

Transparency International Anti-Corruption Helpdesk Answer

Businesses' lobbying practices

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Lobbying is a multi-billion dollar industry. The bulk of this expenditure is from business and corporate actors who lobby public decision makers to influence everything from international trade agreements and economic policy to public contracts and regulatory enforcement. The financial stakes for business are enormous, but the stakes for the public interest can be equally significant. In-house as well as consultant lobbyists are often tasked with representing the interests of their employers or clients without considering the consequences for the environment or the health and safety of the public (Transparency International Ireland 2015).

This brief responds to the query on lobbying practices by private companies by answering several inter-related questions: how do companies actually attempt to lobby and influence? What can be considered legitimate and illegitimate, and what are emerging best practices? How have different jurisdictions responded to the challenges posed by lobbying and how have businesses in turn responded to these regulatory regimes?



Query

We are currently working on a project related to the lobbying practices of private companies. We are interested in the process, practices and ways of lobbying by businesses, as well as good and bad practices.

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Background

Lobbying, a specific component of firms' marketing communication and public affairs strategies, is increasingly recognised as an area to study "the functioning of advanced democracies" (Beyers et al. 2008). Indeed, the manner in which various interest groups wield influence reveals much about the power dynamics in a given polity as well as about the health of its decision-making processes (Bitonti and Harris 2017).

There is a broad spectrum of opinion about the role of lobbying in democratic societies. At one extreme, lobbying is viewed as a distortion of democratic values. In this view, the public interest should only be embodied by democratic institutions. Adherents to this school of thought tend to focus on the power of special interest groups who manipulate democratic systems to their own advantage through the targeted deployment of money and other resources to subvert the public interest (Bitonti 2017). At the other extreme, lobbying is taken to be an inalienable democratic right, a manifestation of citizens' freedom of expression to petition government and interact with public decision makers. Proponents of this view contend that

Main points

- Most major businesses today develop comprehensive lobbying strategies and employ specific tactics to accomplish these goals.
- While anti-corruption legislation has become more standardised around the world, lobbying legislation is a notable exception to this trend.
- The two main measures to prevent corrupt forms of lobbying are: self-regulation and regulatory regimes.
- While companies still have a long way to go to understand the value of responsible lobbying, lobbying regulations and registers are a move in the right direction.

interest groups provide the necessary expertise, feedback and political support to improve the quality of law making, public administration and policy formulation (Bitonti 2017).

The question of what counts as lobbying is therefore not a trivial one; exactly which activities are taken to constitute lobbying and exactly who is subjected to oversight have meaningful implications for regulators, firms and the public interest.

A key corollary to this question relates to the strategies used by interest groups, and particularly businesses, to influence the outcome of laws, policies and procurement processes. Why, and crucially how, do firms attempt to further their interests, often at the expense of others? Can a distinction be made between legitimate and illegitimate lobbying? What is the link between lobbying strategies and corruption?

Before proceeding to examine these issues, let us turn to the initial question: what counts as lobbying?

What counts as lobbying?

There is no internationally accepted standard for what constitutes lobbying and who qualifies as a lobbyist. Some interest groups that attempt to influence government policy, legislation and priorities do not consider themselves lobbyists and instead portray their activities as advocacy, public affairs or interest representation (Transparency International 2015). Such semantic issues carry real weight, as those not considered lobbyists by regulators are exempt from control mechanisms designed to govern the industry, such as mandatory registers that require lobbyists to record their efforts to influence public officials in a transparent fashion.

In fact, an OECD (2013) assessment found that regulating lobbying has proved difficult due to the industry's complexity. To further muddy the waters, legal definitions of "lobbying" and "lobbyist" – key determinants of efforts to regulate lobbyists' activities – vary considerably by jurisdiction. As a result, attempts to draw a distinction between legitimate and illegitimate lobbying solely in legalistic terms is difficult; in many polities, particularly malign forms of lobbying are viewed by some as a form of "legal corruption" (Kaufmann and Vicente 2005; Williams 2018).

¹ The European Commission (2017), for instance, defines lobbying as "all activities designed to influence – directly or indirectly – policymaking, policy implementation and decision-making in the EU institutions, no matter where they are carried out or which channel or method of communication is used. The emphasis is on 'what you do' rather than 'who you are'."

This paper adopts [Transparency International's \(TI\) definition of lobbying](#) as:

"any activity carried out to influence a government or institution's policies and decisions in favour of a specific cause or outcome. Even when allowed by law, these acts can become distortive if disproportionate levels of influence exist – by companies, associations, organisations and individuals."

Indeed, in recent years, legal definitions have been increasingly brought into line with Transparency International's standard, with an accompanying shift in focus from the actor to the activity.¹

Essentially, lobbying refers to the attempts of interest groups to influence decisions made by the government, legislators or members of regulatory agencies (Ninua 2012). These activities can take a variety of forms, from professional lobbying on the part of specialised public affairs or legal firms, to in-house lobbying undertaken by associations and NGOs, as well as the work of thinktanks in lobbying for certain ideas (Doublet 2013).

Such attempts to influence policymaking utilise different mechanisms, including direct communication with government officials, participation in public hearings, drafting reports to petition members of the government on specific policy issues, as well as through media comment (Chari, Hogan and Murphy 2010).

Different groups also employ different kinds of resources to influence policymaking, such as campaign funding, expertise on policy issues, and information on the opinion of other policymakers (Dür and Bievre 2007).

Lobbying and corruption

Lobbying is not a corrupt activity per se, and can be a legitimate and positive force when undertaken

Similarly, the 2015 Irish Regulation of Lobbying Law adopts a broad understanding of "lobbyist", and is intended to capture lobbying activities regardless of the profession of the person (or their client) engaging in lobbying activities. In this way, the law encompasses lobbying by public affairs professionals, as well as in-house lobbyists from businesses, professional, representative or voluntary organisations, trade unions, charitable, non-profit and faith-based organisations (Irish Register of Lobbying 2017).

with integrity and transparency (Ninua 2012). Insofar as it enables interest groups to understand, track and shape the development of legislation and regulation, it can even be viewed as a key element of public decision-making processes (Zinnbauer 2009).

However, where lobbying is opaque and disproportionate, it can lead to administrative bribery and political corruption (Martini 2013a). The extensive funds at the disposal of many interest groups and the close relationship that exists between some private sector actors and lawmakers can lead to undue influence over public policymaking (Ninua 2012). When such disproportionate influence is leveraged on behalf of a particular set of interests, the decisions that ensue do not necessarily uphold the public interest. In fact, where the influence of business groups becomes excessive, it may result in policy capture or even state capture (OECD 2017).

Depending on how lobbying is conducted, therefore, it can range from an expression of participatory democracy to the corruption of democratic institutions themselves through practices such as influence peddling. After surveying why businesses lobby and studying the tactics they employ to do so, the fourth section of this paper revisits the distinctions between lobbying and corruption.

Why businesses lobby

To understand the techniques businesses employ to lobby for their interests, as well as the lengths to which they are prepared to go to safeguard these interests, we need to understand their incentives for doing so.

The literature on lobbying identifies three main rationales for interest groups to develop a lobbying strategy:

- to achieve their political goals (Beyers 2008: 1192; Michalowitz 2007);
- to respond to organisational needs (Binderkrantz 2005; Lowery 2007);
- to react to contextual pressures (Baumgartner et al 2009; Mahoney 2007).

