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# Conceptualising the dynamics of employee information and consultation: Evidence from the Republic of Ireland

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## **ABSTRACT**

*The debate concerning the emerging regulatory environment for employee voice continues apace, in particular the requirements to inform and consult employees as a result of the European Employee Information and Consultation Directive. This article examines the processes used to inform and consult employees across 15 case studies in the Republic of Ireland. It evaluates different voice arrangements using a conceptual framework that seeks to capture the dynamics of different employee voice schemes across union and non-union companies. The findings suggest that participation is more robust when the channels for information and consultation accommodate both conflictual and cooperative processes. It is shown that robust forms of participation are more likely through processes which facilitate independent representation. The evidence also shows that some employers may devise their own counterbalancing forms of (pseudo) consultation, in an attempt to minimise the impact of regulatory rights for employee voice.*

### Key words:

*Employment regulation, union and non-union employee involvement and participation, partnership, European Employee Information and Consultation Directive*

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## **INTRODUCTION**

Employee voice has remained an enduring theme in industrial relations theory and practice. Different phases have witnessed competing voice mechanisms. At times individualistic involvement schemes, primarily designed to enhance business performance, have replaced earlier initiatives designed to promote industrial democracy and collective bargaining (Marchington et al, 1992; Murphy and Roche, 1997). Since the mid-1980s, collective (indirect) and individual (direct) mechanisms have sat alongside each other with both complementary but also conflictual outcomes, largely as a result of public policy directed from a European level (Marchington et al, 1992; Gunnigle et al, 2002).

Consequently, there is considerable diversity to the mix of variables that determine employee voice strategies. Government regulation, managerial attitudes, employee expectations, union demands and business pressures all constitute important influences in the determination of employee voice options. For example, organisations may choose to inform and/or consult with their employees for different reasons, ranging from a corporate belief that certain HR practices will lead to better performance, because of union recognition and influence, or as an attempt to get employees to accept change during times of economic turbulence (Ramsey, 1997). Management tend to welcome employee participation if it contributes to the goals of efficiency, profitability and competitiveness (Marchington et al, 2001). Looked at from the trade union point of view, the rationale is that people have the 'right' to a voice in decisions that affect their working lives, and that effective employee voice addresses the imbalance of power inherent in the employment relationship (Towers, 1997).

Arguably, regulation in the form of the European Information and Consultation Directive (2002) may provide new opportunities for employees to exercise a constructive influence over the future direction of the organisation for which they work, contributing in some measure to a range of issues that are normally ring-fenced by managerial prerogative (Gollan, 2002; Sisson, 2002). However, it cannot

be assumed that regulation-driven systems of employee information and consultation will result in a realignment of decision-making power. For example, union certification legislation in the US (Logan, 2001), the UK (Wood and Godard, 1999; Gall, 2004) and in Ireland (D'Art and Turner, 2005) has led some employers to thwart union recognition. As D'Art and Turner (2005:135) argue in the Irish context, the legitimacy accorded to non-unionism encourages employers to resist unionisation while remaining 'free rider' recipients of national partnership agreements. Potentially, information and consultation regulations could result in employer-dominated partnerships in unionised firms, and a reliance on direct communication mechanisms that are 'soft on power' in non-union firms.

Like partnership, there is no consensus definition of employee voice, and numerous terms are used to describe the range of mechanisms by which employees may or may not 'have a say' in matters that affect them at work (Dundon et al, 2004). Terms such as industrial democracy, partnership, empowerment and involvement are peppered throughout the literature on employee voice, often with ambiguous and contradictory meanings depending on particular organisational contexts and theoretical perspectives (Ackers and Payne 1998; Marchington, 2004). At a general level *employee voice* is a term which refers to the processes by which employees are able to contribute to or influence managerial decisions, either directly or indirectly through their representatives (Boxall and Purcell, 2003). *Information* is a central component of employee voice, although often restricted to management communicating information to employees (or their representatives). In contrast, *consultation* tends to be understood as more extensive and predicated on the notion of exchanging views and engaging in dialogue between management and employees (or their representatives). However, consultation is very different from *collective bargaining*, and the mix of various schemes that fall under the rubric 'employee voice' can provoke very different and contradictory interpretations (Dundon et al, 2004). For example, it is unclear from survey data in what sense a particular organisation is using partnership, or relying more on direct than indirect voice

arrangements (Marchington, 2004). Differences can be further complicated depending on the presence or absence of a trade union. Some non-union companies prefer the terms 'empowerment' or 'communications', even when they utilise representative forums for consultation, such as non-union works councils (Gollan, 2002; Dundon and Rollinson, 2004). Furthermore, the extrapolation of trends and frequencies from large-scale surveys assumes a rather static interpretation of what a given mechanism actually means in practice. Some companies may adopt consultative arrangements with trade unions, even though they have always existed and been called something else (Ackers et al, 2005; Marchington, 2004). Similarly other techniques, such team briefings, may have been in existence for several years but are marginal to how managers consult with workers on a day-to-day basis, particularly in smaller firms with more organic and informal communication flows (Dundon et al, 1999). Given that employee voice can include mechanisms that are either shallow or deep, and focus on minor operational tasks rather than issues to do with power-sharing, there is a need to unpick what employee voice means in practice (Wilkinson et al, 2004).

In Ireland, the context for employee voice has taken shape through a series of six centralised and largely corporatist bargaining agreements at national level (since 1987). 'Partnership 2000' (agreement four) made a public commitment to workplace-based partnership arrangements, backed by the creation of a public service body reporting directly to the prime minister's (*An Taoiseach*) office: the National Centre for Partnership and Performance (NCPP). Trade union support for partnership is underpinned by a belief that participation is beneficial to both workers and business (ICTU, 1997). However the policy objective to promote mutual gains through social partnership has produced mixed results (D'Art and Turner, 2005). For example, Roche (1997) characterises the Irish model of participation as 'truncated', with partnership confined to the higher echelons of the trade union and business community. Research has shown that partnership may actually weaken the role of trade unionism as well as producing less favourable terms and conditions for workers (D'art and Turner, 2005; Kelly, 2005). The apparent legitimisation of non-union forms of employee representation, mostly

among US-owned multinationals, has further fragmented national level partnership in Ireland (Gunnigle et al, 2002a). For example, as few as four percent of private sector companies report that they have a formal partnership agreement with unions or their employees, rising to 19 percent when asked about 'informal' partnership (Williams et al, 2004:55). Even where partnership does appear more robust, a number of tensions are evident, as union members can feel alienated from the partnership process (Geary and Roche, 2003; Oxenbridge and Brown, 2004). Further, as O'Connell et al (2004:89) report in a survey of 5198 public and private sector employees, around one-third 'hardly ever' receive information from their employer on matters such as new technology or changing work practices.

