

Corporate Lobbying in the US

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LOBBYING PRACTICES: AN HISTORICAL OUTLOOK

Lobbying is a practice as old as government itself. In the United States, it is allowed and protected by the First Amendment to the Constitution which reads: “Congress shall make no law [...] abridging the freedom of speech [...] or the right of the people peaceably to assemble, and to petition the government for a redress of grievances”. Although the roots of the term lobbyist remain quite blurry to this day, we know that it was coined in the 1800’s. By 1835, it was in wide use in U.S. Congress often to speak pejoratively of those trying to influence government’s policies. This may be due to the fact that this profession is little known and therefore little understood by the general public. Even nowadays lobbyists are still portrayed as cigar-smoking men who bribe lawmakers and slip wads of dollar bills into their pockets, but to simply describe this activity, it consists in groups, industries, organizations or individuals advocating an opinion to support their clients’ interests. Their goal is to persuade legislators to pass or defeat a bill. Sometimes, they also attempt to change an existing law. The Lobbying Disclosure Act of 1995 (LDA) was aimed at regulating this activity and insisting on transparency. Lobbyists have to register with the Senate Office of Public Records and report at least twice a year a detail of their operations, they are defined by the LDA as persons who spend at least 20 percent of their time for a particular client on lobbying activities, they have multiple contacts with legislative staff, members of Congress, or high-level executive branch officials, and they work for a client paying more than \$5,000 over six months for that service. However, many do not fall under this category though their activity is rather close to lobbying practices. This is the case of grass-root political activities, congressional testimonies and public relations which are not recognized as lobbying under the law while they are in fact synonymous with efforts to pressure members of Congress. Likewise, Churches are excluded from the LDA’s reporting requirements although the clout of some religious groups – especially among the Republican Party – is undeniable. How important are lobbying practices in the United States and in the world? This paper will assess the clout of corporate lobbying. It will deal with the multinational companies and sectors most involved in lobbying practices and outline their results in terms of policy making.

FACT SHEET

In addition to campaign contributions to politicians, companies spend billions of dollars every year to lobby Congress and federal agencies. The Center for Responsive Politics – a research group tracking money in U.S. politics and its effect on elections and public policy – provides data about totals spent on lobbying starting in 1998 for everyone from AAI Corporation to Zurich Financial. Table 1 shows that total lobbying spending constantly increased from 1998 to 2007 and it is likely to be the case for the year of 2008. Similarly, the number of lobbyists has steadily grown from the early 2000’s onward.























Total Lobbying Spending		Number of Lobbyists	
1998	 10,689	1998	 \$1.45 Billion
1999	 13,674	1999	 \$1.44 Billion
2000	 12,664	2000	 \$1.54 Billion
2001	 11,986	2001	 \$1.63 Billion
2002	 12,264	2002	 \$1.81 Billion
2003	 13,067	2003	 \$2.04 Billion
2004	 13,324	2004	 \$2.17 Billion
2005	 14,445	2005	 \$2.41 Billion
2006	 15,462	2006	 \$2.60 Billion
2007	 15,731	2007	 \$2.82 Billion
2008	 16,982	2008	 \$1.58 Billion

Table 1. Source: the Center for Responsive Politics, www.opensecrets.org, August 6, 2008.

Geneva-based Covalence is specialized in tracking the ethical reputation of more than five hundred multinational companies by focusing on forty five criteria ranging from labor standards to lobbying practices. It found that from 2002 to 2008, oil and gas, pharmaceuticals, automobile, chemicals, food and beverage, and mining and natural resources were the top six sectors most involved in lobbying practices worldwide. The research it carried out also highlighted that all of them counted a higher number of negative news or ethical demands. Table 2 shows that the pharmaceutical industry, for instance, has an average of three positive news or ethical offers for sixteen ethical demands hence an ethical quote equal to -13. Within this sector, Covalence found by searching information from the media, companies and civil society that some multinationals including GlaxoSmithkline, Sanofi Aventis and Boehringer Ingelhim only had negative news.

Offers and demands for criterion 45: lobbying practices.				
Sector	Positive news (ethical offers)	Negative news (ethical demands)	Ethical quote	Volume
Automobiles & Parts	4	6	-2	10
Banks	2	2	-1	4
Chemicals	2	5	-3	7
Entertainment & Leisure	1	1	-1	2
Food & Beverage	1	6	-5	7
Mining & Metals	3	4	-1	7
Oil & Gas	3	13	-10	16
Pharmaceuticals	2	14	-13	16
Retailers	1	2	-1	3
Technology Hardware	1	2	-1	2

Table 2. Source: Covalence SA, www.covalence.ch, August 6, 2008.

