

LOBBYING

Lobbying means using a variety of persuasive strategies to convince political elites to make decisions favoring one social or economic interest over the interests of others, or even over the public interest. Lobbying is typically done by professionals called lobbyists, who are employed by interest groups or hired by individual or corporations to convince legislators, regulators, and judges to enact legislation, implement administrative rules, or render judicial decisions favoring those interests. While lobbying may be done directly by individuals or corporations, given the complexity of the national government, and the increasing complexity of state and local governments as well, it is typically, and often much more successfully, done through lobbyists. Lobbyists generally have a much more sophisticated understanding of how government works and how policymakers might be persuaded to meet the demands of organized interests. It is this knowledge and experience, coupled with the connections that lobbyists have established with political elites, that makes these people worth hiring to lobby.

In the United States, the act of lobbying, either directly or through a hired professional lobbyist, is considered to be protected by the First Amendment's guarantee that "Congress shall make no law respecting . . . the right of the people . . . to petition the Government for a redress of grievances." In cases such as *United States v. Harriss*, 347 U.S. 612 (1954), and *Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc.*, 365 U.S. 127 (1961), the U.S. Supreme Court has consistently upheld a First Amendment protection of lobbying, including lobbying through the hiring of professional petitioners (lobbyists) to act on behalf of one or more citizens of the United States. Consequently, while lobbying can be, and is, regulated by Congress in the public interest, it cannot be banned or even significantly limited.

There are several explanations for the origin of the term. One version comes from Great Britain as early as the 18th century: Individuals seeking favors from members of Parliament would lie in wait in the lobby of the House of Commons to catch legislators as they walked by. Another version pinpoints the term's origin in the United States of the 1870s, referring to influence-seekers waiting in the lobby of Washington's Willard Hotel to catch members of the House and Senate (who frequently stayed there) as they returned from Capitol Hill. Other origin stories exist, but the act of lobbying in the United States goes back at least to the nation's founders, with Thomas Jefferson complaining about the influence that northern financiers appeared to have on the first Treasury secretary, Alexander Hamilton, who was structuring the nation's finances by assuming the debts of the states after the Revolutionary War and proposing a new Bank of the United States.

Lobbying in the 19th century was essentially unregulated and often more akin to corruption, with lobbyists like Collis Huntington, Samuel Colt, self-styled "King of the Lobby" Sam Ward, and even sitting senators like Daniel Webster working the halls of Congress on behalf of powerful corporations. These men, and dozens like them, were often accused of overwhelming weak-willed legislators with bribes, booze, and companionship, though Ward himself always claimed that he

did business only during the lavish dinners he held. Many of these lobbyists, along with members of Congress, were implicated in such Gilded Age scandals as those involving *Crédit Mobilier of America* and the *Pacific Steamship Mail Company*—though nobody admitted to giving or receiving bribes, and no reform came as a result.

In the 20th century, lobbying became more professional as it became more widespread. The emergence of labor unions, trade associations, and even early public interest groups at the beginning of the century not only expanded the number of social and economic interests mobilized for political advocacy, but also meant a larger number of lobbyists being employed and pioneering new kinds of lobbying techniques. Overall, lobbying became more professionalized and took a number of strategic forms. The best-known, and still widely used, strategy is making direct, personal contact with legislators and regulators in the government. Usually, lobbyists do this by exploiting personal connections and relationships; indeed, most lobbyists are valued in their professional market by the number and quality of contacts they have with powerful individuals in the government. Typically, in-person lobbying is done by presenting persuasive information about how moving new policy—or, more often the case, keeping the status quo—will favor constituencies that are considered important to the target policymaker.

