Regulating government affairs: Integrating lobbying research and policy concerns

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Abstract

Lobbying has never been as sophisticated, complex, and well-funded as it is today. Significantly, interest group strategies are more advanced than the regulatory practices meant to contain them. This raises concerns about states' ability to resist unwanted influence from interest groups. How can government regulations be brought up to speed to address 21st-century lobbying practices? We argue that there are three critical dimensions to focus on: (i) regulatory consolidation; (ii) system interoperability; and (iii) open-source implementation. These aspects address the need for better coordination within jurisdictions, cooperation across systems, and effective use of public resources. Developing future regulations along these lines can help policy to leap-ahead interest groups; while limiting unwanted adverse effects on states' administrative efficiency and political legitimacy. In doing so, we provide a constructive roadmap forward in the field, linking common discussions between researchers, policymakers, and policy stakeholders.

Keywords: corruption, government-affairs, interest groups, lobbying, transparency.

1. Introduction

Over the last 30 years, lobbying activity targeting national governments and international organizations has exploded, with unprecedented levels of resources dedicated to government affairs globally. This has raised concerns about states' ability to resist unwanted lobbying influence, while scholars point to issues with governments' democratic legitimacy. Discussions revolve around themes such as transparency, elite capture, and political accountability as well as administrative efficiency and effectiveness (see e.g., Burstein, 2014; Gilens & Page, 2014; Pies et al., 2014). In response, governments have been keen to explore policies aimed at regulating interest group activities. Thus, government affairs and governments are now engaged in an implicit arms race.

At first glance, policymakers' interest to regulate lobbying is notable in terms of its speed. Nevertheless, considering how nuanced and dynamic interest group strategies have become in a competitive and multi-layered policymaking environment; existing policy measures appear somewhat dated and one-dimensional (IDEA, 2020, 2022; TI, 2020). Moreover, a closer assessment suggests that while governments are exploring the idea of introducing regulations to address lobbying. The number of countries around the globe that have actually introduced lobbying regulations is relatively limited, and involves primarily advanced democracies (OECD, 2021).

As such, regulating lobbying in advanced democracies tends to feel like a game of whack-a-mole rather than a sophisticated approach. Simultaneously, as the distance between dated regulations and fast-evolving lobbying strategies grows, the learning curve for states wishing to adopt such policies in the future becomes steeper. Furthermore, this sets a scene with limited comparative data to assess lobbying regulations reliably and

consistently. Overall, this hinders empirical policy debates, theoretical discussions, and research cross-pollination, exacerbating the issue.

Drawing from a significant body of research that cuts across business studies, political science, and public administration (see e.g., Baumgartner et al., 2009; Bonardi et al., 2005; Coen, 1997; Coen, Katsaitis, & Vannoni, 2021; Doh et al., 2012), we discuss how policymakers can update regulations on lobbying to bring it up to speed with 21st-century interest groups' strategy. Without wishing to take a normative stance, we assert that governments and public administrations should aim to operate in a transparent, politically accountable, and efficient manner in order to avoid sub-optimal policy outcomes and democratic deficits. At a minimum, governments and public administrations should be able to track organized interests' lobbying footprint as it develops across an intricate policymaking space.

We identify three central dimensions that encapsulate the limitations current measures face. At the same time, these dimensions provide a road-map for improvements that make future measures on lobbying fit-for-purpose. First, a lack of *regulatory consolidation* blunts the effectiveness of policy targeting lobbyists. Policies, such as those aimed at preventing institutional capture and ensuring transparency, tend to be compartmentalized within specific departments and legislative acts; limiting cross-organizational and intra-jurisdictional coordination. In contrast, interest groups employ strategies that are integrated and drawn from one toolkit, allowing them to alternate approaches targeting regulatory blind spots.

Second, given the multi-level, muti-venue, and internationalization of government affairs' strategies, limited *system inter-operability* of tools employed across political systems incentivize organizations to perform lobbying arbitrage. Automated information exchange reduces information asymmetry and is necessary to track targets moving across jurisdictions. Third, the contrast of limited government resources and vast government affairs' budgets poses a scalability issue for regulators. *Open-source implementation* addresses this issue by (i) systematically drawing on third party support, for example, public interests and researchers and (ii) making relevant knowledge tools non-proprietary (e.g., software).