While such evidence confirms the varied impact of participation among many Irish workplaces, such studies are not designed to capture the dynamics, meanings or interpretations of different voice schemes in practice. For example, the incidence of formal or informal partnership agreements does not reveal whether such an arrangement can strengthen or weaken union and employee influence over managerial decisions. In addition to the Irish partnership approach is the wave of European Directives designed to increase the level of employee information and consultation in the workplace. Many of these Directives have led to individual pieces of labour law covering various aspects of employment, with a built-in requirement to inform and/or consult workers (e.g. Health, Safety and Welfare at Work Act, 1989). More recent Directives have focused on the right of employees to be informed and consulted *per se*, and have led to developments in collective labour law (e.g. Transnational Information and Consultation Act, 1996). The most recent initiative in this regard is the Employee Information and Consultation Directive, 2002.

The focus in this article is on the dynamics of employee voice using a conceptual framework of analysis. We first briefly consider the issue of employment regulation in the light of European social policy. Next we review a framework to evaluate the different voice schemes used in practice. Following an explanation of our research methods, we report the findings in relation to the aforementioned

conceptual framework to help explain the mix of employee voice processes and associated outcomes. The conclusion considers a number of implications arising from the information and consultation regulations, and comments on the utility of the theoretical model to evaluate employee voice.

### **THE REGULATION OF EMPLOYEE VOICE**

There is evidence of a growing and more complicated regulatory environment that shapes employer strategies for employee voice (Ackers et al, 2005). More than a dozen pieces of employment law have been introduced in Ireland over the last decade. Many of these focused on individual employee rights as a result of European social policy, including provisions for employee voice. Arguably, European social policy now appears much more sympathetic to collective rights after a period of individual employment protection (Ewing 2003). It is apparent that the European Commission is beginning to promote what seems to be a favoured collectivist pattern of employee information and consultation. For example, the European Works Council Directive is currently under review at a European level with revisions expected in terms of the definitions and rights of employee representatives. Another development is the European Company Statute (ECS) with expected recommendations for a two-tier channel of participation for those companies that wish to avail of the EU Statute. It is envisaged that the participation structures will include a works council and employee representation at board-level. These are similar to a range of employee participation schemes that are currently more common in other EU countries such as Germany, Denmark, Sweden and the Netherlands. Other regulatory initiatives include the draft Directives on temporary agency workers and company takeovers, all of which stipulate certain consultation rights for workers and worker representatives. Of immediate significance to this research are the regulations contained in the European Employee Information and Consultation Directive.

This Directive sets out the requirements for a permanent and statutory framework for employee information and consultation. These stipulate that EU member states had to transpose the Directive into domestic legislation by 23 March 2005, with

the exception of Ireland and the UK, where implementation can be extended until 2008 for certain establishments. This is because Britain and Ireland are the only two member states that do not have a statutory system for employee information and consultation (Hall et al, 2002). The net effect is that workers will have a legal right to be informed and consulted on a range of business and employment issues hitherto excluded as a right under the voluntarist industrial relations regimes of Ireland (and the UK). The scope of the Directive defines 'information' as the transmission, by the employer to employee representatives, of data in order to enable them to acquaint themselves with the subject-matter and to examine it. 'Consultation' means the exchange of views and establishment of dialogue between the employees' representatives and the employer (on matters likely to lead to changes in work organisation or contractual relations, and this must be 'with a view to reaching agreement'. Significantly, explicit reference to 'employee representatives' in the Directive is a clear indication of a preference for representative forms of employee voice. This is not automatically via union stewards but includes employee representatives elected from and by the workforce. The Directive states that organisations will have to inform and consult with employee representatives (whether union and/or non-union) on three general areas: the economic situation of the organisation; the structure and probable development of employment (including any threats to employment); and on decisions likely to lead to changes in work organisation or contractual relations.

In short, the European Information and Consultation Directive will require employers to extend the legal right to employees to receive information and be consulted on key organisational changes. Sisson (2002: iii) suggests that this new right to information and consultation is highly significant, arguing that "the right to be informed and consulted at work is as fundamental as the right not to be unfairly dismissed or to be discriminated against". Will Hutton, Chief Executive of the Work Foundation in the UK, emphasises the 'seismic shift' that could result from the Directive, claiming that employers will now be under an obligation to consult their workforce not just about redundancies but about a broad range of strategic, operational and work-related issues (see Hayes, 2002). Arguably, if

controlling information and making decisions are sources of managerial power, then the rights to information-sharing and consultation can lead to a realignment of the institutional arrangements within those organisations. Significantly, the outcomes may potentially lead to a revitalised role for organised labour. Alternatively, as noted earlier with regard to union certification legislation, employers may devise counter mobilisation strategies in anticipation of enhanced worker rights.

The UK Department of Trade and Industry (DTI) has published Information and Consultation of Employees (ICE) Regulations, based on a framework agreed between the TUC and the CBI, which came into force in April 2005. In Ireland there is a draft 'Employees (Provision of Information and Consultation) Bill', 2005. Among other aspects, the Bill sets-out statutory fallback provisions should management and employees fail to agree new information and consultation arrangements, including the establishment of an Information and Consultation Forum to meet at least twice a year. A request can be made to the Labour Court by 10 percent of employees (minimum of 15). Interestingly, despite Ireland's social partnership model, employers and unions have adopted polarised perspectives regarding the employee information and consultation rights. The Irish Business and Employers Confederation (IBEC) lobbied for the regulations to be limited to existing union-recognised undertakings (Dobbins, 2003), while the Irish Congress of Trade Unions (ICTU) favoured wider coverage, viewing the legislation as an opportunity for union mobilisation and recruitment. The draft Information and Consultation Bill provides for some limited role for trade unions (Section 6). In cases where trade unions are engaged in collective bargaining with employers, and represent 10 percent or more of the workforce, then employees can elect employee information and consultation representatives from amongst union members.