As a growing number of organized interests and corporations compete for political influence in American politics, and as new technology has emerged, new lobbying strategies have also emerged. The success of the Civil Rights Movement of the 1960s showed how effective large-scale protest could be, leading to extensive and increasingly sophisticated outsider, grassroots lobbying—with professional organizers assembling marches and rallies, and even providing signs, march routes, and watering stations to give the appearance of spontaneous protest and widespread popular demand for new policies that challenged the status quo. Lobbying has increasingly taken on a public relations dimension as well, with pressure placed on policymakers through very sophisticated advertising campaigns on television, over the radio, and, increasingly, via the Internet and through various forms of social media. Indeed, 21st-century lobbying increasingly relies on Internet technology, as lobbyists try to find new ways to swamp Capitol Hill offices with Internet-based social media communications from key constituencies around the nation.

Many scholars, journalists, and public officials have criticized lobbying as a threat to the public interest. Whether that is true or not is very subjective, but the notion of professionals trading on their relationships and insider skills to shape policy, which is supposed to be public, always casts a shadow over the practice of lobbying. It is true, however, that organizations and corporations employing lobbyists often have little control over them, raising the possibility that lobbyists are taking advantage of the people who hire them—by taking positions more in line with what lobbyists' allies in government want at the expense of clients, or by convincing clients that imaginary issues are in need of expensive lobbying. The scandal involving lobbyist Jack Abramoff in 2006 showed these ethical abuses to be real.

Despite the public's poor opinion of the profession, there has been very little effort at meaningful regulation. It is not even entirely clear how many lobbyists there

are in Washington, D.C. Individuals who meet directly with members of Congress about pending legislation are required under the Lobbying Disclosure Act (LDA) to register with the Clerk of the House and the Secretary of the Senate, revealing the issues they are lobbying and how much they are spending to do it. According to the Center for Responsive Politics, these registration records reveal that there were 11,168 registered lobbyists in 2016, with 1,741 lobbying such high-profile issues as health care and 41 lobbying low-profile issues like accounting—and collectively spending \$3.22 billion to do it (OpenSecrets.org 2017). Many of these lobbyists work directly for organized interest groups or corporations, and many others are in private lobbying firms to be contracted by groups, businesses, and individuals. Lobbying has also become a specialty of public relations firms, grassroots organization consultants, and even marketing firms, none of which are covered by the narrow definition of *lobbying* in the LDA. Consequently, the number of lobbyists in Washington, D.C., is almost certainly being underreported in the data provided by the Center.

In the wake of recent lobbying abuses, Congress passed the Honest Leadership and Open Government Act (HLOGA), intending to limit the influence of lobbying in the executive branch, including severely restricting the employment of registered lobbyists in the executive branch. One result of this was a drop in the number of lobbyists registered under LDA, as many felt they were better off simply not registering. A variety of proposals for further lobbying reform have been put forth, ranging from expanding the legal definitions of *lobbyist* and *lobbying* under the LDA, to making it much more difficult for former legislators and regulators to capitalize on their government experience by taking jobs as lobbyists, to crafting an outright ban on the profession. Lack of large-scale scandals seemingly gives lawmakers no impetus to enact new restrictions on lobbying, and even if they did, any far-ranging restrictions would likely run afoul of the First Amendment protection for lobbying.

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Further Reading

- Holyoke, Thomas T. 2014. *Interest Groups and Lobbying: Pursuing Political Interests in America*. Boulder, CO: Westview Press.
- Nownes, Anthony. 2006. *Total Lobbying: What Lobbyists Want (and How They Try to Get It)*. New York: Cambridge University Press.
- OpenSecrets.org. 2017. "Lobbying Database." Center for Responsive Politics. January 10, 2018. <https://www.opensecrets.org/lobby/>.

LOBBYIST DISCLOSURE ACT OF 1995

Lobbying is the practice of contacting a policymaker in the federal government—a legislator or staffer, or a person of similar rank in the executive branch—for the purpose of influencing legislation or rules. The practice invites abuse, not simply at the level of individual favors but as a means of gaining and controlling access to policymakers for money or favors. President Bill Clinton, when signing the Lobbyist Disclosure Act into law in 1995, called lobbying an "influence industry."