The paper begins by outlining the evolution of government affairs from a research perspective. We discuss how government has responded, concluding that existing policies designed to regulate lobbying activities are not fit-for-purpose. The remainder of the article lays out the policy implications, arguing that improvements across the three dimensions outlined above—regulatory consolidation, system inter-operability, and open-source implementation—could help bridge demands for lobbying regulation with the reality on the ground. Finally, we mention potential future directions for research in the field. In this paper, we use interchangeably the terms interest group, organized interest, and lobbyist.

2. The expanding universe of government affairs

Lobbying is a long-term strategic activity conducted by organized interests that aims to influence policy and/or otherwise benefit the group's agenda. Notably, there are numerous different lobbying strategies employed by interest groups (Binderkrantz, 2005). For example, lobbying can be "active" with interest groups reaching out to propose amendments for legislative proposals or advocate the organization's position on an issue. Lobbying can also be "passive" with an organization monitoring and collecting information that is relevant to its members, for example, observing a committee's hearing.

Interest groups are a wide category that includes organizations such as civil society organizations (CSOs), non-governmental organizations (NGOs), business, think/tanks, trade and/or professional associations, small-medium enterprises, multi-national companies. To achieve their lobbying objectives, interest groups aim to establish and maintain contact with policymakers (e.g., members of parliament, ministers, their assistants, and members of the civil service) through offices dedicated to government affairs. By engaging with policymakers, interest groups can receive information ahead of their competition, influence regulation, minimize costs and/or earmark subsidies, and possibly become insiders of the policy process (Grant, 2003; Wilson, 1990).

Initially, the establishment of government affairs offices was a corporate response to the US federal government's increasing powers and impact on business. The first dedicated offices appeared in Washington DC in the 1970s (see Post, 1991; Post et al., 1982, 1983; Vogel, 1978a, 1978b). Since then, and especially over the last three decades, corporate political activity (CPA) has expanded dramatically in size, diversity, and sophistication.

Today's governmen affairs offices still share similar principle aims with their precursors. Nevertheless, their strategic toolbox has changed significantly, and their objectives have broadened (Coen & Vannoni, 2020). Below we briefly outline the reasons behind this change.

Government growth across policy areas introduced additional interest groups from the industry and beyond, which are impacted by its expansion. This has been accompanied by increasing demands for resources to ensure a smooth policy process. In line with New Public Management and New Institutionalist approaches to policymaking, interest groups have been invited to engage with policymakers. Organized interests in-effect provide resources to policymakers that demand them. Three broad resource-categories are in demand: (i) information-expertise, (ii) political legitimacy, and (iii) capital.

To retain their relevance, bureaucrats and elected representatives aim to produce high quality and politically legitimate policy. However, policymaking has become more complex over time. Policymakers' informational demands are linked to policy's expanding technical depth, its spill-over across policy areas, and its spill-off to political constituencies. Moreover, information-expertise is not solely technical or political but increasingly meshed. For example, technical bureaucrats might demand political expertise as they shape policy proposals. Conversely, political actors require knowledge of technical issues as they discuss future regulations. Furthermore, political (elected) actors face ever-expanding campaign costs, as they defend or challenge constituency representation in polarized political environments. Whereas this has been traditionally a US feature, in recent years political parties in Europe (Katsaitis, 2018, 2020), and East Asia (Mulgan, 2016) have become increasingly reliant on financial donations.

Adding to this complexity, policymaking is no longer restricted to the national domain or specific policy silos. Policy implemented at any given level is the result of an amalgam of decisionmaking procedures that take place at different loci of authority: at the international, national, regional, and local level (Coen, Guidi, et al., 2021; Hanegraaff et al., 2015). Spill-over means that decisions taken in one area (such as trade) have an impact on other policy fields (such as environment) and vice versa. Moreover, a policy cycle that operates across institutions and levels of government becomes ever more nuanced with different resource demands at different moments (Coen, Lehmann, & Katsaitis, 2021). Climate change and Covid-19 policy responses underscore how meshed policy has become and its impact on policymakers' resource demands and the policymaking process.

Thus, government expansion and its impact on private and public interests have led to a response from a dense and diverse population of organized interests. Moreover, this mobilization is intense, fear-of-missing-out forces organizations to mobilize to be sure they participate in the same spaces as their competitors. As a result, we observe sizeable populations of organized interests mobilizing across political systems. We note that while these ecosystems are diverse observing a multitude of different interest group types, business remains a highly visible actor.