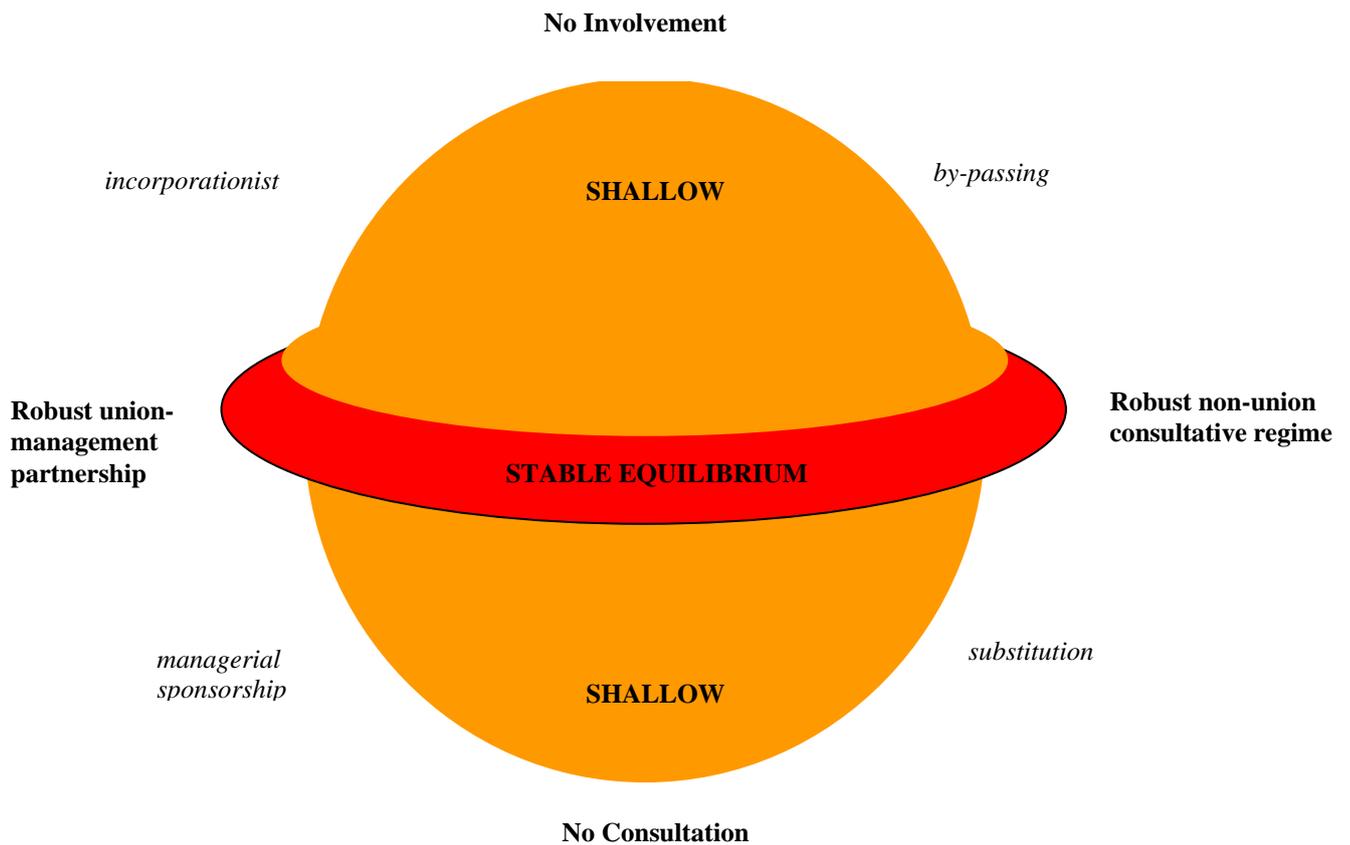
#### **A CONCEPTUAL FRAMEWORK TO EVALUATE THE DYNAMICS OF EMPLOYEE VOICE**

Figure 1 describes an equilibrium model that may be useful in capturing both the factors pushing for a more regulatory environment (e.g. EU Directive) on the one

hand, and employer strategies and business demands for employee voice on the other hand. The image is that of a sphere rather than a static continuum, which seeks to capture the dynamic and often contradictory nature of employee participation. While the model may strive for equilibrium, it constantly rotates on its axes in response to pressures from management, unions, market pressures and/or government regulations. The rationale is that the world in which organisations actually operate is highly unstable, and not everything that happens is always intended or pre-planned in a precise manner (Pascale, 2001; Hamel, 2002). Incorporated within the model are the terms 'robust' and 'shallow'. Robust refers to the longevity of mechanisms for employee voice as well as the depth of their potential influence. Mechanisms positioned on the equator of the model are those that have been defined as well established, having the potential to deal with both cooperative but also conflictual relations. In contrast, shallow voice processes are positioned towards either pole, and defined as those that demonstrate a minimal level of employee influence into managerial decisions.

The right hand side of figure 1 covers *non-union consultative regimes* with two poles depicting shallow employee involvement. Robust non-union employee voice structures may, in their own way, be capable of meeting the requirements of the new regulatory environment (Ackers et al, 2005). By contrast, shallow voice mechanisms may exist where employees have greater expectations for participation than management allow. In Freeman and Medoff's (1984) terms this may result in either employee exit or a disillusioned workforce, ensuing a '*bypassing*' channel of voice shown in figure 1. Evidence of such situations can be found in the non-union literature as union suppression (Gunnigle, 1995; Dundon and Rollinson, 2004; Gall, 2004). The second path, moving downwards from the stable centre is a '*substitution effect*'. Again the non-union literature is peppered with evidence of alternative forms of voice that exclude trade unions by promoting non-union employee works councils, staff associations, speak-up programmes and task-based participation schemes (Guest and Hoque, 1994; Gollan, 2002; Dundon and Rollinson, 2004).

