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Introduction

S. John *The Persuaders – When Lobbyists Matter* (2002), pp. 1 to 10

Are the lives of professional lobbyists pointless? Many journalists, politicians and political commentators would answer in the affirmative. Assessing the effect of lobbyists is controversial, and the current debate shows a wide variation in judgements about the efficacy of lobbyists. Do lobbyists advance special interests over the collective interest? Who is right: the critics who deplore the activity of lobbyists, assuming their effectiveness, or those who dismiss their effect? This book will explain when lobbyists matter and when they do not.

A classic study of 'the lobby' in 1950s and 1960s Britain identified those innumerable and ubiquitous groups that influenced public policy.[1] Finer's anonymous Empire has since emerged from the shadows and the participation of outside interests in policy-making is now institutionalised. Formal consultation procedures, departmental select committees, and legislative inquiries on draft Bills provide groups with formal mechanisms to contribute to policy-making.

Since the early 1980s the 'Empire' has commissioned an anonymous and discreet mercenary army of professional lobbyists. British political science has largely ignored this development in interest-group politics. What Salisbury said of Washington lobbyists in the mid-1980s foreshadowed the plight of British lobbyists today: the real world accords lobbyists importance but they are designated as insignificant by social scientists.[2] Yet outside interests are increasingly aided and abetted by professional lobbyists. Finer's words forty years ago fit professional lobbyists today: 'their day-to-day activities pervade every sphere of domestic policy, every day, every way, at every nook and cranny of government'.[3]

Pick any domestic policy on the government's agenda, and professional lobbyists are likely to be involved somewhere, somehow. Political science has overlooked this subtle evolution. There is a need to bring

together the current academic understanding of interest-group impact on policy and the new reality of professional lobbying. The widespread involvement of professional lobbyists is unmistakable, but their impact on policy-making is uncertain.

The question of who influences policy formulation is central to political science, and the effect of professional lobbyists has implications for the study of public policy. The increase in professional lobbying has raised fears about a policy-making system exposed to bias. It is time to re-evaluate these fears in light of the evidence presented in this book.

For scholars interested in lobbying, effectiveness is a captivating subject. There are limitations to the existing literature, in particular a paucity of data on effectiveness and some contradictory conclusions. The literature on effectiveness and influence 'is an interesting example of avoidance based on a recognition that previous studies have mostly generated more smoke than fire, more debate than progress, more confusion than avoidance'.[4] Grant concludes his study on British pressure groups by stating: 'if we are interested in finding out who wins and who loses in the political process, and why they win and lose, the question of effectiveness cannot be ignored by pressure-group analysts'.[5]

Questions which need answering include whether lobbyists are influential, and under what circumstances are they effective? Jordan sums up neatly, asking whether lobbyists are unfairly useful or fairly useless.

Clients pay high fees for lobbyists' services to influence policy, yet the return on investment is uncertain and difficult to substantiate.[6] Berry notes: 'the question remains, however, to what extent these techniques are effective in any meaningful way?'[7] Jordan has asked for 'detailed examples of the *impact* of these increasingly expensive activities'.[8] He continues:

> If there are lobbyists active on both sides of a question, there are bound to be plenty of cases where the lobbyists can claim to have been effective... whether the client wins because of the impact of the lobbying or whether the lobbying was merely incidental is something that requires detailed investigation. Such an assessment however requires more detailed case study evidence than is yet available.[9]

This book provides the case-studies and analysis.

Whilst the market for professional lobbying suggests that they are a worthwhile investment, Warhurst suggests the market is not always

right and that lobbyists would not describe their own work as ineffective.[10] Whilst this statement is true, it also pays for lobbyists to show real results; repeat business and referrals are important in a market which has moved from being based on a regular monthly fee to one-off case work.

Similarly Berry wonders whether 'the tendency [of the media] to emphasise the "influence" of lobbyists, and to place them at the centre of the decision-making process, is borne out by more than hearsay and unsubstantiated newspaper speculation?'[11] Effective lobbying may be impossible to discover because 'a great lobbyist is like the perpetrator of the perfect crime. At the very best there is no indication the crime has even been committed. When they have done their job well, there are no fingerprints.'[12] Although the lobbying industry is increasingly discreet in the face of recent press coverage, now is an opportune moment to undertake research. Some lobbyists are aware of the reasons why they should be the subject of academic scrutiny; for example, the creation of the Association of Professional Political Consultants (APPC) has shone light on the lobbying industry.