In this context, organizations compete for access to policymakers through complex and nuanced strategies. These strategies consider: (i) macro-level characteristics of the specific polity, such as its political structure and institutional characteristics; (ii) meso-level dimensions that address the policy good and the policy process; and (iii) micro-level capabilities that reflect specific staff choices that can maximize the likelihood of maintaining engagement with policymakers. An interest group will dedicate resources to conduct multi-venue, and multi-level lobbying. Simultaneously, it will invest in alliance-building, whether through advocacy coalitions or by mobilizing in policy bandwagons (see e.g., Baumgartner et al., 2009; Baumgartner & Leech, 1998, 2001; Weible et al., 2011). In so doing, coalitions will make use of different organizations' resource capabilities at optimum points of the policy cycle within policy domains that are the most relevant. Furthermore, they will hire staff with professional experiences tailored to the specific system's characteristic needs (Coen & Vannoni, 2016, 2020; LaPira & Herschel, 2017).

3. Regulating government affairs

Intense government affairs activity has raised concerns relating to (i) policymaking transparency, (ii) institutional capture, and (iii) biased influence.[1] That is to say, lobbying potentially risks de-legitimizing the policymaking process, institutional independence, and the quality of policy outputs. In turn, this puts into question the credibility and relevance of government, its elected representatives, and the public administration. Institutional capture and

biased influence deteriorate organizational reputation. Democratic legitimacy is closely linked to values of transparency and political accountability. While these concerns are interconnected, the policy measures addressing them tend to be divided and isolated.

The response from governments, international organizations, and policy stakeholders, has intensified over time. We observe a ramping-up of events that bring together actors to address issues on lobbying regulations. Indicatively, the Organization for Economic Co-operation and Development (OECD) produces multiple guidelines, reports, and analyses on interest group regulation underscoring the value of good registers (OECD, 2014, 2016, 2021, 2022). International policy stakeholders like Transparency International (TI), or the Institute for Democracy and Electoral Assistance (IDEA) engage in activities aimed at improving lobbying regulations. Governments are taking steps to adopt legislative acts and regulations which aim to monitor and/or limit interest group activity.

However, it is worth highlighting that legal measures are limited to a few countries across the globe. OECD studies suggest that approximately 56% of its members have some legislation on lobbying in place (OECD, 2021, p. 13); the severity and capacity of which varies. This leaves the remaining 44% of OECD members without any legislation to regulate or track interest group activity. Similarly, political financing regulations across Europe vary, especially when considering financial donations (Reed et al., 2021).

Overall, policy measures targeting lobbying take one of the following forms: (i) interest group registers; (ii) political financing reports; and (iii) cooling-off periods for policymakers exiting public service. Lobbying registers are online databases where organized interests aiming to contact policymakers must register and provide details about their organization. This addresses transparency concerns by identifying which actors aim to engage with policymakers. Moreover, most databases come with a code of conduct which registrants must abide. In doing so, registers map the players involved in the wider policymaking environment and set some rules. An example is the European Union's Joint Transparency Register (JTR), a comprehensive database of interest representation activities aimed at EU institutions (Commission, 2020). Other advanced registers offer a more granulated detail such as specific legislative proposals of interest (e.g., Canadian case) and members of parliament met (e.g., Irish case) (see Chari et al., 2020).

In some advanced democracies, there are additional registers with distinct codes of conduct where interest groups declare financial contributions to party causes. This aims to reduce (or at least regulate) the amount of money pouring into politics as well as identify its source. Implicitly this addresses concerns about money and influence in politics. Another relatively popular measure is a cooling-off period for policymakers (see Cain & Drutman, 2014; Bressanelli, 2021; McCrain, 2018). Interest groups often hire policymakers such as members of parliament or ex-ministers to gain an insider understanding of the institutional setting they are lobbying as well as direct contact to its staff. Cooling-off periods aim to reduce the "revolving door" phenomenon, by requiring policymakers move to corporate and consulting jobs only after a specified period of time (e.g., five years) has passed.

To an extent, these measures have led to improvements. Nevertheless, considering the intricacy of interest group mobilization (discussed above), current approaches are scattered and disconnected. Indicatively, the monitoring and information collected are isolated within organizational silos, it is often unavailable to the wider public, and offers limited space for cross-cutting observations of lobbying dynamics. Significantly, this makes it harder for policymakers, policy stakeholders, and citizens to trace interest groups' actual lobbying footprint. On an adjacent note, this provides limited empirical data that allow us to examine more closely which policies work, and which do not. We observe that data regarding polities lobbying regulations is difficult to come by.