**FIGURE 1: CONCEPTUALISING THE DYNAMICS OF EMPLOYEE VOICE (<sup>1</sup>)**



Juxtaposed to the non-union consultative regimes are robust union-management partnerships on the left hand side of figure 1, again depicting two shallow poles emerging from the equilibrium. The '*incorporationist*' corridor is symbolic of

<sup>1</sup> The original Ackers et al (2005) model used the terms 'stable' to depict situations along the equilibrium, and 'unstable' to show situations along the extremes. We have opted for 'robust' and 'shallow', following Oxenbridge and Brown (2004). Because of the indeterminate nature of employment relations we feel that the term 'stability' can be misleading. As Pascale (2001) suggests, the world in which organisations operate and the pressures influencing managerial strategies are by their nature unpredictable. Thus an organisation can be unstable whilst also utilising a set of robust employee voice schemes. The Ackers et al (2005) model is derived from inverting Alan Fox's (1974) schema for the 'patterns of management-employee relations style

Michels' (1915) 'iron law of oligarchy', which predicts that social actors (such as union activists) become incorporated into the higher echelons of an organisation, either as a conscious managerial strategy or by accident. The consequence may be a representation gap as worker (union) representatives become increasingly detached from the interests of the constituency they represent (Geary and Roche, 2003). The final trajectory is dependent on '*managerial sponsorship*' of employee voice schemes. This can be justified from a range of case studies reporting various partnership outcomes, ranging from weak to stronger forms of social partnership (Marchington et al, 2001; Martinez and Stuart, 2002; Roche and Geary, 2002; Ackers et al, 2004; Oxenbridge and Brown, 2004). Rather than derecognise unions or substitute collective consultation for non-union employee representation, management seek to control information and consultation structures. This also draws on the sophisticated paternalist (unitarist) managerial philosophy of 'what is good for the business is assumed to be good for workers' (Goodman et al, 1998).

In situations where management find unions do not add value to business goals or under conditions of growing member apathy, then organisations may move around the sphere as unions are either marginalised or derecognised (Ackers et al, 2005). Equally, it could be hypothesised that as the regulatory environment for employee voice becomes more embedded, then trade union forms of participation may gain a foothold in non-union companies and organisations find themselves moving to the other side of the sphere. In operationalising this conceptual map for empirical investigation, table 1 summarises the main features in relation to the possible range of voice schemes, managerial orientations towards employee voice and possible outcomes.

**TABLE 1: OPERATIONALISING THE DYNAMICS OF EMPLOYEE VOICE**

<b>Organisational Type as per figure 1</b>	<b>Voice Orientation</b>	<b>Range of I&amp;C Mechanisms</b>	<b>Range of possible outcomes</b>
Robust Non-Union Consultative Regimes	Non-union employee representative channels	Sophisticated direct and indirect I&C mechanisms	<ul style="list-style-type: none"> <li>• Paternalistic management style</li> <li>• Employee influence over implementation of decisions</li> <li>• Union avoidance</li> </ul>
By-Passing	Union suppression	Superficial I&C arrangements, mostly direct and informal	<ul style="list-style-type: none"> <li>• Anti-union</li> <li>• Anti-consultation</li> <li>• Emphasis on managerial prerogative</li> </ul>
Substitution	Union substitution	I&C arrangements limited in scope and depth, mostly direct mechanisms	<ul style="list-style-type: none"> <li>• Benevolent autocratic management style</li> <li>• Unions viewed as unnecessary</li> <li>• Limited employee influence</li> </ul>
Robust Union-Management Partnerships	Reliance on joint union/employee-management channels	Coexistence of indirect and direct I&C mechanisms	<ul style="list-style-type: none"> <li>• Negotiate change</li> <li>• Collaborative problem-solving</li> <li>• Independent employee representatives</li> </ul>
Incorporationist	Reliance on single union-management channels	Collectivist (union) forums alongside direct I&C mechanisms	<ul style="list-style-type: none"> <li>• Good union-management relations</li> <li>• Emphasis on collaboration</li> <li>• Union reps can become detached from constituents</li> </ul>
Managerial-Sponsored Partnership	Managerial-led partnership forums	Coexistence of indirect and direct I&C mechanisms, shallow in depth, limited in scope	<ul style="list-style-type: none"> <li>• Emphasis trust</li> <li>• Restricted union influence</li> <li>• Union de-recognition</li> </ul>

The efficacy of this framework for examining employee voice arrangements is essentially an empirical question. In particular, there are the questions of theoretical validity and empirical replication. Ackers et al (2005) examine this framework from the perspective of managerial respondents only, noting that

without a consideration of the views of workers such a model cannot be complete. In this article the data is explicitly drawn from employees, union and employee representatives as well as managers. There is also good reason to examine this model in an Irish context. For the last two decades there has been a growing wave of alternative (non-union) forms of employee voice mostly, though not exclusively, among US-owned multinationals setting up greenfield sites in the Republic (Gunnigle, 1995; Gunnigle et al, 2001). These companies may fall somewhere along the non-union consultative paths depicted in figure 1. Secondly, Ireland's model of industrial relations since 1987 is based on corporatist union-management partnerships at national level. However, as noted earlier, there is little evidence of the diffusion of such arrangements to the enterprise level, suggesting possible elements of union incorporation and/or managerial-sponsored partnerships (Roche and Geary, 2002; D'Art and Turner, 2005).

## **METHODOLOGY**

The starting point for this project was the transition of European regulations for employee information and consultation. The research was funded by the Department of Enterprise, Trade and Employment (DETE) in Ireland. A total of 15 organisations were selected to reflect differences in terms of organisational size, ownership, union and non-union voice arrangements and different sectors of economic activity. The majority of organisations operated in the private sector with two in the public sector. Ten were foreign-owned multinational companies, including US and other European-owned organisations. Nine of the case studies were unionised, of which three operated a closed shop agreement for union membership and another four had a formal partnership agreement at local level. As a whole, the sample covered a range of sectors that employ a variety of occupational categories. The sectors include retail, hotels, financial services, manufacturing, distribution, hi-tech (medical instruments, computer hardware and software development), engineering consultancy and the health service. Within each of the sectors there also existed important developments. In manufacturing, for instance, market influences varied by product quality with significant pressures

from international currency fluctuations; in the medical device sector pressures for innovative products and speed of market response were highly significant mediators on the scope of voice arrangements used; and in the public sector deregulation was a dominant industrial relations issue that impacted on the type and extent of employee information and consultation.