Put simply, businesses are prepared to invest considerable resources into efforts to increase or at least maintain their bottom line. Alongside

advertising, public affairs and market communications, lobbying public decision makers is a key component of these efforts. In fact, according to a recent study of lobbying and public affairs in Europe, “in the global marketplace, to be competitive means increasingly being able to exert pressure on government” (Bitonti and Harris 2017). “Knowledge of the political market” has come to be seen as “contributing directly to business performance” (Andrews 1996: 79). Miller (2006) even writes that “a company's return on lobbying and campaign contributions – let's call it return on political investment, or ROPI – is astronomically higher than any real investment it can make”.

Academic studies confirm that corporate lobbying leads to higher shareholder value. In a study of more than 20,000 firms in 47 countries, Faccio (2006) found that, on average, firms experience a 2 per cent increase in shareholder wealth after the announcement that their executive or large shareholder is entering politics. Conversely, Faccio and Parsley (2009) observe a value loss of about 2 per cent after an event that disrupts a firm's political connections. Particularly in high-stakes sectors, such as infrastructure or manufacturing, failure to secure contracts or maintain good relations with regulators can threaten the very existence of some companies (Bitonti and Harris 2017). Mathur et al. (2013) observe a positive correlation between how intensively a firm lobbies and its value creation. They therefore expect that most large firms will “pursue lobbying as a nonmarket strategy to create value” (Mathur et al. 2013).

Businesses lobby policymakers for a number of reasons, such as winning contracts, entering new markets and protecting their position in existing markets, as well as influencing laws, regulations and public policies that affect their area of operations.

Broadly speaking, there are two main arenas in which companies seek to consolidate political capital and exert influence: when interacting with the state as regulator and the state as purchaser.

Influencing regulations and public policy

Governments legislate and regulate on a huge range of matters, from product safety and packaging to intellectual property, fair trading

practices, civil rights, environmental issues and so on. All such measures can directly affect how advantageous a given business environment is for a firm, and businesses consequentially have a clear incentive to try to lobby decision makers to make the marketplace as favourable as possible.

Indeed, as well as adding market value, lobbying has been shown to result in favourable policy outcomes. Lord (2000) found that congressional staff in the United States perceived professional lobbying as the most effective means of influencing legislation.

Winning public procurement tenders

Governments are typically one of the largest players in a country's economy. The government acts as purchaser of services and allocator of state resources, and public contracts form the backbone of many firms' revenue streams. Particularly when it comes to public procurement processes, the winner-takes-all model ensures intense lobbying on the part of companies competing in the tender (Bitonti and Harris 2017).

How businesses lobby

As companies have come to recognise lobbying as an indispensable means to establish a competitive edge, there has been a concomitant professionalisation of the lobbying industry, as witnessed by a rapid growth in the number of lobbyists,² the emergence of dedicated lobbying degrees and the establishment of professional bodies for lobbyists (Bitonti and Harris 2017).

Unsurprisingly then, to realise their objectives, most major businesses today develop comprehensive lobbying strategies and employ a range of specific tactics to accomplish these (Binderkrantz 2005: 176; De Bruycker 2014; Britannica 2018a).

Such tactics can include (Britannica 2018b):

- business representatives appearing before legislative committees or providing them

with research, "expert" input or industry positions

- "buttonholing" officials to pressure them personally
- providing favoured candidates money and services, either in the form of bribes or by making contributions to political campaigns
- influencing public opinion through massive public relations campaigns.

The nature of the strategies developed and specific tactics employed vary considerably depending on the political systems, sector and company involved. Before turning to look at various lobbying tactics in detail, the next section considers the general determinants of a business's lobbying strategy.

Lobbying strategies differ across political systems

Most democratic systems have few restrictions on interest group representation, meaning businesses operating in a democratic context have more options available to them, such as hiring lobbyists, using media outlets to build public support for their cause and providing campaign donations to favoured candidates. As a result, lobbying strategies in democracies tend to be both more varied and more formalised than in authoritarian states, where they are generally more ad-hoc (Britannica 2018a).

In fact, in authoritarian systems, informal personal contacts with political elites are typically the only tactic available for businesses seeking to influence policies. Such access often operates as part of a quid pro quo relationship. This can result in patron-client networks, in which business and political elites form cliques based on personal benefits, rather than shared policy interests per se (Britannica 2018a).

A country's policy process also influences who lobbyists choose to target. In parliamentary systems, in which the executive is composed of the dominant political party in the parliament, the legislature plays a relatively minor role in policymaking compared to the prime minister and

² A 1993 European Commission survey estimated there to be around 3,000 interest groups and 10,000 lobbyists (European Commission 1993), whereas by 2015 this figure was thought to be nearly 11,000 organisations and well

over 30,000 lobbyists (Austrian Chamber of Labour 2015; LobbyFacts 2017)

cabinet (Britannica 2018a). The executive branch is consequentially the main focus of companies' lobbying efforts. In contrast, as a result of the separation of powers system in the United States, Congress, state legislatures and the courts all exercise a role in policymaking. This means that, in the United States, businesses more frequently engage in legislative lobbying as well as litigation strategies (Britannica 2018a).

Tactics can also be explained by reference to whether a firm's objective is to promote or block a proposed policy or piece of legislation. In parliamentary systems, it can be harder to block legislation as, by the time the proposal reaches the legislature, it has been agreed on by the party in power, which likely has a majority in parliament. On the other hand, in the United States, it is much easier to defeat legislative proposals; businesses simply need to win over a sympathetic committee chair in the legislature or convince a governor to veto it (Britannica 2018a).

Consultant versus in-house lobbyists

Depending on political context and firm strategy, a business may choose to hire specialist consultant lobbyists or alternatively, a business may cultivate a stable of in-house lobbyists to advance the firm's interests directly. Historically, the use of consultant lobbyists is more common in the United States than in Europe, where public officials are thought to prefer dealing directly with representatives of a given interest group (Britannica 2018a).

In Europe, businesses have traditionally sought to exert influence over public policy through membership organisations and associations, which lobby in their collective interest via semi-official or established channels (Transparency International 2015). Such associations can include chambers of commerce, trade associations and other professional associations (Center for International Private Enterprise 2011). Such groupings of private enterprise by sector can actually mask a broad range of interests and vary greatly in terms of size, budget, scope of influence and lobbying behaviour (Transparency International 2015).

In many European countries, business associations are the biggest players in lobbying. Particularly in countries with a corporatist tradition, the participation of business associations (alongside trade unions) in public life has been

“quasi-institutionalised within the decision-making processes” (Transparency International 2015). Lithuania is a classic example: several business associations even have assigned offices on public premises and are listed in the official contact list as “representatives to the government” (TI Lithuania 2015).

While business associations continue to be the primary conduit for small and medium-sized enterprises to articulate their interests and lobby decision makers (Transparency International 2015), the largest firms are increasingly adopting the US model by turning to specialised lobbying consultancies such as Burson Marsteller and Fleishman-Hilliard (Corporate Europe Observatory 2017).

Lobbying strategies – direct and indirect lobbying

When discussing lobbying tactics, we can distinguish between direct (insider) and indirect (outsider) approaches. Most lobbying approaches target decision makers directly in an attempt to influence outcomes. Lobbying tactics that attempt to sway the outcome of a tender are almost invariably direct. Indirect approaches are more likely to be coordinated, industry-wide attempts to change the narrative around a given policy issue, and may include the establishment of front groups and the use of favoured “third-party” experts to disseminate industry-friendly material. Outsider tactics can also involve very public and hostile opposition to government proposals in an effort to block them (Britannica 2018a).