Material provided by the Center for Responsive Politics shows that this industry is indeed heavily involved in lobbying practices. It underlines that since 2001, this sector has either been the first or the second top spender in the United States alone dedicating at least \$220,000,000 each year on lobbying activities. However, unlike Covalence, it only focuses on the amount of money spent and does not say anything about the purpose of this money. This is one of the main issues one encounters when dealing with lobbying practices. It is not always clear whether it had an honorable goal or not, even more so as negative lobbying usually takes places in the shadows or is only revealed later. Whether the act of lobbying is negative or positive depends on the ethical question at stake. The U.S. Climate Action Partnership (USCAP) is a good example of positive lobbying. It was created by a group of U.S.-based companies and several environmental NGOs and lobbies the federal government to enact stringent legislation to significantly lower the amount of greenhouse gas emissions. This alliance is composed of: Alcoa, BP America, Caterpillar, Duke Energy, DuPont, FPL Group, General Electric, Lehman Brothers, PG&E, and PNM Resources and other leading environmental groups. It has six main principles: account for the global dimensions of climate change, recognize the importance of technology, be environmentally effective, create economic opportunity and advantage, be fair to sectors disproportionately impacted, and recognize and encourage early action. As for negative lobbying, it can be described as a practice going against ethics. That is to say when people's rights and/or freedoms are infringed, when labor standards deteriorate or when the environment is harmed. Given what is at stake, one better understands why the six sectors previously stated are so heavily involved in lobbying practices and why they are marked with a negative ethical quote. To protect their interests abroad, some multinational companies do not hesitate to deal with corrupted governments and/or authoritarian regimes. This is the case of Chevron and Total in Burma. Similarly, some companies sometimes put pressure on their government to act against another in order not to lose their contracts there. This is the case with oil companies dealing in the Middle East.

Both the information provided by Covalence and the Center for Responsive Politics are interesting in the sense that they show that lobbying is influenced by the political and the economical environment. Indeed, the financial, insurance and real estate sector spent over \$415,000,000 on lobbying. That is almost twice of what it dedicated to this activity in the early 2000's. Likewise, the sector for energy and natural resources has constantly increased its spending on lobbying since the war in Iraq broke out. Covalence found that among the top five multinational companies most linked to this activity, three – Exxon Mobil, BP PLC and Shell – belong to this sector. Halliburton also often appears in the news for its involvement in countries politically unstable. Like its three counterparts, its reputation has been tainted by scandals. Texaco – acquired by Chevron in 2001 – is being sued by Amazon tribes because it dumped 18.5 billion gallons of toxic waste into Amazon waterways from 1964 to 1990. Lobbyists are working very hard to persuade the Bush Administration and Congress to help Chevron in this lawsuit which could cost \$16 billion liability for harming local indigenous communities and damaging the environment. Nowadays, with food prices soaring all over the world and notably in the United States, it is likely that the agribusiness which is already among the top five world spender on lobbying practices, will follow the trend. Nestlé and the Coca Cola Company were respectively ranked 22nd and 23rd in terms of lobbying practices by Covalence, and both had a negative ethical quote as far as this criterion is concerned. What is called the “Banana Crisis” is due to lobbying efforts made by some American food brands operating in Latin America. They pressured the U.S. government to impose tariffs on bananas exported by Caribbean countries. Being more expensive than Latin American bananas, Caribbean bananas can hardly compete. This led to huge job losses in the Islands, especially in countries which heavily depended on this industry. Not only the “Banana Crisis” demonstrates the power of American multinationals, it also highlights the clout of the United States at the political and economic level. Indeed, neither France nor the United Kingdom managed to stand up for their former colonies^{1 1}.

Studying lobbying practices by combining material that looks at events taking place worldwide and in the United States alone is also interesting in the sense that one realizes that American concerns are in fact quite the same as world concerns. This paper previously stated the top six sectors most involved in lobbying practices worldwide, they are the same as those in the United States which also counts the technology hardware/communication sector as one of the main lobbyists.

LOBBYING IN THE USA: A HIGHLY LUCRATIVE BUSINESS

In the United States, lobbyists spend hundreds of thousand million dollars to protect the interests of their clients but this activity reveals to be highly lucrative for them. The Influence 50, a survey conducted by the *Legal Times*, demonstrates that for the year of 2007, the most influential lobbyists made multimillion increases

¹ Guadeloupe and Martinique are French territories where the banana industry was very important. Same for Jamaica, Trinidad and Tobago, and other Caribbean islands part of the British Commonwealth.

in fees from public relations, legislative monitoring activity and grass-roots advocacy. It also highlighted that law firms made a lot more than non-law firms in revenue growth. As a whole, revenue rose by 11 percent. [Akin Gump Strauss Hauer & Feld](#) tops the list with \$89.8 million in lobbying income. It is closely followed by [Patton Boggs](#) which made \$89.3 million. The Influence outlines a new trend in the earnings of lobbying firms. They increased their revenues thanks to activities other than legislative lobbying. Patton Boggs, for instance, drew half of its gross revenue increase – roughly \$9.1 million – from less traditional lobbying work. That “other related work” category accounted for a third of the gross revenue made by the Influence 50. It is also the fastest source of revenue. Hence the fact that firms now more and more look forward to it. It has not always been that rosy. In fact, many big law firms witnessed small gains in 2006 or even a decline in the case of Patton Boggs. The reason behind this change is that the various lobbying scandals have tainted the reputation of non-law firms. Clients now have a preference for hiring law firms because they have a reputation for professional ethics. Firms are also catching clients’ attention since they are able to handle complicated policy and regulatory work.