Interviews were conducted with a number of key informants at each organisation. These included senior HR and general managers, union representatives (where recognised) and employee focus groups. On average, each employee focus group included eight employees, while two union representatives were often available. In some of the cases that had a formal partnership agreement, separate 'partnership facilitators' were interviewed. The unit of analysis was essentially the workplace, although in the health service organisation the research instruments were replicated at three different locations at the request of management. Similarly, at one of the retail organisations, two employee focus groups were conducted, one at head office and one at a branch store.

Semi-structured interview schedules were designed for each of the respondent groups (management, union/employee representative, and employee focus groups) around a number of themes to enable us to test the conceptual model outlined above, and to comment on the patterns of voice across the case study organisations. First, general information was sought from both management and workers, such as the type and range of voice mechanisms in use, market sector and the nature of organisational change. Second, perceptions of impact and the effectiveness of different voice arrangements were obtained from each group. For example, shop stewards and non-union employee representatives were asked about the extent to which they felt able to influence managerial decisions. Third, each respondent group (employees, union stewards, non-union representatives and managers) were asked how the practices differed in terms of information, consultation and bargaining, and what these terms meant at each organisation. Finally, the awareness and understanding of the EU Information and Consultation

Directive was assessed from questions addressed to each of the respondent groups.

### **THE DYNAMICS OF EMPLOYEE VOICE ARRANGEMENTS**

The range of voice mechanisms found across the case studies varied considerably. In table 2 this data is summarised in relation to the sphere of voice types conceptualised in figure 1 and table 1 earlier, and elaborated in more detail below. What table 2 illustrates is a preference among these case studies for communication and information channels, rather than consultative type mechanisms. In the majority of cases, newsletters, staff briefings, attitude surveys and workforce meetings were most prevalent. Among the multinational organisations, it was found that attitude surveys were controlled and administered by the corporate headquarters. In many of these larger organisations the results were fed back to different sites, with data dis-aggregated by a variety of factors (location, occupational category, group and functional level).

In contrast to the communication mechanisms were the more consultative (or representative) processes that may be expected in any future transposition regulations arising from the EU Directive. These also varied across the sample, ranging from Joint Consultative Committees (JCCs), found at both union and non-union organisations, formal partnership agreements at four of the larger case studies (two private and two public sector organisations) and collective bargaining. The way these operated in practice also differed significantly. For example at Glass MNC multiple-level negotiating and consultative forums existed that dealt with matters from work rules to business plans. In contrast, at Manu MNC one committee carries out both the negotiating and consultative roles, although the committee meets on an infrequent basis. At ICT MNC, the creation of a non-union works committee was introduced in anticipation of the EU Directive's requirements (see next section). What is significant is that these consultative-type arrangements were less evident than the information-type channels for employee voice.

<b>Table 2</b>  <b>CASE STUDY TYPES</b>  (SEE FIGURE 1)	<b>Communication/Information</b>											
											<b>Consultation/Negotiation</b>	
	Newsletters / bulleting boards	Electronic Media (e.g. intranet)	Workforce / site wide meetings	Suggestion schemes	Staff briefings	Employee focus groups	Individual appraisal	Attitude surveys (annual or bi-annual)	EWC	JCC	Formalised partnership forums / committees	Negotiation/ Collective Bargaining
<b><i>Robust Union-Management Partnerships (2)</i></b>												
Glass MNC	✓	✓	✓	✓	✓	✓				✓		✓
Public Co	✓	✓			✓	✓		✓		✓	✓	✓
<b><i>Incorporationist (marginal) (1)</i></b>												
Drink MNC	✓	✓	✓		✓		✓	✓	✓	✓		✓
<b><i>Managerial-sponsorship (6)</i></b>												
Insurance MNC	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Retail MNC	✓		✓		✓			✓		✓	✓	✓
HealthTec MNC	✓		✓		✓	✓	✓	✓	✓	✓		✓
Health Board	✓	✓	✓		✓	✓		✓		✓	✓	✓
Manu MNC	✓			✓	✓		✓		✓	✓		✓
Dist Co	✓		✓		✓	✓		✓				✓
<b><i>Robust Non-Union Consultative Regime (0)</i></b>												
<b><i>Non-Union Substitution (4)</i></b>												
Pharma MNC	✓	✓	✓		✓		✓	✓		✓		
ICT MNC	✓	✓	✓		✓	✓	✓	✓	✓	✓		
Hotel MNC	✓				✓			✓				
Hotel Co	✓			✓	✓		✓	✓				
<b><i>Non-Union By-Passing (2)</i></b>												
CompuFix	✓	✓	✓		✓	✓						
EngConsult	✓	✓	✓				✓					

However, as noted in other studies, the quality and effectiveness of voice arrangements is much more important than simply reporting the number of mechanisms found (Wilkinson et al, 2004; Marchington et al, 2004). Using the data from employees, managers and employee representatives, the distinctive components of the conceptual framework outlined in figure 1 (and operationalised in table 1) can be subject to more critical scrutiny.

*Robust union-management partnerships:* Three of the 15 case study organisations had a strong match to the features of robust union-management partnerships, one of which also displayed some (marginal) 'incorporationist' hallmarks. Of the two case studies characterised as robust, one was a public sector organisation (Public Co) and the other a manufacturing company (Glass MNC). The classification of these as robust, following Oxenbridge and Brown (2004), is based on several factors. For example, both organisations had experienced a period of intense industrial relations conflict and market uncertainty, both had a closed shop agreement with the recognised trade unions, and they had been involved in major re-structuring programmes. At Public Co, re-structuring was in response to market deregulation while Glass MNC experienced a sharp decline in the demand for its products, particularly in export markets. Following a lengthy strike at Glass MNC, a negotiated agreement covered redundancy numbers, severance terms and the narrowing of pay differentials between craft and non-craft workers. Drinks MNC also negotiated a voluntary redundancy agreement with several recognised unions at its Irish plant. Respondents' explanations about employee voice arrangements varied. For example, professional and clerical employees were more satisfied with information and consultation arrangements than their craft or production counterparts at Drinks MNC, even at the same plant. Engaging in dialogue with the latter group of employees was difficult owing to changes in shift attendance patterns and new technologies coupled with a dispersed workforce. As a result there was a 'comfortable tendency' for management to rely on union channels to disseminate information, especially to manual and production employees.