There are three main determinants of whether an interest group adopts insider or outsider tactics.

First, political context. In democratic societies, an interest group is more likely to pursue insider tactics when a party favourably disposed to that group's agenda is in power, and will more likely adopt indirect or outsider tactics when a party opposed to their interests is in government (Britannica 2018a).

Second, the type of the interest group. Compared to other interest groups, such as non-governmental organisations (NGOs), business lobbying is more likely to operate in an opaque fashion. A recent study of different interest groups' lobbying strategies found that business

associations are more inclined to seek direct contact with decision makers behind closed doors, rather than adopt broader media-orientated campaigning tactics, as is common among citizen groups and NGOs (Dür and Mateo 2013).

Third, the maturity of the entity lobbying. Established firms with extensive resources and good access to officials are more likely to pursue “insider” tactics when it comes to lobbying, leveraging their connections with associates to promote their objectives (Britannica 2018a). Newer businesses lacking these resources or contacts may choose to pursue other “outsider” strategies, such as public relations campaigns designed to get them a seat at the table.

Direct lobbying

Cultivating relationships with public officials

Lobbying strategies and tactics vary widely. What is common to nearly all of them, regardless of the political system a firm is operating in, is the importance of developing close personal contacts with public officials. This relationship forms the interface between a given company and the state, and the more skilful lobbyists are at nurturing personal contacts with public officials, the more effective a business is likely to be at conveying its core demands to government (Britannica 2018a).

Carefully cultivated relationships can pay dividends. According to Holland and Sourice (2016), the WikiLeaks cables demonstrated the lengths to which the US State Department would go to promote the interests of its companies abroad. For instance, US embassies and consulates in Argentina, Egypt, Germany, Slovakia, South Africa and Spain reportedly promoted Monsanto’s products and positions, and one memo even allegedly included “an advocacy toolkit for diplomatic posts” to lobby on behalf of certain firms.

In the US, political scientists refer to so-called “iron triangles”, in which lobbyists, public officials and legislators work together to ensure certain outcomes, be it on public health or defence contracts. Special interest groups mobilise electoral support and campaign finance for favourable congressmen and receive advantageous legislation and lax oversight in

response (Johnson 2005; Irfan 2017). This privileged access gives “insiders” a great deal of influence over public policy.

One tactic companies use is to establish “industry forums” with cross-party political representation to build relationships with influential politicians and gain influence in relevant forums (Corporate Europe Observatory 2017). This practice is especially prominent at the European level. Two notable examples are the European Parliamentary Financial Services Forum, which counts 42 MEPs from all political groupings and representatives of virtually all the biggest banks among its number (Haar 2018), and the European Internet Forum, whose membership consists of 77 MEPs, 49 corporates and 71 business federations (Falgueyrac 2018). The idea is not only to establish insider channels to decision makers but also to convince officials that they need business to provide expertise, resources or political capital (Haar 2018).

The effectiveness of such tactics is evidenced by the growing trend that policymakers and legislators proactively approach businesses for their input into policies. Fritz (2015: 10) even speaks of “reverse lobbying”, whereby officials actively request extensive input on the part of businesses during the drafting of legislation or policies. In effect, Woll (2011) notes, this means that “the public authority lobbies business to lobby itself”. To give one example, Fritz (2015: 12) and De Clerck (2018: 31) note that the European Commission “actively solicited input” from sectors with a strong lobby, such as the pesticides industry, before drafting its proposals for the Transatlantic Trade and Investment Partnership. De Clerck (2018: 31) states that there was no comparable effort to involve other interest groups, such as trade unions, consumer groups or non-governmental organisations.

The imbalanced access to policymakers enjoyed by businesses vis-à-vis other interest groups is partly a function of the significant effort they invest in lobbying. The estimated number of lobbyists in Brussels representing the financial sector alone (1,700) outnumbers MEPs by a factor of 2.5 to 1, and the financial industry is estimated to spend around €120 million a year on lobbying the EU (Haar 2018). Haar (2018) also notes that over 90 per cent of stakeholder meetings held between the Directorate General for Financial Services and interest groups were with corporate interests. Similarly, between September 2015 and May 2017, ministers and state secretaries in the German

government met car industry representatives 325 times, compared to 21 times with environmental organisations (Katzemich 2018).

Provision of expertise

A related tactic lobbyists use is to seize any opportunity to provide “expertise” to government. One such channel is presented by the vast array of advisory groups that governments have set up to provide advice on technical matters; the European Commission, for instance, has established over 1,000 such groups (Corporate Europe Observatory 2017).

These bodies often initiate policy proposals, providing public officials with first drafts for new laws and regulations. Industry representatives typically dominate advisory groups at the EU level, especially those around highly technical topics. Haar (2018) notes that 80 per cent of the advisers in groups set up by the commission to advise on financial services are representatives of financial corporations. Similarly, 78 per cent of the members of an advisory group on emissions from light duty vehicles were representatives of the car industry (Katzemich 2018). According to the Corporate Europe Observatory (2017), firms are known to use their membership of these groups to actively lobby in their own commercial interest.

An alternative tactic companies employ is to try to steer forthcoming laws by providing sympathetic legislators with specific amendments to draft legislation. Reportedly, firms sometimes hire law firms to draft the amendments to make them look as professional as possible so that politicians can pass them off as their own work (Corporate Europe Observatory 2017).

Engaging law firms

With the growing move towards making lobbying more transparent through the establishment of lobbying registers, there is some suggestion that those entities keen to ensure their lobbying activity remains opaque are turning to law firms to pressure policymakers (Corporate Europe Observatory 2017). Law firms tend to claim the need to ensure client confidentiality, and often demand derogation from ordinary rules governing interest groups, despite the considerable influence they can exercise through such means as suing for damages due to loss of earnings in the event of

unfavourable public policy decisions (Doublet 2013).

The revolving door

The movement between public office and private industry poses well-known risks for conflicts of interest. For instance, private entities may attempt to influence government decisions in favour of a specific cause or outcome in exchange for the lure of lucrative future employment. According to former Washington lobbyist Jack Abramoff, “there was no greater control that people could have over congressional offices than to have the head of that office know that they were going to come in a few months to come work for a lobbying firm. From that minute on, those people were focused on that lobbying firm and their clients” (TI Ireland 2015).

The so-called “revolving door” can therefore be seen as part of a lobbying strategy. Either a company or lobbying firm recruits ex-officials to exploit their good contacts and insider knowledge, or someone from industry moves into an influential position in a public body. In some cases, the new public official is tasked with regulating the very same firms they previously worked for. After a period in public employment, they may then move back to the private sector. According to Holland and Sourice (2016), 37 of 48 of Monsanto’s registered lobbyists in 2015–2016 had previously held government jobs.

The revolving door is particularly evident in the financial services sector; the former European Commission president, José Manuel Barroso, joined Goldman Sachs after leaving office, while between 2008 and 2017 four of the five directors from the Directorate General for Financial Services at the European Commission went to work for companies they once oversaw or lobbying firms hired by these companies (Haar 2018).

Business may also seek to exploit existing conflicts of interest in regulatory bodies and other public agencies. Tansey (2018) found that nearly 1,000 experts at the European Medicines Agency – a quarter of the total – had interests in the pharmaceutical industry. These ranged from financial interests, employment and advisory roles to companies and the receipt of grants and other funding from pharmaceutical companies (Tansey 2018).

