

The Good, The Bad, and The Lobbyist

Definition:

Lobbying (also **lobby**) is the act of attempting to influence decisions made by officials in the government, most often legislators or members of regulatory agencies. Lobbying is done by many different types of people and organized groups, including individuals in the private sector, corporations, fellow legislators or government officials, or advocacy groups (interest groups). Lobbyists may be among a legislator's constituents, meaning a voter or bloc of voters within his or her electoral district, or not; they may engage in lobbying as a business, or not. Professional lobbyists are people whose business is trying to influence legislation on behalf of a group or individual who hires them. Individuals and nonprofit organizations can also lobby as an act of volunteering or as a small part of their normal job (for instance, a CEO meeting with a representative about a project important to his/her company, or an activist meeting with his/her legislator in an unpaid capacity). Governments often define and regulate organized group lobbying that has become influential.

The ethics and morality of lobbying are dual-edged. Lobbying is often spoken of with contempt, when the implication is that people with inordinate socioeconomic power are corrupting the law (twisting it away from fairness) in order to serve their own conflict of interest. But another side of lobbying is making sure that others' interests are duly defended against others' corruption, or even simply making sure that minority interests are fairly defended against mere tyranny of the majority. For example, a medical association, or a trade association of health insurance companies, may lobby a legislature in order to counteract the influence of tobacco companies, in which case the lobbying would be viewed by most people as justified (duly defending against others' corruption). The difficulty in drawing objective lines between which lobbyists are "good lobbyists" and which ones are "bad ones" is compounded by the cleverness with which lobbyists or their clients can speciously argue that their own lobbying is of the "good" kind. At heart, the effort to influence legislation is a power struggle. As in other forms of power struggle, such as war or law enforcement, motives range from predation (acting as a predator) to self-defense to fighting for justice, and the dividing line between predation and justice is subject to rationalization.

You will be assigned to read one of the following articles:

1.

All Lobbyists are Not Created Equal

The rules miss the distinction between lobbying that's good for democracy and lobbying that perverts it.

April 17, 2009 8:00 PM EDT

On his first full day in office, Barack Obama issued an executive order designed to restrain lobbyists. The new rule says that if you were a registered lobbyist in the past two years, you can't work for the administration on any issue you touched. After you leave government, you can't lobby the administration at all. The only way around this ban is a special waiver from the White House budget director.

The instinct behind this decree is a sound one. The mercenary culture of Washington flourished under Republican rule, with the Jack Abramoff scandal and Tom DeLay's K Street Project, which treated lobbying contracts as spoils to be doled out by the party in power. Obama knows it's going to take some strong garlic to ward off the vampires on his own side of the aisle. Unfortunately, his intended reform is driving stakes through the hearts of innocent bystanders. The problem isn't that the rules are too strict. It's that they miss the crucial distinction between lobbying that's good for democracy and lobbying that perverts it.

An example of the bad kind of lobbying came to light last week when The New York Times revealed that Sallie Mae had hired Tony Podesta and Jamie Gorelick, two Democratic fixers, to save it from extinction. Sallie Mae insures college loans made by private banks. Like Fannie and Freddie, her inbred cousins in the housing business, Sallie embodies the principle of privatizing gains and socializing losses. Obama has sensibly proposed eliminating it. According to the

Congressional Budget Office, having the Feds make loans directly would save \$94 billion over the next decade, providing funds for millions more students to go to college.

To a useless and wasteful entity fighting for survival, Podesta has an understandable appeal. He is one of Washington's top Democratic fundraisers. His wife, Heather Podesta, is a well-connected lobbyist in her own right. They like to entertain politicians at their home filled with ghastly contemporary art and recently made news by donating Shepard Fairey's iconic Obama poster to the National Portrait Gallery. But Tony Podesta's biggest advantage is being the brother and former partner of John Podesta, who was Bill Clinton's last chief of staff and headed Obama's presidential transition. In recent years, John, who has focused on advancing liberal causes by founding a think tank called the Center for American Progress, is kinetic and wiry. Tony, who partnered with the disgraced Republican Robert Livingston to represent tobacco, defense and oil interests (as well as NEWSWEEK's parent, The Washington Post Company) has set aside his views to concentrate on making as much money as possible.

As an illustration of the other kind of lobbying, the good kind, consider Tom Malinowski, who worked as a foreignpolicy speechwriter during the Clinton administration. Since leaving government, Malinowski—who declined to comment for this story—has been Washington advocacy director for Human Rights Watch, where he has spoken up for political prisoners abroad and against the Bush administration's policies on torture and detention. After serving on an advisory committee for the Obama campaign, Malinowski reportedly became a top candidate for a job dealing with human rights and international law at the State Department. But because he was registered as a lobbyist, he can't be hired without a waiver, which he hasn't been able to get.