Collective bargaining remains a central pillar of the employee voice at these more robust union-management case studies. Yet at the same time, the extent of new information and consultation processes is highly significant. At Public Co, for example, human resource focus groups (comprised of employees, union stewards and managers) were created to evaluate policy in thirteen key areas without recourse to negotiation (including: health and safety, induction, smoking, employee assistance programmes, equal opportunities, retirement, sexual harassment, job rotation, job sharing, employee development, service recognition, redeployment, bullying and harassment). Similar mechanisms were also introduced at Glass MNC after the dispute. These involved company-wide briefings, working groups that included employees as well union stewards, and a staff suggestion scheme. These newer and more direct consultation mechanisms did not replace, or take precedence over, previous or more established collective processes. To consider these newer direct processes as a dilution of collective representation or union influence would also be misleading. At both Public Co and Glass MNC, strong union-management dialogue remained through both conflictual as well as cooperative examples of information-sharing, joint consultation and collective bargaining. Indeed, the union convenor at the manufacturing plant emphasised that there are limits to how far trade unions can contribute towards managerial-driven change without consultation:

*If people give out that a strike or disagreements will shut the place down, then shut it down. You have to stop somewhere, they can't take it all.*

This evidence points towards a dual mode in which integrative (cooperative) processes coexist alongside established adversarial (conflictual) bargaining mechanisms. It is also important to note that in these two robust type organisations, respondents articulated a strong dislike of the term 'partnership'. Arguably, to characterise these organisations as 'stable types', as per the original Ackers et al (2005) classification in figure 1, would gloss-over the prevalence and significance of antagonism and conflict as factors that shape the robustness of employee voice. In these two organisations, respondents frequently qualified

consultation as 'constructive', 'hard-nosed' and 'meaningful dialogue'. Scepticism over a pure partnership approach was summed-up by the HR Manager at Public Co:

*We haven't gone with all the 'bells and whistles' of the partnership stuff. Partnership is almost a talking shop when we know we will have full-blown fall-outs. No one is fooling each other. We take the time to have agreements. They paint the road ahead. They help get the support of staff because they have something that tells them what's involved.*

It is perhaps also noteworthy that the more robust relationships there existed a greater degree of awareness about the European Employee Information and Consultation Directive. In particular, the management of these organisations were much more aware of the terms of the Directive than shop stewards or employees<sup>2</sup>. At both Public Co and Glass MNC, while the shop stewards had some understanding of the details of the Directive, they were more concerned about the coverage of non-union employees within existing unionised consultation structures, pointing towards possible future transposition difficulties.

*Managerial-sponsored partnerships:* Table 2 shows the largest cluster of case types were identified at different points along the managerial-sponsored sphere in figure 1. These organisations varied in relation to the employers' underlying strategy towards information and consultation. Some sought to promote trust and build constructive relationships with unions while others appeared to control union influence. In most (but not all) of these organisational types, 'sponsored-partnership' overshadowed, but did not replace, traditional adversarial industrial relations. Indeed, respondents frequently referred to partnership and industrial relations as two distinct and separate systems. At the Health Board, for instance, a round table forum and a variety of partnership committees exist on the basis of 'consensus decision-making'. If areas of disagreement arise, then the issue is passed over to the industrial relations system for consideration and resolution

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<sup>2</sup> At Drinks MNC the senior HR Manager was part of an Irish contingent for IBEC that lobbied Brussels against the EU Directive

(including the use of third party intervention). Significantly, shop stewards and employees were much more sceptical about the extent of information and consultation arrangements, expressing concern about management controlling the partnership agenda. This can be summed-up by a union steward at the Health Board:

*To date [the partnership agreement] seems to be used to solve management issues and the union side don't seem to be bringing much to it or getting much out of it. It's being used as another way to solve problems.*

While managerial respondents among this group of case studies often praised the contribution of unions to organisational goals and change management strategies, it was clear that sponsoring a partnership approach also consolidated management control over decision-making. For example:

*Consultation means dialogue, but in reality dialogue is not seeking agreement.*

HR Manager (HealthTec MNC)

*We negotiate to an extent ... [the] company tries to take on-board and reach a resolution if the workers are not happy, but the final decision rests with management.*

HR Manager (Manu MNC)

Beyond the specific notion of partnership there were also concerns about the degree of information and consultation generally. The majority of workers and shop stewards were critical about the extent to which they could 'have a say'. Almost all workers related the term 'information' to communication systems of one sort or another, principally the channels that existed to receive information from their employer. In the majority of cases this included newsletters, bulletin boards and email communications that essentially meant a one-way system of information. In contrast, consultation meant something very different and workers contextualised this not as partnership but as 'dialogue', 'an exchange of views', 'providing an input to decisions' or 'having views listened to'. However for most

employees and union respondents, such dialogue was rather shallow, as the following employee and union respondents indicate:

*Employees don't have an input. They [management] might say something but they're not going to change anything in the company. No way!*

Union Representative

*Employees are informed rather than consulted. Depending on the type of decision, we may be told what has to be done and can decide how to do it.*

Employee

*We have consultation but it's consultation after management decide what they're doing.*

Union Steward

*Non-Union Substitution Types:* The right-hand side of figure 1 depicts variations of non-union processes for information and consultation. None of the case studies could ideally be located at the 'robust non-union consultative' equilibrium. In table 2, four of the organisations were identified at different points on the non-union 'substitution' path. Two of these – Hotel MNC and Hotel Co - were located closer to the 'no consultation' pole than the 'robust non-union' equilibrium. The remaining two case studies are American multinationals, Pharma MNC and ICT MNC. Information and consultation processes in these cases ranged from minimalist communication mechanisms on an informal basis at the two hotels, to more sophisticated and consultative processes at the two larger American-owned multinationals. Interestingly, even though managers at the two hotels tended to rely predominantly on one-way (top down) channels of communication, respondents reported a high degree of satisfaction. In terms of the extent to which employees could influence managerial decisions, however, the depth of influence was minimal. There was no discussion about pay or other substantive terms and conditions of employment, as might be required given the areas defined in the EU

Directive (e.g. contractual relations). Moreover, individual information processes tended to be regarded by managers as consultative, including bulletin boards in the canteen, sports and social club activities and training and education courses. The more consultative-type processes at the hotel pointed to individual rather than representative dialogue, with weekly departmental meetings and ideas sheets for employees to make suggestions to departmental heads. In relation to the anticipated regulations that will arise from the EU Directive, the mix of involvement schemes reported here would fall short. Most schemes are direct, rather than via employee representatives, and most are shallow regarding the scope of consultation.