In line with questions about government legitimacy, accountability, and transparency; the gap between regulations and lobbyists poses an actual risk in terms of institutional capture and efficacy. There is a plethora of real-case examples to demonstrate the point made. To close this regulatory gap, based on the literature and our own research, we propose three dimensions that encapsulate these issues, which should be addressed from a policymaking perspective.

3.1. Regulatory consolidation

One of the primary issues we observe is the isolation of policy measures within political systems, partially the result of historical and institutional path-dependencies. Regulations addressing lobbying are established at

different moments in time, to address different issues by different governmental agencies, organizations, or departments. As such, interest groups' government affairs offices respond to various legislative acts and report to different organizations. Correspondingly, the agencies ensuring policy implementation tend to be separated; there are different departments responsible for interest group mobilization, political finance, and cooling-off periods. Interest groups employ strategies selectively from an integrated toolkit, to take advantage of policy blind spots. The result is an inherent difficulty for the state to observe and appropriately manage interest group lobbying. That is to say, the sum of lobbying regulations is smaller than its parts, because the parts are disconnected. Consolidating different policy measures through cross-organizational coordination (or integration) would simplify the process, enabling governments to track and regulate lobbying activity effectively.

Consider the EU case as a thought experiment. Two different regulations set up two bodies each managing a different aspect of lobbying behavior (institutional mobilization and political donations). One regulation is aimed specifically at shedding light on financial donations provided to EU-level political parties. The relevant authority collects and verifies parties' budgets, and publicly provides this information. Another regulation sets up an institutional department that manages the JTR and its operation. However, from a regulatory, practical, and data-provision perspective there is no overlap or common plan of action. In this case, a regulation requiring the co-ordination and information sharing/registration between these authorities would provide a clearer and fuller mapping of interest group lobbying activities. Taking this example further, one can consider adding other authorities and measures into the co-ordination mechanism, such as the department responsible for procurements, and/or ministerial code of conduct.

3.2. System interoperability

The policymaking process is increasingly multi-level and multi-venue. Along with limited regulatory co-ordination within jurisdictions, there is limited interoperability of systems targeting interest group activity across states. Authorities in different states even if applying similar principles employ different approaches. Indicatively, a company can simultaneously lobby different US states and Washington DC or different EU member states and Brussels, without the policymakers being aware of the company's activity. Despite different states employing, for example, lobbying registers with similar requirements, they do not have the capacity to share information in an automated fashion. This creates an information asymmetry that encourages lobbying arbitrage. Significantly, it allows the lobbyist to maximize their negotiating position within the wider opportunity structure. Allowing policymakers in one state to easily draw information on the company's activities in another state would reduce the asymmetry. In turn, this allows policymakers to make choices based on more complete information.

As an example, one can consider the lobbying activities of Big Tobacco. Health regulations regarding smoking have been an issue high on policymaking agenda across the Atlantic. Tobacco lobbyists mobilize across levels and countries to strategically influence and pro-long policymaking by tailoring their narrative depending on the state and institution, the policy phase, and the policymaking process. This strategy has been successful in effectively vetoing policy outcomes by taking advantage of an information-asymmetry (see e.g., Vannoni, 2019). Limited understanding of the organization's multi-level (and multi-venue) mobilization restricts transparency and increases risk of capture. Other global policy issues face a similar problem, for example, car emissions, online data management, and finance.

System interoperability focuses on the ability to share information over the lobbying activities of specific interest groups across jurisdictions in an automated fashion. Creating a global database tracking interest group activity seems far-fetched however, setting up databases that are interoperable at least within common trade (or economic) spaces is organizationally possible (consider the EU or NAFTA). Within the EU or the United States, we could observe the application of lobbying registers where data can be easily exchanged between systems and used by their operators, for example, a regulator in Ireland should be able to draw and import data on interest group behavior from regulators managing a lobbying register in Austria. We note that this approach minimizes complexity because it does not necessitate the creation of system-wide databases, for example, EU-wide. However, it does require some common programming/software standards. Thus, while this allows regulators to track lobbying activity across jurisdictions; it also simplifies the process for states that wish to set up a policy framework in the future.