Gifts and hospitality

Another form of direct lobbying involves companies providing public officials or legislators with gifts and hospitality. This could range from expensive dinners and presents to all-expenses paid trips to speak at an industry event or visit a company's overseas offices (Corporate Europe Observatory 2017).

Such actions are often an attempt to curry favour with officials, in the hope that they will then reciprocate this "generosity" by looking kindly on a firm's bid for a public contract or when overseeing and regulating the company (OECD 2009).

Buttonholing

The final, and perhaps most desperate, direct lobbying tactic is "buttonholing". This is the practice of seeking to corner officials in person to pressure them directly. In Hungary, lobbyists are known to take part in overseas government business delegations for the primary purpose of petitioning officials, whereas, in Ireland, lobbyists wait in the social area of parliament – such as the café and the bar – to meet politicians (Transparency International 2015). In Italy, the business class lounge at Linate airport in Milan is a known location for lobbyists to meet policymakers (Transparency International 2015).

Indirect lobbying

Engaging like-minded companies

Indirect approaches to lobbying tend to rely on coordinated, industry-wide attempts, in which firms ally with market competitors to ensure business-friendly outcomes. As discussed above, business associations are a common vehicle for this, and are useful to coordinate lobbying activities and messaging. A good example of this was the Business Alliance for Transatlantic Trade and Investment Partnership (TTIP), which was comprised of a broad spectrum of business associations such as BusinessEurope, ESF, the Transatlantic Business Council, AmChamEU and others who hired the specialised lobbyist consultancy Hill & Knowlton to "communicate the benefits of TTIP" (De Clerck 2018).

In fact, most large corporates lobby both individually to pursue their specific interests and as part of broader industry coalitions. Falgueyrac (2018) found that Microsoft is a member of 30 different federations, associations and thinktanks in Europe alone, and Google is represented in 24 such organisations.

Flexing economic muscle

A common lobbying tactic using "outsider" channels is for firms to seek to influence public policy by publicly warning of the effect a proposed measure would have on the market and especially on job losses. Particularly in constituencies where a certain firm or industry plays a dominant role in the economy, companies' vocal expressions of displeasure can be an effective means of killing off initiatives to which business is opposed (Britannica 2018a). Haar (2018) writes that, in 2010, the biggest banks in Europe came together to produce a report arguing that proposed tighter regulation would dampen growth by 0.6 per cent with a knock-on effect on unemployment. The proposals were subsequently watered down significantly. According to Teeffelen (2018), in the Netherlands, internal documents revealed that pressure from Unilever, Shell and the chemical firm AkzoNobel to the effect that they would move their operations abroad played an influential role in the government's decision to abolish the withholding tax on dividends.

Scholars for dollars

Another indirect lobbying tactic firms use is to try to discredit scientific findings opposed to their interests, or fund industry-friendly research (TI Ireland 2015).

Wedel and Keenan (2011) have studied the growing deployment of what they call shadow lobbyists, notably academics "trad[ing] on the reputation of the impartial scholar". They note that companies in sectors from financial regulation to healthcare are engaging apparently neutral academics to lobby on their behalf, and that increasingly "it is the image of the neutral, incorruptible intellectual that is being bought and sold" (Wedel and Keenan 2011). One study from 2010 found it to be common practice for academic economists acting as "presumed objective experts" to fail to report their private financial affiliations to corporations and other firms when speaking

publicly about issues like financial regulation (Epstein and Carrick-Hagenbarth 2010).

Other industry lobbying tactics include commissioning private research projects designed to generate favourable data, the funding of scientists thought to be aligned with industry-friendly messages and coordinated criticism of scientific studies to cast doubt on independent studies (Corporate Europe Observatory 2017). Doward (2013) observed that Phillip Morris International had commissioned research attacking the evidence base that plain packaging on cigarettes would reduce smoking, as part of a sophisticated lobbying attempt to prevent the introduction of plain packaging in the United Kingdom. In the United States, the non-government organisation Right to Know (2015) obtained emails demonstrating how Monsanto gave unrestricted grants to academics it believed would lobby on its behalf, and noted in the leaked email that “this is a great 3rd-party [sic] approach to developing the advocacy we’re looking to develop”.

Thinktanks, front groups and astroturfing

Alternatively, businesses occasionally turn to allied thinktanks and NGOs to promote their message. In many such cases, these bodies are financially dependent on their corporate sponsor, or may even have been established by them.

Thinktanks are especially useful conduits for corporate lobbying, offering a “veneer of objectivity” in the same way as academics (Corporate Europe Observatory 2017). Thinktanks play an important role in shaping political discourse to the benefit of their corporate backers. The Google Transparency Project (2018) writes that Google has provided millions of euros to thinktanks to build “an influential network [to] write research papers supporting the tech giant’s business interests”.

In addition, thinktanks provide a useful platform for sponsors, offering spots on panels, opportunities to contribute to policy briefs as well as informal events that present an opportunity for networking between industry and public officials (Corporate Europe Observatory 2017).

A related tactic is the use of front groups. In some jurisdictions, it is relatively simple for an interest group to establish an NGO to act as a front for its

lobbying or public relations activities while disguising its source of funding. In the United States in particular, there has been a heated debate regarding the impartiality or otherwise of certain NGOs and thinktanks (MediaMatters 2015). In Europe too, some lobbyists’ activities are specifically designed to obscure the true beneficiaries from state or public scrutiny. In 2017, for instance, Friends of the Earth revealed that the gas industry trade association ENTSOG had misleadingly listed itself in the European Transparency Register as a non-governmental organisation (Douo 2018).

At the extreme end, this can involve interest groups setting up bogus NGOs or “creating the semblance of public support through manipulated and/or purchased opinions” as part of a practice known as “astroturfing” (Transparency International 2015). Organisations with names such as Citizens’ Alliance for Responsible Energy or Retailers against Smuggling who supposedly represent consumers or concerned citizens at the grassroots level are in many cases actually established and bankrolled by businesses (TI Ireland 2015).

An example of this is the tobacco industry, which, according to the Tobacco Tactics (2018) website, funds front groups such as The Freedom Organisation for the Right to Enjoy Smoking Tobacco. Funded and organised by large tobacco companies, these “smokers’ rights groups” aim to maintain controversy about the health impacts of smoking, oppose public health initiatives, such as plain packaging, and shift the debate away from industry’s responsibility towards smokers’ rights (Smith and Malone 2007).

Campaign financing

A final tactic employed as part of a broader lobbying agenda can include financial contributions to politicians or parties seen as sympathetic to industry demands. While such donations are not supposed to have a direct impact on political outcomes, contributions can certainly help to cultivate good relationships with parties and foster a sense of expected reciprocity (TI Ireland 2015). This tactic is usually tied to longer-term objectives, such as securing the enduring support of a candidate once she has made it into office, and may not be related to a specific policy or piece of legislation.

In the United States, for example, the National Education Association has contributed nearly US\$130 million to federal candidates and committees since 1990, 97 per cent of which has supported Democrats and liberals (Centre for Responsive Politics 2018). The National Rifle Association (NRA), on the other hand, is closely aligned with the Republican Party (Open Secrets 2018). Of the 535 current members of Congress, 307 have received either direct campaign contributions from the NRA or benefited from independent NRA spending on items like advertising supporting their campaigns. Only six Republican members of Congress have received no form of support from the NRA (Kessler 2018).