In contrast, the American-owned non-union organisations utilised a range of sophisticated union substitution voice mechanisms. These included non-union employee consultative committees, team briefings and a variety of employee speak-up programmes combined with a more attractive employment package for workers. More significant than the reported existence of certain voice mechanisms are the meanings and interpretations that respondents ascribed to such voice arrangements. These convey very powerful messages to workers about the importance — strategic or otherwise — of information and consultation practices. When asked about the terms 'information' and 'consultation', managers stressed the role of communication, rather than explicitly distinguishing between the processes of information and consultation, as described in the Directive, and illustrated in the following managerial comments:

*Consultation is not a term that the company would use, but two-way communication is considered very important for this business.*

Pharma MNC

*Information and consultation are not used [here]. It's about employee communication and employee involvement and empowerment.*

ICT MNC

At ICT MNC the employee European Works Council (EWC) representative expressed frustration at the lack of support for his role outside of the EWC. He felt there was a need for representative participation locally but management allowed him to participate only in matters of transnational importance. Significantly, ICT MNC expressed strong reservations about the consultative aspects of the EU Directive, stating a preference for direct communications. Nonetheless, the company has already availed of Article 5 of the Directive by introducing a 'new' non-union works committee, indicating that employers can and do devise their own counter-regulatory strategies for information and consultation. Moreover, management across the company is generally hostile to collective forms of representation and has begrudgingly accepted works councils only where national legislation requires them to do so (such as in Germany). The 'new' works committee is prohibited from 'negotiating', although employee representatives do have access to information pertaining to operational performance, investment plans, health and safety and diversity. By contrast, consultation is restricted to those matters required by existing statutory provisions (e.g. redundancy and transfer of undertaking). In short, the evidence for non-union substitution-type companies is rather mixed. Some are unaware of the terms of the EU Directive while others, particularly ICT MNC, are not only attentive to what the Directive means but also actively pursuing their own strategies in response to the anticipated regulations.

*Non-Union By-Passing Channels:* The final group of cases reported in table 2 and conceptualised in figure 1 relate to the non-union 'by-passing' channel. Two of the case studies were characterised as displaying these features, both of which are indigenous small-to-medium sized enterprises (SMEs) with a large degree of influence from the owner-managers. EngConsult, a family-run engineering consultancy firm, is identified closer to the 'no involvement' extreme while CompuFix, a high-tech computer company, was located between the robust and shallow 'non-union consultative regime'. In both companies there is no indirect or collective consultation forums, with communication methods determined by the style of the respective owner-managers, although with very different attitudes

towards unionisation and employee consultation. Information and consultation in these two SMEs take place mostly on an informal basis on the shop floor. At CompuFix, management emphasised an 'open door policy' in which employees can raise any concerns or grievances. Formalised communication mechanisms take place on a daily and weekly basis among sectional teams. These convey information from the MD about company performance and possible future developments. There is also a system of 'breakfast meetings' between the MD and selected employees that are designed to involve people in discussions about business developments. Employees commented that their ideas and suggestions are valued, and as shareholders, they also have a vested interest in the company's success. However the MD also stressed that while there is a culture of openness and encouragement, there is also a strong belief that management have the right to manage:

*If decisions have to be taken then that will happen, with or without consultation*

While there are similar informal voice processes also evident in EngConsult, the owner-manager displayed less enthusiasm towards the concepts of informing and consulting employees. Commercial changes and market pressures, to do with the award of public works contracts (such as road and building design), had placed a new emphasis on competitive tendering. Essentially this increased the workload and time pressures for engineering consultants on particular projects, with little opportunity for involvement beyond the immediate project task. Communications were mostly informal and ad hoc. Formal memoranda were transmitted conventionally or by e-mail, and an annual performance appraisal was supposed to provide employees with the chance to discuss matters, including pay and grading. Moreover, the influence of owner-managers in these cases was an important variable that weakened the extent of employee input. This was deemed to be predicated on a unitarist notion that 'what is good for the business is assumed to be good for employees' (Goodman et al, 1998). The net effect was minimal information and consultation with an acquiescent and satisfied workforce.

At the same time these processes also consolidated managerial control. For the owner-manager of EngConsult, managerial prerogative remained sacrosanct:

*Management has the right to manage. They should be able to run the company as they see fit rather than answer to the decisions of committees.*

In the same company the views of employees reinforced the significance of familial control and a lack of consultation:

*[The] mechanisms to obtain information are not consultation ... information tends to be disseminated selectively.*

## **SUMMARY AND CONCLUSIONS**

The data presented in this article allows us to comment on two contemporary developments. The first is empirical, and concerns the impact of an impending regulatory environment for employee voice. The second is theoretical, and relates the utility of the conceptual model and its ability to explain different voice arrangements and competing pressures for employee participation.

Regarding the first, it has been argued that the EU Directive represents an opportunity to deepen the principles of informing and consulting workers as well as modernising employment relations (Sisson, 2002). While we would concur with the general principle, the evidence in this article suggests that the regulatory pressures for voice do not exist in a vacuum but have to be offset against a series of other competing variables, such as managerial attitudes, employee expectations, union demands and business pressures. Just as statutory instruments to promote union recognition have been met with varying employer responses (Logan, 2001; Gall, 2004), so too are employers likely to devise strategies in response to new legal rights to inform and consult workers. The opportunities for workers to contribute to a variety of organisational decisions is likely to remain a contentious issue, and any impact will depend as much on how

the regulations will be transposed into domestic legislation as they will on how employers and unions respond to market pressures and employee expectations.

The diversity of potential responses varies considerably, although it would appear that employers have the capacity to choose either a 'high' or 'low' road approach to information and consultation. A 'high road' strategy would include a mix of direct and representative mechanisms suited to a given organisational context, encouraging both information *and* consultation. These mechanisms would be broad in scope and would facilitate employee co-operation as well as the opportunity to question management decisions and shape the agenda for employee voice. In contrast, a 'low road' voice strategy would focus around a set of disjointed or pseudo-participatory processes that in effect minimise employee input into decision-making while consolidating managerial control. Mechanisms would tend to be direct, limited in terms of scope and geared more towards information than consultation. Such a low road approach may be deemed compliant as far as the EU Directive is concerned because of a 'menu' of communication mechanisms and pseudo-participatory processes.