3.3. Open-source implementation

Interest groups' government affairs budgets dwarf the resources available to regulators. This principle, observable across polities underscores two issues. First, it points to a scalability issue. Regulators might have a reasonable policy in place, but they do not have sufficient resources to scale their operations and match the lobbyists. Second, it places a high start-up cost for polities that do not have but wish to set up measures to address interest group activity. The former issue is a labor-resource concern, while the latter a knowledge-resource concern. In part, these issues arise because they are implemented through a closed "police-patrol" and "proprietary" format. We address these two aspects below.

First, with the exception of "whistle-blower" laws (that are limited), policy measures addressing lobbying tend to be implemented through closed-ended structures. An agency or organization, operating as a police officer, scans the field for potential irregularities. However, the number of lobbying activities is too large for the agency to address the totality of its responsibilities. Despite the fact that a number of third parties work on interest group (mis-)behavior, such as public interests, non-profits, and researchers. These third parties operate in disconnect to the policies implemented, that is, they do not contribute.

Open-access implementation allows (i) third parties to directly contribute to policy implementation in an automated fashion. For example, NGOs tracking MPs meetings can directly contribute to the regulator's mission by providing missing data or updating data. This allows governments to deal with the labor-intensive aspect of regulating lobbying. The second aspect of open-source implementation is to make tools, such as software and regulations, available to the wider public for use, free of charge. For example, the code behind the software used to monitor interest group activity can be made available for research and development by third parties. In turn, states have the option to update their software, if they find new add-ons to be beneficial, free of charge. For example, a third party may add a new component on the EU's JTR that the regulator wishes to adopt, following security checks.

In summation, this increases social welfare on a few levels. It allows third parties with significant expertise in the field to directly contribute resources that could then be used by the regulators, the public, and other third parties in the field. Second, it offers other states that wish to develop such policy measures with a free and advanced starting point. Third, this reinforces a positive relationship with the interoperability dimension (see above) through the use of shared policy platforms.

4. Conclusion

In this paper, we aimed to provide a constructive discussion regarding the improvement of policy measures and regulatory practices addressing lobbying. Interest groups through their government-affairs offices are quite a few steps ahead of the governments aiming to regulate their behavior. Significantly, lobbying strategies are considerably more advanced than the regulatory practices meant to contain them. A rich body of research offers insight into lobbying as well as the weak spots of existing policy measures. Given the current trajectory of lobbying patterns and government responses, this dynamic is likely to be exacerbated. This raises concerns about states' ability to push-back unwanted influence from organized interests. In turn, this poses issues for governments' political legitimacy and administrative efficiency.

Based on a vast body of work and our own research we identify three critical aspects, where improvements can significantly help updating regulatory practices closer to the lobbying reality on the ground. (i) Regulatory consolidation broadly refers to the need to improve the coordination between measures and organizations within jurisdictions. This would help address the patchwork of lobbying regulations currently in place. (ii) System interoperability, addresses the need for relevant data and tools to be available to regulators across jurisdictions in an automated and seamless fashion. (iii) Open-source implementation refers to the significance of including and helping third parties in policy implementation. Naturally, there are other areas policymakers might want to focus on in order to enhance lobbying regulations. We accept that there is no one-size-fits-all approach to regulating lobbying. Nevertheless, these dimensions offer some guiding principles for future policy change, research, and debate. Moreover, we find that the three dimensions speak to a common bouquet of issues that researchers, policymakers, and policy stakeholders engage with. This allows states to make regulatory leaps, necessary for the distance that needs to be covered. That is to say, lobbying strategies are constantly evolving. To effectively

regulate these activities policymakers, need to consider not only known-unknowns but also potential future unknown-unknowns.

Future research conducting case studies along these lines can better explore the variables and issues we discuss, and further improve the mechanisms we identify. Specifically, we call on additional research considering the effects of changes in regulations on lobbying over time within jurisdictions, comparative approaches assessing policy success/failure, potential changes along the dimensions we discuss. In addition, research addressing new lobbying tools such micro-targeted adds, the use of disinformation and social media, or the role of artificial intelligence, would reinforce work in this direction. Because of the nature of the field, research in this area benefits from an inter-disciplinary approach. Further work linking social sciences with information technology offers a fruitful way forward.

Acknowledgments

Data availability statement

Data sharing is not applicable to this article as no new data were created or analyzed in this study.

Endnote

[1] There is the additional issue of corruption which we do not consider as it is linked to wider issues on quality of government (see Fukuyama, 2013; Rothstein & Teorell, 2012) that we recognize as adjacent.

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