CNN found that the NRA has carefully nurtured long-term relationships with lawmakers; over the course of current legislators' careers, US\$13 million has been contributed to congressional campaigns (Kessler 2018). Alongside this campaign financing, the NRA invests heavily in independent expenditures on election advertisements; during the 2016 presidential election alone, the NRA spent US\$53.4 million (Rushe 2018).

The issue of money in politics is not confined to the United States; since 2009 the car industry in Germany has provided over €17 million in donations to all of the major parties, with the CDU/CSU and the FDP being the biggest beneficiaries of this largesse (Katzemich 2018).

What determines the success of lobbying efforts?

While resourcing is without doubt important, political clout is not simply a function of the size of a firm's budget. For instance, single interest lobby groups, such as the NRA, spend significantly less than business lobbies, but are often better able to mobilise political support for allied candidates and apply pressure to public officials (Kessler 2018).

Research indicates that an interest group's influence is determined by the group's managerial skill, the depth of its political connections, the size and cohesiveness of its membership, its nous in timing its lobbying efforts, as well as how radical its

position is vis-à-vis mainstream opinion and how much opposition it encounters (Britannica 2018a).

Bitonti and Harris (2017) describe a number of key functions lobbyists need to fulfil to be effective:

- developing a thorough knowledge of policy formulation processes;
- establishing a network of contacts around a given policy issue;
- maintaining relations with the civil service, parliament, ministers, media, regulators;
- building coalitions with allied interest groups to increase pressure;
- gaining access to regular source of (insider) policy information.

Corruption and lobbying: two sides of the same coin?

Having reviewed a range of business lobbying tactics, the next section reconsiders the distinctions between corruption on one hand and lobbying on the other, and what can be considered good and bad lobbying practices.

While anti-corruption legislation has become more standardised and harmonised around the world in the last few decades (Fisman and Golden 2017: 29), lobbying legislation is a notable exception to this trend. As we will see in the next section, only 22 countries regulate lobbying at all (Watson 2016). Even at the national level, there are divergences in what counts as lobbying in federal systems. In the US, for instance, lobbying regulations vary greatly by state, meaning that nearly 50 different versions exist (Jenkins 2017).

Consequently, focusing on legal standards can lead to "different interpretations of the same behaviour in different countries" so that "using a legal standard to decide what is corrupt generates legitimate confusion" (Fisman and Golden 2017: 28). Giovannoni (2011) therefore argues that relying on legal distinctions between legitimate (non-corrupt) and illegitimate (corrupt) forms of lobbying is misguided.³ Instead, he discusses two alternative theoretical distinctions between corruption and lobbying: firstly in terms of the

³ See also Begovic 2005.

means used to obtain influence, and secondly as regards the target of the rent-seeking activity.

According to the first distinction, lobbying might be seen as any activity that attempts to influence the decision-making of politicians or officials without providing them with direct benefits, while corruption is any such activity that does offer direct gains. In this view, providing expert advice to influence a politician's vote on legislation is lobbying, while paying that politician a bribe to vote a certain way is corruption. Unfortunately, however, what counts as a direct benefit is not always straightforward. Donations to an election campaign may not differ fundamentally from bribes in that they offer a direct benefit to a candidate attempting to win public office (Giovannoni 2011: 12).

Giovannoni (2011) therefore provides a second distinction: the intended target of a private entity's rent-seeking behaviour. Simply put, lobbying is rent-seeking activity directed at rule-makers, while corruption is rent-seeking activity aimed at rule-enforcers. This distinction is also imperfect; it would mean, for instance, that bribes paid to legislators (rule-makers) would be categorised as lobbying.

Nonetheless, this perspective does yield some useful insights. Seen in this light, corruption and lobbying are two sides of the same coin; aside from voting they constitute the main means for private entities to influence the state apparatus (Giovannoni 2011: 12).

Giovannoni (2011: 16) goes on to argue that, as twin forms of rent-seeking activity, lobbying and corruption are substitutes rather than complements. As such, business may choose one strategy over the other depending on a number of factors. Giovannoni (2011: 13) theorises that whether firms choose lobbying or corruption is largely a function of the strength of political institutions in a given country. This means that where lobbying is a viable rent-seeking strategy, such as in democratic high-income states, corruption is likely to be lower. In fact, an empirical study of firm behaviour found that in democratic settings with robust media independence, businesses "systematically point to lobbying as the most effective way of exerting political influence" (Giovannoni 2011: 16). While lobbying can be more expensive in the short term, in the long-term it is a more effective strategy to change the rules

of the game rather than simply evade them in a corrupt fashion (Campos and Giovannoni 2008).

Giovannoni (2011: 13) also proposes that larger firms are more likely to engage in rule-changing behaviour (lobbying), while smaller enterprises with less clout will tend to target rule-enforcers in an attempt to gain commercial advantage (corruption).

When does lobbying become corruption?

Influence and rent-seeking on the part of private entities is inevitable. It is therefore necessary to operationalise the theoretical insights from Giovannoni and others to determine the circumstances under which lobbying becomes illegitimate.

According to Scott (1972), there are three standards to determine whether an action is corrupt: the standard of public interest, the standard of public opinion and the standard of the law.

First, despite legitimate concerns about relying solely on the legal framework, where lobbying activity breaks any existing regulation, it can be considered corrupt.

Second, lobbying activity that provides a direct benefit to politicians or public officials in exchange for favourable treatment can be seen to have negated the principle of prioritising the public interest. The challenge here is that direct benefit is defined inconsistently across jurisdictions.

Third, the principle of proportionality should be considered. Does one particular entity or interest group exert disproportionate influence over policymaking? Again, there is no universal standard for what is proportionate, but the standard of public opinion could be considered a proxy.

The final part of this section briefly considers the outcome when business influence becomes disproportionate.

Undue influence and policy capture

Undue influence is a subtle form of corruption that is not necessarily illegal (OECD 2017), as interest groups might exercise influence on policymaking without resorting to illegal payments (Kaufmann et

al. 2000). Indeed, policy capture might arise as a result of some of the legal practices surveyed above.

However, as the OECD acknowledges, where lobbying activities are intended to cultivate a “sense of reciprocity” with a public official – such as political donations that come with strings or the promise of future employment in the private sector – these activities can be said to have failed the public interest standard (Gurría 2009).

Where such practices are left unchecked, this can result in what ALTER-EU (2018) refers to as “corporate capture”, in which “business and industry groups, gain privileged access to policymaking processes, which gives them disproportionate influence, behind closed doors”. Mitnick (2015) contends that policy capture requires more than momentary undue influence. Rather, it relies on systemic, long-term and stable relationships between industry representatives on one hand and legislators and regulators on the other.

ALTER-EU (2018) notes that corporate capture “does not affect all the institutions, or all policy areas, equally. Policy areas marked by powerful, rent-seeking industries that stand to be heavily regulated seem to be the most vulnerable”.

Good practices in self-regulation and statutory regulation of lobbying

Measures to address the inherent integrity risks in lobbyists’ unrestricted access to public officials, legislators and decision makers, and to prevent corrupt forms of lobbying from taking place, fall into two categories. On one hand there is self-regulation through voluntary (often industry-specific) initiatives, on the other there are regulatory regimes involving some degree of state and/or public oversight.

Business associations’ lobbying standards

Given business associations’ continued market share in lobbying, their general preference for opacity and the risks of undue influence where private enterprise wields disproportionate clout, it is vital that business associations are involved in self-

regulation of lobbying activities (Transparency International 2013). The International Corporate Governance Network’s (2012) Statement and Guidance on Political Lobbying and Donations encourages members to provide “clarity on the policy framework and exactly what the company is doing, who the decision makers are, when and how the company seeks to influence public policy and the political process”.