There is every imaginable ethical difference between Podesta's work and Malinowski's. Podesta represents the human-rights-abusing government of Egypt; Malinowski has advocated for victims of Egyptian oppression. Podesta greases the skids for his clients with fat campaign contributions; Malinowski tries to convince legislators without donating money. Podesta's firm grossed \$19 million last year and has been signing up new clients at a ferocious clip since the Democratic victory in November; Malinowski earns a nonprofit-sector salary. Podesta undermines democratic principles by selling his influence. Malinowski enhances democracy through legitimate advocacy.

As a matter of law, however, it is probably impossible to distinguish between them. Both are exercising the same First Amendment right to petition the government. Both have a legal obligation to register as lobbyists. The rule that bars the one Obama doesn't want prevents him from hiring the one he does want. In addition to denying the president the service of any number of desirable nominees, the new rules are undermining the disclosure laws they're intended to reinforce, since all kinds of lobbyists are now desperate to avoid registering. The exceptions Obama has made to this bad policy only make the unfairness worse.

The president could deal with Washington sleaze much more effectively through explanation and symbolism. Instead of tying his own hand with counter-productive rules, he could instruct his staff to avoid dealing with hired-gun lobbyists, putting interest groups on notice not to hire them. He could explain the difference between influence peddlers and committed advocates, reminding the country that he was once one of the latter, when he lobbied for public-housing residents in Chicago. Best of all, he could say people like Tom Malinowski are welcome in his White House and that people like Tony Podesta aren't.

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2.

5 Myths About Lobbyists

By Megan Carpentier
Saturday, May 24, 2008 12:00 AM

The presidential race turned into a game of hot potato this week, as Republican Sen. John McCain and Democratic Sen. Barack Obama tried to bat away accusations of ties to lobbyists. In this game, the candidates are reflecting the views of (or, depending on your point of view, pandering to) the public. Polls consistently find that a majority of Americans hold lobbyists in low regard, and in one recent survey more than 70 percent of respondents favored reducing the influence of lobbyists and special interest groups in Washington. I can't argue with the numbers. But as a former lobbyist myself, I can

say that McCain and Obama are perpetuating some misunderstandings and myths about lobbyists. Sure, there are people like Jack Abramoff who have made millions gaming the system and partnering with corrupt politicians. But there are also plenty of decent, hard-working people who don't bribe Congress and have never had three martinis for lunch. These, as Dick Wolf would say, are their stories.

Myth 1: Lobbyists are all wealthy fat cats.

Oh, how I wish that were true; I might never have left the profession. Certainly, some lobbyists make out exquisitely. The Post's Citizen K Street series last year profiled lobbying star Gerald Cassidy, whose personal wealth surpasses \$125 million. But many, many lobbyists toil from morning until night -- checking emails, making phone calls, writing issue papers and, yes, lobbying members of Congress and their staffers -- for salaries that make it hard to cover the cost of living in Washington. My first lobbying job after graduate school in 2001 paid \$32,000 a year. That's hardly the \$145,000-\$160,000 (plus bonus) that first-year lawyers can expect at Washington's big firms. It's also only a little more than what a fresh college graduate makes for answering constituent mail in a congressman's office. But, with more than 30,000 registered lobbyists in Washington, not everyone can be rolling in dough or else who would do the grunt work?

Myth 2: Lobbyist is shorthand for soulless corporate shill.

Lobbyists get all kinds of flak for being intellectually promiscuous and ethically-lacking, because people assume they work for whichever, and however many, corporate clients that are willing to pay them. Some lobbyists do have a stable of different corporate clients. But many lobbyists work in-house. And it's not just corporations that hire them. So do trade associations and consumer groups, universities and state governments. There's literally a lobbyist for every cause and every issue you can think of, and a bunch of ones you've never thought of. Most people who lobby focus on a specific set of issues about which they feel pretty strongly. It's hard not to. Working 60 hours or more a week on an issue you don't care about burns you out. (I tried and failed.) Oh, and even some of those promiscuous corporate lobbyists also take work for smaller organizations representing issues near and dear to their hearts. Like everything else in life, nothing is black and white.

Myth 3: Lobbyists don't contribute anything of value to the political system.

Some lobbyists are worthless, I can't argue with that. But most of them do serve a purpose. Thousands of bills are introduced in Congress each year, hundreds will come up for consideration, and most of them generate very little constituent input. To help members decide how to vote, it would be awfully inefficient if Congressional staffers reinvented-the-wheel to research every issue. Instead, they usually try to weigh what different lobbyists with specific knowledge about that issue say. The process often helps identify why a bill may or may not be in the interest of a district, along with unintended consequences of a particular section.