One paradox is that organisations opting for a 'high-road' strategy may in fact be deemed to be non-compliant, depending on how the transposition regulations are worded. Among our sample of organisations, particularly the non-union 'bypassing' types, information and consultation were both quantitatively (in terms of opportunity) and qualitatively (in terms of the processes and outcomes) shallow. Apart from a few noticeable exceptions, there was very little consultation on the more strategic and transformational change issues that might be expected from the transposition of the EU Directive (such as the economic situation of the organisation, changes to working practices or contractual matters). Perhaps not surprisingly, given Ireland's national corporatist industrial relations system, the bulk of case studies fell somewhere along the partnership poles. Two of these cases, Glass MNC and Public Co, can be described as both 'robust' and 'cooperative' (Oxenbridge and Brown, 2004). What is significant here is that robust relations were not predicated on a shift from conflictual to more

cooperative processes to inform and consult employees in a general sense. Rather the caveat among the robust partnership types is that the parties recognised that unions can and do exercise the capacity to resist management change. Further, such capacity is often channelled, not within existing partnership structures but, via adversarial processes that sit alongside and complement problem-solving forums.

An overarching issue across many of the cases examined here is the role of informal dialogue and, in part, informal relations help to explain the dynamics of the employee voice processes reported here. As might be expected at the smaller (union by-passing) enterprises, informal relations between employee and employer were particularly prominent, with interactions in a coffee room or through social activities outside of work acting as important determinants in the specific mix of techniques used. Even at the larger (non-union and managerial-sponsored partnership type) organisations, informal dialogue at shop floor level was important. For instance team/departmental managers often communicated change issues to employees as and when they arose, often through general chats around the office or on product lines. The role of informal dialogue was also important in building cooperative union-management relations. Several managerial and union respondents explained that day-to-day 'chats' on the shop floor serve as an important filter for information. Such informality was regarded as a prerequisite to the efficacy of more formal structures, such as union-management negotiations or joint consultative committees. In many ways, informal dialogue acts as a conduit in developing the tacit skills and knowledge of practitioners responsible for informing and consulting employees about important change issues.

While such informal processes are intuitively attractive they are problematic in terms of the impending regulations for employee voice. Part of the problem is seeking to assess process outcomes against a set of regulations that are yet to be put into practice. Moreover, because it is extremely difficult for any state body to quantify and validate informal voice, these may not receive due credit in the

regulations. It would appear from the case study evidence presented in this article that a participatory mix of processes that gravitate towards the equilibrium, as depicted in figure 1, will more than likely contain features of independent employee representation that have the ability to question managerial prerogative. Furthermore, independent representation is more than union recognition. At ICT MNC, the Directive itself (under Article 5) acted as a conduit for the design and implementation of a non-union works council. What is less clear, however, is the likely impact among those cases that are tilted towards the shallow extremes, including non-union as well as managerial-sponsored partnerships. If the test is some measure of robustness, then ultimately the issue rests on the depth of particular voice schemes and the extent to which employees are allowed to have some meaningful say about a wide scope of organisational matters. However, it is possible that organisations with partial union membership and/or low union density, may find that existing arrangements fall short of future regulations. Arguably, union stewards may find it too unpalatable to represent the interests of non-members or to share a consultative platform with non-union employee representatives. In such situations, dual channels for information and consultation may be required.

Finally, the data presented in this article also provides the opportunity to comment on the theoretical validity of the conceptual framework presented in figure 1. Arguably, the model goes some way towards providing an understanding of the unevenness of voice across different organisational settings. For instance, the model allows a rich form of analysis to emerge surrounding the processes used to inform and consult with workers, which is more refined than the reporting of frequencies of particular schemes from single survey respondents. This stands in stark contrast to linear continuums that portray information and consultation along just one pole, from either 'no involvement' to complete 'worker control'. Ultimately there are variations even within single types that need to be explained and analysed, and the framework in figure 1 goes somewhat towards that objective.

However it is not beyond criticism. Significantly, there are very few firms located along the 'equilibrium', as many appear to be adopting shallow rather than robust voice processes. For example, only two of the firms were classified as robust partnership-types, whereas ten of the fifteen firms utilised relatively shallow forms of consultation for one reason or another. Another three had very little in terms of employee involvement or information-sharing. Moreover, most union firms engaged in some form of managerial-sponsored partnership, and most of the non-union cases adopt 'substitution' strategies. This may indicate that managers act in ways that are immaterial to whether voice relates to firm performance, as suggested by some of the high performance studies (see for example, Wilkinson et al, 2004). In short, managers may devise their own options for employee involvement that are soft on power-sharing without offering any form of effective consultation in return. Theoretically, this finding is problematic, as any equilibrium model should depict a higher degree of balance between robust and shallow positions. Moreover, the use of the terms robust, shallow, stable and equilibrium are open to misinterpretation. What is robust to management may be shallow or superficial to employees and unions. In this regard, the original Ackers et al (2005) model depicted 'stable and unstable' relationships, and we have refined this to some extent from the case study data and opted for 'robust and shallow'.

Yet there is also the view that the real world is complicated and uneven, and that theoretical models can only ever be partial in their explanation. As Gall (2004) comments, there is no 'Chinese wall' that separates discrete typologies in a strict scientific way, and overlap and integration is inevitable. Indeed, given the multitude of contingent variables that shape the choices for employee voice, then the processes and outcomes associated with informing and consulting employees are best seen as temporal: moving in and out of robust and shallow situations depending on a range of contextual factors. The challenge for researchers is to further test and refine our understanding of complex social processes, and this is an area ripe for further investigation as the new legal regulations become embedded into domestic legislation (in both Ireland and the UK). Currently, there remains a quandary as to whether the regulations for employee information and

consultation will help employers and unions move towards a more robust equilibrium. The evidence presented in this article has indicated that some employers may devise their own counterbalancing forms of (pseudo) consultation, in an attempt to minimise the impact of regulatory rights for employee voice.

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