There have been some voluntary initiatives on the part of business associations to develop transparency standards for lobbying. Of particular relevance here is Transparency International Ireland’s 2015 study, *Responsible Lobbying in Europe*, which provides a detailed overview of voluntary lobbying standards and practice (TI Ireland 2015).

One of the most important tools for self-regulation is a code of conduct defining ethical behaviour, which has been adopted by a number of professional lobbying associations. One component of an effective ethics code for lobbying associations is that membership is made contingent upon agreeing to abide by the code. Codes can list the constraints on activities and also prescribe specific behavioural rules for lobbyists. For example, codes for the Association of Professional Political Consultants (APPC) and the Public Relations Consultants Association (PRCA) in the United Kingdom provide general principles as well as guidance on the practice of lobbying: they include some specific restrictions on the flow of money from lobbyists to government officials. National associations, such as the Public Relations Institute of Ireland (PRII) or the Swedish Public Relations Association (SPRA), are active forces in training lobbyists and promoting ethical standards of behaviour. These national associations also participate in regional associations, such as the European Public Relations Confederation (CERP), where they share experiences and knowledge through conferences and studies (TI Ireland 2015).

Civil society organisations, such as AccountAbility, the World Wildlife Fund and SustainAbility, as well as international initiatives including the United Nations Global Compact have been particularly active in promoting this issue. Since 2000, such organisations have been highlighting good and bad lobbying practice among businesses, as well as developing standards and guidance on responsible lobbying standards. The Global

Reporting Initiative (GRI) and the International Standards Organisation (ISO) have developed tools to help organisations report on their responsible lobbying commitments (TI Ireland 2015).

TI Ireland (2015) identifies five principles for responsible lobbying by organisations and lobbying professionals. These principles are legitimacy, transparency, consistency, accountability and opportunity. The five principles imply that lobbyists and the organisations they represent will:

1. only advocate measures that are evidence-based and never use gifts, entertainment, donations or payments to influence policy makers;
2. be open and truthful in their communications with stakeholders;
3. align their lobbying activities with their corporate social responsibility (CSR) policies and act in accordance with those policies;
4. familiarise and train their representatives on their standards, put systems in place to hold their representatives to account for transgressions and publicly report on implementation;
5. identify opportunities to work with others on issues that are in the public interest.

In countries where lobbying is not statutorily regulated, or where regulation is weak, companies can still publish information regarding any meetings they hold with lobbyists, lobbying organisations or special interest groups of their own accord. Regularly publishing this information would shed considerable light on which companies and individuals are meeting with directors and executives of public/state companies.

These developments and self-regulation initiatives are encouraging, but most agree that they are no substitute for hard regulatory regimes requiring public disclosure about lobbying activities, which should detail the targets of lobbying activities, budget, individuals, political contributions and material produced in support of lobbying efforts (Transparency International 2015).

Regulatory regimes

International standards

There is broad consensus that the purpose of lobbying regulation is to ensure transparency of the impact of lobbying on the decision-making process, as well as accountability of decision makers for policies and legislation enacted. Regulations should aim to ensure a level playing field for all actors to participate in the decision-making process on an equal footing, and there should be specific mechanisms to prevent potential conflicts of interest that may arise from attempts to influence the decision-making process. Further, given the informal nature of much lobbying activity, as noted in the previous sections on how businesses lobby, most commentators also agree that regulation can only be one element of a strategy to ensure fair lobbying. Furthermore, enforcement of any regulation, but also a broader willingness by all actors involved to act ethically, will be crucial to creating an environment of ethical and fair lobbying and public decision-making.

When it comes to the detail of regulation, a number of international standards can show what is required of lobbyists and public decision makers, and how effective specific mechanisms, such as lobbying registers, are.

A 2013 OECD study, *Transparency and Integrity in Lobbying*, identified five elements key to strong and effective lobbying regulation:

1. The definition of lobbyists and lobbying activities targeted by regulation are clear and unambiguous;
2. Disclosure requirements provide pertinent information on key aspects of lobbyists and lobbying, such as the objectives, beneficiaries, funding sources and targets;
3. Rules and guidelines set standards for expected behaviour, for example, to avoid misuse of confidential information, conflict of interest and prevent revolving door practices;
4. Procedures for securing compliance are framed in a coherent spectrum of strategies and mechanisms, including monitoring and enforcement;
5. The organisational leadership promotes a culture of integrity and transparency in daily practice through regular disclosure and auditing to ensure compliance (OECD 2013).

In 2015, a coalition of NGOs (Transparency International, the Sunlight Foundation, Access Info Europe, the Open Knowledge Foundation) published *International Standards for Lobbying Regulation*, which lay out their view of best practice in regulating lobbying, drawing on elements of existing lobby regulations and referencing various existing international standards on the matter (TI et al. 2015).

These standards advocate for broad, clear definitions of lobbyists and their activities, ensuring comprehensive coverage of the lobbying community, a mandatory disclosure regime that allows the public to have access to information regarding who lobbies whom on what issues, as well as the financial flows on those activities. The coalition argue that lobbying regulation should also be part of a broader suite of measures aimed at transparency and accountability in the public sector, including proactive transparency measures such as legislative footprints, the effective

management of conflicts of interest and robust asset declaration systems. Furthermore, the standards call for equality of opportunity and balanced and fair representation, and participation of different interests in the policymaking process.

Regulation in practice: Public registers

Globally, as previously mentioned, only 22 countries have enacted a specific lobbying regulation at the national level, and the quality of regulation varies widely. The Sunlight Foundation provides a useful comparative table of existing lobbying regulations and the degree of transparency they afford on lobbying activities (Sunlight Foundation 2016). Transparency International's 2015 report, *Lobbying in Europe: Hidden Influence, Privileged Access*, details European countries' approaches to regulating lobbying (Transparency International 2015).

Country	Database format and accessibility	Database shows spending	Database shows clients	D
Australia	Searchable data	No	Yes	N
Austria	Searchable data	Yes (if over €100,000)	Yes	N
Canada	Searchable data	No	Yes	Ye
Chile	Online data	No	Yes	Ye
France	Sortable data	Yes	Yes	N
Ireland	Searchable data	No	Yes	Ye
Israel	Online data	No	Yes	N
Lithuania	Online data	No	No	N
Mexico	PDF	No	No	N
Montenegro	No lobbyists registered	N/A	N/A	N
Netherlands	PDF	No	Yes	N
Peru	Online data	No	Yes	Ye
Poland	PDF	No	No	N
Slovenia	Sortable data	No	No	N
United Kingdom	Searchable data	No	Yes	N
EU	Searchable data	Yes	Yes	Ye

Source: Sunlight Foundation (2016)

The cornerstone of most regulations is a lobbying register. The most recent legislative developments have been seen in France, where a lobbying law, known as Sapin II, was adopted in December 2016 and has been in force since May 2018 (Haute autorité pour la transparence de la vie publique 2018). Lobbyists active in France are now legally required to register their organisation and lobbying

activities in a public electronic register (repertoire), created on 1 July 2017. The requirements purport to apply to all organisations and individuals who are remunerated for interest representation activities, although it does include a blanket exception for public bodies, including labour unions. A further exception was recently passed in parliament, exempting religious organisations from

registering. The data contained in the register is publicly accessible in open data format since 2018. The French law follows the form of the 2015 Irish law quite closely (Irish Register of Lobbying 2018), as well as the European Commission's transparency register (European Commission 2018). The latter, however, remains voluntary in nature, while the French and Irish laws require mandatory registration and reporting of activities. The French law has been criticised for its exceptions and for not going far enough in terms of the level of detail that lobbyists are required to disclose (ALTER-EU 2017).