Myth 4: Lobbyists participate in politics only to help their clients or employer.

The vast majority of lobbyists started life as Congressional or campaign staffers -- that's one reason there's a whole section ethics law dealing with when former staffers are allowed to lobby. Knowing how Capitol Hill works and the people who work there isn't something you can pick up from a book or by reading the news, so working there is practically a prerequisite for lobbying. It's one of the first things you get asked about in a job interview, even years into your lobbying career. But what it means in terms of the kind of people that end up as lobbyists is that they are passionate about politics. They don't put in time on the Hill because they hope it will someday lead to a more lucrative lobbying job. Similarly, they don't leave their family and friends for months on the campaign trail because they hope it will be good for business. They go back to politics because it's addictive, and they can't stay away.

Myth 5: Lobbying is a game of quid pro quo in which campaign contributions are exchanged for votes.

No lobbyists I know expect their political contributions to get them legislative support. There may be a vague hope that giving to a campaign might get them 15 minutes of face time with a staffer for a legislative pitch. But even maxing out the donation limits -- \$2,300 for an individual or \$5,000 for a Political Action Committee -- doesn't get you a ton of attention from a politician who needs anywhere from several hundred thousand dollars (for Congressional races) or several million dollars (for presidential candidates) each cycle. A lot of lobbyists have tried to get noticed by becoming so-called

bundlers, recruiting donations from other people and turning over all the checks at once. But with hundreds of bundlers bundling, even that isn't going to get you much attention anymore.

In my experience, most lobbyists give primarily because of the pressure to give. Politicians treat donations as their due, rather than as a favor for which they asked. And, as when the collection plates comes around in church, no one wants to be caught not tithing. I would get several of calls and e-mails every day from campaigns and other lobbyists soliciting.

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3.

Behind the closed doors of Washington lobbyists

By Sharyl Attkisson

(CBS News) Members of Congress are widely regarded as the nation's shakers and movers. But behind them, unseen, are a powerful force of lobbyists shaping everything from the national dialogue to the actual laws Americans will have to follow. Sharyl Attkisson gives us a rare and exclusive peek behind the sometimes shadowy lobbyists' curtain in Washington, D.C.:

"The Catholic Church has lobbyists," said Professor James Thurber. "The Boy Scouts have lobbyists. The AFL-CIO has lobbyists. Apple does. Everybody has a lobbyist."

No one knows the business of Washington lobbying better than Thurber. He helped write a report on lobbying reform for the American Bar Association, and he teaches a course to aspiring lobbyists at American University.

His definition of a lobbyist: "Someone who advocates for someone else and is getting paid for it."

The fingerprints of lobbyists are all over daily life. They defeated plans to cap credit card interest rates.

They made pizza count as a vegetable on school lunch menus.

They wrote a lot of the health care reform law.

Thurber estimates \$9 billion is spent every year on lobbying and related advocacy. A top lobbyist can make millions.

He says the influence business is the third largest business in Washington, D.C., after government and tourism. "I think there's probably 100,000 people in the industry - not lobbyists specifically, but in the industry, supporting all of that in Washington," Thurber said.

And what do clients expect from their lobbyist? We asked Gary Lauer, CEO of a \$150 million California firm called eHealth Insurance, a web site that lets customers shop for health insurance from 180 companies.

"I was interested in getting some lobbyists a) who had high credibility, and b) who could frankly get some doors open so that we could explain what the situation was and what we think the remedy would be," Lauer said.

Specifically, Lauer was seeking to change the rules of health care reform so that low income Americans can use government subsidies to buy insurance through companies like eHealth.

Lobbyist Lanny Davis agreed to represent eHealth. Attkisson asked Davis what he considered "the good, the bad and the ugly" of lobbying in Washington.

"The good is you meet interesting people, and certainly if it's a cause you believe in, you go to Members of Congress and you can be passionate and truthful and do the opposite of what most people think lobbyists do," Davis said. "The bad is that most people think you're sleazy and you're doing something against the public interest."

Davis founded Purple Nation Solutions, a PR firm that does lobbying. He's a former White House counsel to President Clinton, and a friend to Hillary.

His political connections date back to Democrat Bobby Kennedy, and extend well past Republican George W. Bush. (They were fraternity brothers in college.)

Davis sees his role as an educator, teaching Members of Congress about his clients' issues.

"The most important function a lobbyist provides is to provide facts and information," he said.

But first, they have to get their foot in the door.

The business of lobbying is shrouded in secrecy. We were given rare access to the inner workings - including a networking event for lobbyists and their guests.

Our cameras were allowed along on actual lobby visits, being conducted most any time Congress is in session.

