302 for 1996-2004.*

<sup>4</sup> The procedure to generate this outcome has been as follows: we accumulated all abstracts containing the string */transparen\*/i> appearing in Econlit from 1996 to 2004 in a single corpus file, with one abstract per line. We then located the appearances of a set of keywords in the corpus. Keywords were the most frequent terms in the corpus, with a threshold of 80 hits (for pure readability reasons), and lemmatized, i.e. grouped under a single heading (thus, ‘trade’, ‘trades’ and ‘trading’ go under */trade/*). This provided the input matrix for UCINET (Borgatti, Everett and Freeman 2002) that was transformed into a co-occurrence (keyword-per-keyword) matrix by means of the ‘affiliations’ procedure. We then ran both an optimized clusters and a correspondence analysis, obtaining Table 1 for the former and Graphic 2 as the scatterplot of the second. The UCINET procedure we have used to extract these clusters (Table 1) from the keyword-per-keyword co-occurrence matrix is ‘optimized clusters’, based on density, and attempts to optimize these measures to try and find the best fit for a given number of blocks. We have chosen the best fit indicator to find the ideal number of clusters, increasing the number of iterations and random starts seeking more robust results. We reiterate that they must be taken with a grain of salt, since some of the terms ‘jumped’ from cluster to cluster in different configurations. However, most of them are robust enough to warrant their inclusion in our table, and they are born out by the correspondence analysis below.*

<sup>5</sup> See also Domowitz (1993) for an early survey of transparency protocols in electronic trading systems.

<sup>6</sup> See, for instance, quotes from Chng (2004) and Tse and Hackard (2004) in Table 1.

<sup>7</sup> These two phrases appear next to each other, for instance, in the mission statement of a recent pan-european electronic platform for greenhouse gas tradable quotas: 'La Bourse française d'échange de quotas de CO<sub>2</sub> devrait être opérationnelle en mars', Le Monde, January 7, 2005.

<sup>8</sup> This and what follows is based on field interviews with several actors involved in this process. Interviews were carried out between 1999 and 2002.

<sup>9</sup> 'L'anonymat gêne les professionnels', La Tribune, April 24, 2001.

<sup>10</sup> On this issue see also Lee (1998, p. 234-238) and Biais, Foucault and Hillion (1997, p. 53-68).

<sup>11</sup> This use of the notion of 'abstraction' is roughly inspired by Georg Simmel's work (Simmel 1990). We also owe the distinction between literal and abstract (or 'phenomenal') transparency to Rowe and Slutsky (1997).

<sup>12</sup> See also Muniesa (2000) for an analysis of the neoclassical resonances of the Paris Bourse's electronic double auction.

<sup>13</sup> That 'activist shareholders' may now have the clout, resources and legitimacy to exert pressure on boards and management must be primarily connected to the momentous rise of institutional investors, which cannot be discussed at length here. See OECD (1998) and the articles of a special issue of L'Année de la Régulation on pension funds and shareholder value, especially Montagne (2000), O'Sullivan (2000), Sauviat and Pernot (2000), and Lordon (2000).

<sup>14</sup> We owe some of our sources to the controversies among the actors involved such as James McRitchie (see McRitchie's comments and correspondence at: <http://www.perswatch.net/>). See also: 'CalPERS muzzles critics: ballot rules protect board, keep others in the dark', Sacramento Bee, May 24, 1999.

<sup>15</sup> ICGN members were estimated to hold total assets exceeding \$10 trillion in 2004.

<sup>16</sup> Amendments to this section were adopted by CalPERS Board on March 21, 2001, and became operative on January 16, 2002 (the California Code of Regulations is available at: <http://ccr.oal.ca.gov/>).

<sup>17</sup> Private, in a flow-of-information definition, means 'under no surveillance' by other actors, which in turn means that all costs will be born by the actors concerned, and no allies will be in sight to detect and punish deviations from publicly held standards.

<sup>18</sup> 'Let there be light', The Economist, February 5, 2005.

<sup>19</sup> ‘Final Rule: Disclosure of proxy voting policies and proxy voting records by registered management investment companies’, SEC, release 33-8188, file S7-36-02, April 14, 2003, available at: <http://www.sec.gov/rules/final/33-8188.htm>.

<sup>20</sup> See Mercer Bullard’s comment on ‘Proposed rule: Disclosure of proxy voting policies and proxy voting records by registered management investment companies’, SEC, release 33-8131, file S7-36-02, October 21, 2002, available at: <http://www.sec.gov/rules/proposed/s73602/mbullard.htm>.

<sup>21</sup> Major exceptions are the Scandinavian countries and, especially, Sweden, where such procedures have existed for more than two centuries. See Gronbech-Jensen (1998).

<sup>22</sup> EU statistics reveal that those interested in documents are academics (20.4%), public authorities (20.8%), lobbyists (17.6%), industry (15.4%) and lawyers (12.8%). The general public accounts for 8.1%. Numbers are for 1998 and all policy areas included (European Commission 2000).

<sup>23</sup> This is based on several interviews with banking associations and lobbyists in Brussels, Berlin and London conducted in 2000 and 2001.

<sup>24</sup> There are also more informal ‘consultation documents’ fulfilling similar functions.

<sup>25</sup> And, in principle, anybody else, as the report was available on the Commission’s website.

<sup>26</sup> Competition policy is the only area of EU policy where the Commission may investigate, judge and sanction. See Cini and McGowan (1999).

<sup>27</sup> Directive 2000/52/EC of 26 July 2000 (amending Directive 80/723/EEC); it entered into force on 1 January 2002.

<sup>28</sup> On the scandal of Crédit Lyonnais, see De Blic (2000).

<sup>29</sup> It is remarkable that the moral ‘constructed entity’ is described here in the relevant Christian sequence of confrontation, reconciliation and repentance.

<sup>30</sup> See: <http://www.cdproject.net/>.

<sup>31</sup> An English overview of the work of these authors is given in Boltanski and Thévenot (1999, 2000).

<sup>32</sup> This is the translation of the French expression ‘*ordre de grandeur*’, as suggested by the authors themselves (Boltanski and Thévenot 1999).

<sup>33</sup> Within the WTO the term NGOs includes economic interest groups in addition to traditional environmental or humanitarian NGOs.

<sup>34</sup> See Strathern (2000) for a bitter rejection of this process in the British academic domain.



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