Other regulatory mechanisms

There is a wide array of further tools that can be used to shed light on the lobbying activities of companies and other interest groups. Transparency and integrity must be promoted, both on the side of those lobbying and those who are the targets of lobbying efforts. TI Ireland (2014) has set out a range of reforms that should complement a register to ensure the integrity of public decision-making.

These include:

- strict ethical codes and standards in public life, accompanied by proper training for officials and elected representatives;
- robust measures to control the revolving door between public and private life, which pose particular risks of conflicts of interest, including a mandatory two-year 'cooling-off' period for senior public officials;
- clear rules for expert and advisory groups to allow proper scrutiny of their work and ensure balanced composition and stakeholder diversity;
- additional proactive transparency measures, including the online publication of declarations of interest by elected and senior appointed officials and the introduction of a 'legislative footprint' to allow the public to see the input of groups and individuals into shaping laws.

The latter recommendation to implement legislative footprints, though a relatively new and untested idea, is seen to hold promise as a tool to increase transparency in legislative lobbying. It aims to provide a comprehensive public record of

lobbyists' influence on a specific piece of legislation (Martini 2013b). Legislative footprints have been implemented by some MEPs at the European Parliament, as well as in some European countries (Poland, Latvia). A detailed examination is beyond the scope of this brief; however, Transparency International EU (2015) has produced [an overview of this tool](#) that may be of interest to readers.

Compliance and enforcement

Does the private sector comply with or flout lobbying regulation?

The official line from business and lobbyists is that they welcome lobbying regulation because it helps to bring their line of work out of disrepute. According to a survey carried out by Burson Marsteller (2013), 55 per cent of professional lobbyists agreed, and 24 per cent strongly agreed, that greater transparency in lobbying would help to reduce the actual or perceived problems of influence peddling by lobbyists.

Despite this stated enthusiasm for regulation, a study by Vigeo Eiris, a non-financial ratings agency, has found little progress in terms of the practice and promotion of ethical lobbying by companies. Their 2016 report, a follow up to a similar study in 2013, found that while "several companies have demonstrated positive responses to stakeholders' calls for action [for more responsible lobbying], the majority of companies in Vigeo's rating universe continue to display a weak performance on the topic" (Vigeo Eiris 2016: 1). Their key findings include:

- The majority (75 per cent) of companies display weak performances regarding responsible lobbying;
- The level of maturity regarding transparency in lobbying expenditures appears to be slightly higher in North America, where most companies must abide by regulatory requirements;
- The introduction of the Transparency Register by the European Commission in 2011 has led to the progressive adoption of formal commitments to ensure responsible lobbying among European companies;
- Investors have been one of the strongest voices calling on companies to improve

transparency and integrity in lobbying practices (Vigeo Eiris 2016: 1).

Earlier studies produced by SustainAbility (2007) and the UN Global Compact (2005) had also highlighted the failure of most businesses in Europe to either adopt responsible lobbying standards or to report on their lobbying activities. Some examples of exceptional companies who have taken measures to ensure more responsible lobbying are mentioned later in this brief.

Compliance on paper: Do companies register?

It is difficult to find accurate statistics on compliance with lobbying regulations, by lobbyists in general and companies in particular. One way to evaluate whether lobbyists are complying with or flouting regulations is to do a sense-check by looking at the number of lobbyists registered and comparing this with the estimated numbers engaged in lobbying activities. The examples below indicate that the level of compliance with regulations, such as lobbying registers, is a function of the robustness of those regulations and the strength of enforcement mechanisms and sanctions.

Poland was one of the first European countries to regulate lobbying and certainly does not represent best practice, given the narrow scope of its definitions and weak enforcement. The Polish Lobbying Act (2006) centres around the concept of “professional lobbying”, defined as a paid action performed on behalf of third parties aimed at influencing a public authority in the legislative process. The act set up a register for those who carry out such activities. Unusually, there is a fee required upon registration, which could act as a disincentive for compliance. In the event of lobbying by an unregistered entity, the minister responsible for administrative affairs can issue a fine.

In addition to the lobby register set up under the Lobbying Act, the two parliamentary chambers keep their own registers of lobbyists accessing their premises. However, the three registers have been heavily criticised and characterised as lacking in relevant information on where and how lobbyists seek to gain influence. In total, the three combined have garnered fewer than 400 entries over 10 years, which cannot plausibly represent

the lobbying activity in a country the size of Poland. In 2015, only 26 interactions with lobbyists were reported in total, with several ministries apparently not being approached even once. Overall, no interactions with unregistered professional lobbyists had been reported up to the end of 2015 and therefore no sanctions imposed (Bauer et al. 2016). This is a clear example of an ineffective regulation that is routinely flouted.

In the UK, the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 (TLA) of 2014 similarly requires only consultant lobbyists to disclose the names of clients through the register of lobbyists since 2015. To date, only 145 organisations and lobbyists have registered under the TLA (Sapers 2017) indicating the register is capturing only a tiny fraction of attempts to influence public policymaking. This is not due to non-compliance by companies and lobbyists per se but rather to the very limited scope of the definition of lobbyist as set out under the TLA. Only paid consultant lobbyists – and hence not in-house lobbyists, business executives or civil society advocates – are required to register.