Davis is such a familiar face in the halls of the Capitol, Republican Congresswoman Mary Bono Mack greets him with a kiss.

"Lobbyists do trade on - if you want to use the 'bad' word - trade on friendships, but that's part of life," Davis said. "Do I ever ask a friend to do something contrary to their values, to their judgments, on the facts? Never."

Today, they're paying a call on Pennsylvania Democratic Congressman Chaka Fattah.

"I try to make sure that my door is open to everyone, and that we get the right information so we can make the best decisions," Fattah said.

There are two components to successful lobbying: Access, and money - donations from lobbyists and their clients to Members of Congress. While it's illegal for Members to cast a vote in exchange for campaign contributions (that would be bribery), there's plenty of walking right up to the line.

"I think that when people give campaign contributions, they are not there simply to improve the workings of democracy. They're there to buy access," Thurber said.

"Everybody in Washington who's a lobbyist gives campaign contributions," said Davis. "Almost everybody that I know as a lobbyist. Money itself is not bad. The question [is], is somebody honest or going to be influenced by the money?"

But Professor Thurber says the relationship between lobbyist and Congress is sealed by one guiding principal: "The iron law of reciprocity - meaning, 'I'll help you if you'll help me' - is ingrained in politics. It's ingrained on the Hill. . . . That's perfectly legal. And it's non-transparent, frequently."

The campaign donations and fundraisers often take place out of public view. Earlier this year, we took hidden cameras to a swank, Key Largo resort to observe as lobbyists and other big donors paid thousands of dollars to spend the weekend with Republican Congressmen, mostly freshmen . . . on the golf course . . . charter fishing on a boat named "Good Life" . . . over drinks at the resort bar.

"These freshmen, about half of them said they were aligned with the Tea Party movement, had high ideals about changing Washington, the debt and the deficit, and tax reform and everything, but also about campaign money," said Thurber. "Well, they realized that campaigns are very expensive. And if you want to win, you've got to bring in a lot of money."

Efforts to regulate lobbying date back to 1876, when the House first required lobbyists to register with the Clerk.

In the 21st century, the lobbying industry has become a revolving door for lawmakers. They retire from Congress . . . and make more money returning as lobbyists, often getting special access with their former colleagues on Capitol Hill.

A study by the watchdog group Public Citizen found that 43 percent of Members of Congress who left office between 1998 and mid-2005 went on to register as lobbyists.

In 2007, Thurber advised then-Senator Obama, who championed sweeping lobby reforms. Lobbyist Jack Abramoff had just gone to prison for cheating clients and bribing Congress. Lawmakers passed new reforms that required strict public disclosure of lobbying activities, and limited the gifts and trips lobbyists can buy for Members of Congress.

"Big money and lobbyists were clearly drowning out the aspirations of the American people," he said in Manchester, N.H., in June 2007. "I will launch the most sweeping ethics reform in history to make the White House the people's house, and send the Washington lobbyists back to K Street."

Today, Thurber has some surprising words about President Obama: "President Obama in his campaign in 2008 said he was going to change the way Washington works. He hasn't. He's failed. Because if you want to get a piece of legislation like his health care piece through, you HAVE to bring in big interests. He did. He brought in AARP, he brought in the American Hospital Association. He brought in the AMA in a coalition to support that."

And increasingly, lobbyists aren't just influencing legislation. They help write it.

Even Davis recalls being put off by that facet of a lobbyists' role several years ago: "There were 40 lobbyists in the room and we were arguing - as if we were elected to something - about the placement of a comma. I kid you not! The placement of that comma had a huge (I won't explain why, but trust me), it had a huge importance. And I thought to myself, 'If the American people were really here and we were on C-Span, there would be blood in the streets!'"

In the end, eHealth's lobbying was successful in changing the rules. Low income Americans will be allowed to use their subsidies to buy insurance on eHealth.

"Did you have to write a proposed regulation to hand them?" Attkisson asked.

"We've written a lot," Lauer replied. "At the end of the day, the regulation didn't use all of our language, and that was fine, but it caught the essence of this, and it included some things that these people in health and human services thought were important, which we agreed with . . ."

"I would say that the process here is far from elegant. The process here involves influence."

"Democracy is a messy way of governing yourself, and there are imperfections that people vote for bills that they don't read and they vote for words that lobbyists have written," said Davis. "But it is the system that's better than any other system, and we just have to make it better, in my view, by having more transparency."

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The Assignment:

You will join a group of three who have each read one of the articles. With your group create a poster that explains and illustrates the pros and cons of lobbying. The poster should have an easy to read title and also have each group members name and your hour on the **BACK**. Your poster should be colorful and have many pictures to illustrate the arguments you make.