In January 2006, Republicans promised to introduce sweeping changes so as to clean up lobbying practices in Congress. This decision came after Jack Abramoff, a former lobbyist, was found guilty of federal corruption. Dennis Hastert, a Republican from Illinois and Speaker of the House at the time, said gifts, meals and travels paid for special interests would not be allowed anymore. The ban on privately funded trips was also a consequence of Abramoff’s behavior. He notably arranged golf outings for members of Congress. As for the ban on gifts and meals, Hastert said lawmakers and their aides may only accept gifts worth up to \$50, with an annual limit of \$100 for meals and gifts coming from any one source. Hastert believed that “to regain the trust of American people in [Congress], [it] must go further than just prosecuting the bad actors”. Likewise, Rick Santorum, a Republican Senator from Pennsylvania, was asked to draft a proposal

The Influence 50: Lobby shops and law firms with the highest revenues from lobbying work in 2007						
Rank	Firm	2007 Gross	2006 Gross	Gain/Loss	Lobbyists	Firm Type
1	Akin Gump Strauss Hauer & Feld	\$89,800,000	\$76,900,000	+16.7%	40	Law
2	Patton Boggs	\$89,300,000	\$71,000,000	+25.8%	149	Law
3	Hogan & Hartson	\$71,400,000	\$65,700,000	+8.7%	32	Law
4	DLA Piper	\$47,300,000	\$46,200,000	+2%	38	Law
5	Holland & Knight	\$45,100,000	\$34,700,000	+30%	56	Law
6	K&L Gates	\$42,300,000	\$37,300,000	+13.4%	51	Law
7	Covington & Burling	\$40,400,000	\$33,100,000	+22%	30	Law
8	Dutko Worldwide	\$35,100,000	\$33,400,000	+5.1%	60	Non-Law
9	Greenberg Traurig	\$32,900,000	\$29,200,000	+12.7%	74	Law
10	BGR Holding	\$30,200,000	\$28,800,000	+5%	17	Non-Law

Table 3. Source: the Center for Responsive Politics, www.opensecrets.org, August 6, 2008.

aiming at dealing with unlawful lobbying in the Senate. Both Hastert and Santorum hoped to have their legislation passed by March in order to fix the bad image of the Republican Party before the congressional elections which were to be held in November of the same year.

Democrats, less concerned by lobbying scandals, also announced their own suggestions and said they will closely track Republicans' plans. Unlike the GOP, Democrats asked for more frequent and detailed reports from lobbyists and their activities. Furthermore, they wanted to increase to two years the length of time in which congresspersons and their aides are forbidden to lobby their former colleagues after leaving the government.

In spite of these good intentions, some issues remain. Instead of limiting the amount of gifts why not banning them right away? Similarly, why not also monitor and put limits on independent political committees known as "Section 527"? Abramoff, who pleaded guilty to fraud, conspiracy and tax evasion charges worked with his prosecutors to bring down unlawful lobbying activities in Congress. Several names have been linked to the investigation within the Republican camp. Tom DeLay, a Republican from Texas, and Bob Ney, a Republican from Ohio denied the charges but the latter was forced to step down as House Administration Committee chairman because of the scandal.

Democrats in Congress benefitted from the circumstances during the 2006 mid-term elections – although lobbying practices were not the only thing that cost the GOP the elections that year. The House Minority Leader of the time, Nancy Pelosi – who is now the Speaker of the House, criticized the proposal made by the Republicans. According to her, it was not going to efficiently address the issues in the system which benefits Republicans. In fact, lobbyists mainly give to them so in exchange they offer hiring preference for lobbying jobs. However, both Pelosi and Harry Reid, a Democrat from Nevada and Senate Minority leader at the time, imposed these restrictions on their own staffs. An e-mail was sent to every single employee and distributed to other Democratic Senate offices. It read: "No employee in federal offices will be allowed to receive any meals, gifts or travel from lobbyists". It also stated that "these changes are an effort to lead by example".

CONCLUSION

Lobbying is a fundamental feature of our democratic political process. Since policies affect us all, organizations, individuals, charities, churches, universities, and public interest groups are here to ensure public officials make fair and informed decisions by exploring all sides of an issue. It is a way of participating to the system of checks and balances, however, it can produce equitable government policies in a given country and unfair consequences in another. The general public usually mistrusts lobbying practices and people are often quick to condemn big multinational companies when they infringe human rights abroad but it would not be the case if there were no demand at home. It is sad to see that the price for eating cheap bananas is an increasing poverty and unemployment rate in some Caribbean islands but who is ready to buy expensive something that can be bought for a lot less?