Stronger enforcement mechanisms supports compliance

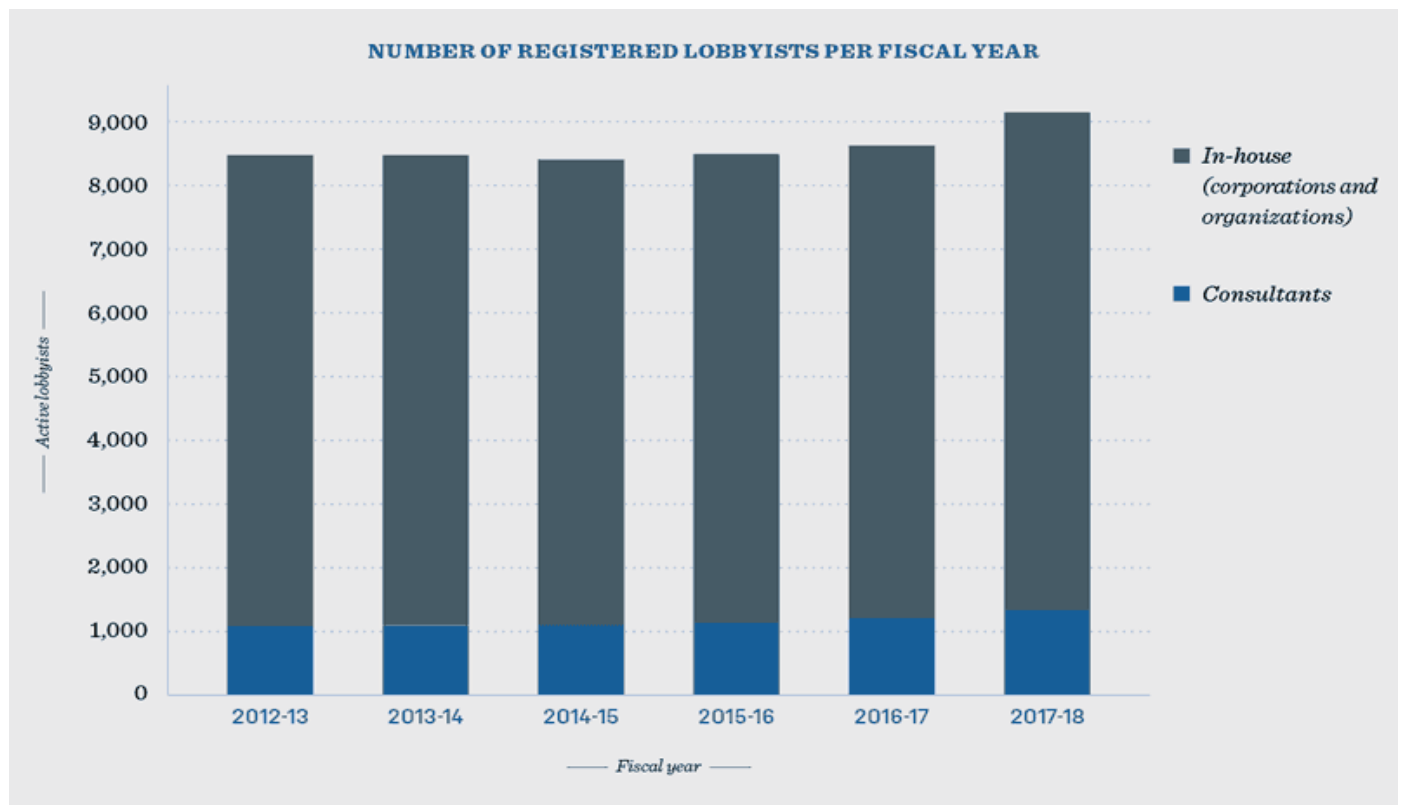
In countries with more robust and broader regulation and stronger enforcement mechanisms, there is some evidence of greater compliance by business and other lobbyists. In Ireland, which launched its lobbying register in 2017, the first operational year saw over 10,000 entries from 1,678 registrants. A review of the register demonstrates a broad mix of businesses, business associations and civil society organisations registering the details of their interactions with public officials and representatives. There is also evidence of active enforcement for non-compliance – during 2017, 522 fines were issued for late returns or failure to comply with the provisions of the act (SIPO 2018).

In France, as mentioned above, the repertoire is the newest in Europe – active lobbyists were required to register by September 2017 and to file first reports by April 2018. By October 2018, 1,649 lobbyists were registered and 5,707 reports had been filed (HATVP 2018). While it is perhaps too early to judge whether this indicates strong or weak compliance, it is notable that the figures are

comparable to the Irish register, despite France having a population more than 10 times the size of Ireland and over three times as many deputies seated in parliament. One of the criticisms of the French law has been that its sanctions for non-compliance are not prohibitive, especially for large corporations with deep pockets. The maximum fine for failure to comply is €15,000 (AITEC 2016).

Canada has one of the most well-established and robust lobbying regulations worldwide. Detailed data on who is lobbying whom is available online and in an open data format. The Lobbying Act contains perhaps the strongest penalties and sanctions of all lobbying regulation regimes. It is an offence to fail to file a required return or knowingly make a false or misleading statement in a return, and breaches can lead to fines of up to CA\$200,000 and/or imprisonment (Sapers 2017).

Since the year 2000, out of 190 administrative reviews, 7 per cent (14 cases) have been referred to the police. Since 2013, there have been four convictions of serious offences, showing that the courts take infringements seriously (Bauer et al. 2017). The most recent annual report indicates high levels of compliance with 9,084 lobbyists registered between 2017 and 2018. Over 23,000 monthly communication reports were filed, 94 per cent of which were filed on time. Furthermore, the annual report gives an insight into the types of lobbyists active (the vast majority are in-house rather than consultant lobbyists) and the issues lobbied on – the top five issues in 2017/2018 were international trade, environment, health, industry, and taxation and finance.



Source: Office of the Commissioner of Lobbying of Canada, Annual Report 2017-2018.

The available evidence suggests that, while companies still have a long way to go to understand the value of responsible lobbying, lobbying regulations and registers can help move them in the right direction. Registers also provide helpful information for civil society organisations and media looking to hold

companies accountable for their lobbying activities and positions. Watchdog organisations, such as www.lobbyfacts.eu, mine the data provided by lobby registers to reveal the nature and scale of companies' lobbying activities and to highlight discrepancies between their stated positions and those they support via lobbying expenditures.

Oxfam likewise carried out recent research comparing the public statements of large companies and corporations with the positions they supported through their lobbying expenditures, indicating mismatch and dissonance between their public positions and those they supported via lobbying (Oxfam 2018). This information is valuable for consumers and investors, giving a fuller picture of companies' value systems and helping inform their decisions.

Leaders in the field: companies standing out for transparent lobbying practices

While in general the literature reports slow progress in the area of responsible lobbying, there are a number of examples of companies leading on the issue and beginning to take transparency and integrity in lobbying seriously. This final section provides some examples of individual companies who have been singled out as good practice examples when it comes to responsible and transparent lobbying.

Vigeo Eiris's 2016 report presents the German multi-national E.ON and US-based Wisconsin Energy as good practice examples. E.ON is praised for its transparency on lobbying expenditures, as its disclosures in the voluntary EU Transparency Register provide its approximate lobbying budget, topics covered, internal lobbyists details, and the amount of funding received through EU institution grants. In addition, on its website, the company transparently describes its trade union memberships and the lobbying activities carried out by these groups (Vigeo Eiris 2016: 5).

Wisconsin Energy is also praised for the level of detail on lobbying activities included annually in its corporate responsibility report. The company reports direct expenses at both state and federal level, as well as the portion of its trade union membership dues used for political purposes. The report also contains an in-depth description of subjects lobbied in addition to the company's positions (Vigeo Eiris 2016: 5).

Meanwhile, other companies are singled out for their commitment to responsible lobbying as evidenced by the decision by AXA, BNP Paribas, Credit Agricole, GSK France, L'Oreal, La Poste,

Lafarge, Roche France and Société Générale to sign a declaration for transparent and ethical lobbying in conjunction with Transparency International France. The declaration had been signed by 14 French companies as of May 2015 (Vigeo Eiris 2016: 5).

A 2013 SOMO report also presents some good practice examples of companies leading on responsible lobbying. It highlights HP and Ford, whose websites provide a list of issues on which they actively lobby, including their arguments and views. Google is also reported to be relatively transparent, while also being one of the top spenders on lobbying in the US. Google has an area on its corporate governance website especially dedicated to its public policy approach (Google 2018). Moreover, Google also publishes a list of political candidates that receive contributions from the company. The list contains contributions up to 2018 (SOMO 2013: 38).

Finally, BASF is also praised by SOMO for its support of the registration of lobbyists within political institutions such as the EP. It lists all their interest representatives online and, as a principle, does not make donations to political parties (SOMO 2013: 38).

So far, these companies continue to be the exception rather than the norm; however, these examples are indicative of a trend that lobbying activities are slowly becoming more transparent. As stated by Vigeo Eiris, however, the path to full disclosure and the abolition of undue influence is long. TI Ireland (2015) argues that the next step for companies will be in ensuring responsible lobbying commitments are mainstreamed into CSR policies so that responsible lobbying is seen as being just as important as other sustainability criteria on which companies report annually.

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