Attention is being paid to effectiveness. The public relations journal *PR Week* launched its '10 per cent Campaign' to encourage practitioners to allocate 10 per cent of their budget to assessing the value and impact of their services.[13] Similarly, more attention is being paid to lobbying by practitioners and journalists, reflecting its higher profile and increasing importance.[14] Lobbyists entered popular culture, with even the *News of the World* reporting their activities.[15] Restricted scholarly interest in professional lobbying continues: a special edition of *Parliamentary Affairs* examined the regulation of lobbying.[16] Regulation is a questionable enterprise unless decision-makers can be sure lobbyists are influential. A study is needed to assess the views of the press, which ascribes influence to lobbyists, and of the civil service and ministers, who suggest the journalists' interpretation is inaccurate.

The debate between those suggesting lobbyists are effective and those arguing they are an information service staggers on. By explaining what factors facilitate effectiveness, this book will resolve questions about the influence of lobbyists in order to explain how the policy process operates and how different actors interact.

Since the attention given to professional lobbyists in UK academic circles is less extensive than in the USA, some of the material cited is of American origin. This work is referred to only when its analysis or insights are applicable to the UK.

The debate so far

The literature that exists on influence and effectiveness has failed to reach concrete conclusions, or rather has thrown up contradictory answers on the impact of lobbyists.[17] To understand when, how and why lobbyists are effective will allow for an improved understanding of public policy-making.

Many lobbyists seek to portray their work as simply a service to complement a client's strategy. But this definition fails to withstand practical application. Lobbyists often have a vested interest in denying their activity can be measured. The attempt to maintain a 'professional mystique' indicates that lobbyists wish to be measured by their inputs into the policy process and not outputs. However, promotional literature is laden with bravado about policy successes from effective lobbying.

This book will assesses whether lobbyists meet their clients' targets. It will seek to distinguish between the publicly-expressed and private objectives of the client. In order to do this, it will be important to distinguish between the lobbyist's skills (internal variables) and contextual factors (external variables). Context is key. Assessment of effectiveness requires attention to the policy outcome. A lobbyist will be judged effective if the policy outcome meets the client's objective, and if that outcome can be traced at least in part to the activity of the lobbyist.

Lobbyists, like academics and journalists, have two versions of their effect. Version one is for the media and the public: the lobbyist is depicted as an adviser who has little ability to upset a system that takes decisions based on merit. Version two is for clients: the lobbyist is portrayed as an effective operator and the key to success. The two faces of the lobbyist are reflected in the literature on the value of lobbying, which comprises two schools: first, that lobbyists have little effect and their influence is trivial; second, that lobbyists do affect public policy.

Lobbyists are fairly useless

The American 'communications school' of lobbying, proposed by Milbrath amongst others, argues that lobbyists do not have a significant effect on the decisions of officials or legislators.[18] Lobbyists have been portrayed as timid, approaching only those decision-makers that agree with them and acting as a service bureau.[19] Lobbyists are simply channels of information to improve decision-makers' knowledge.[20] Lobbyists are not influential; in fact, they are ill-informed and badly organised. Part of the reason lobbyists were deemed ineffective was because they did not lobby; or rather their lobbying was directed at those who were

already convinced.[21] This school encouraged political science to move away from analysing the policy process and to concentrate on internal group dynamics.[22]

Recent research in the UK 'suggests that commercial lobbyists achieve low levels of effectiveness, defined as the ability to achieve pre-stated measurable goals by their own behaviours'.[23] It is not only academics who dismiss the impact of lobbying as superficial; government also denies lobbyists are effective.

John MacGregor, MP, a former Cabinet Minister and Leader of the House of Commons, in evidence to the Committee on Standards in Public Life, argued that the work of one lobbying company, Decision Makers, added nothing to the decisions being taken by government. Ministers, he argued, made their decisions based on representations received and the clear benefits.

MacGregor went on to say:

> I think the role and so-called influence of lobby firms needs to be put into its proper perspective. In my experience and judgment it is greatly overstated. They do not have preferential access to and influence with government. Presumably if such claims are made, they are made to potential clients for marketing purposes and to win business. On the other hand, lobbying firms do have a legitimate role. For those companies, organisations and pressure groups who do not have their own resources they can provide a proper and useful information service ... They can provide technical knowledge on how government and Parliament work, and they have experience in knowing how best to present a case.[24]

If MacGregor's interpretation holds true, much of the hyperbole about lobbyists and their impact is empty boastfulness on the part of firms seeking business. Similarly, a parliamentary question about the effect of lobbyists produced the following unambiguous response: 'Lobbyists play no role in decisions made by my Department' (Welsh Office).[25]

Lobbyists are unfairly useful

Others have shown lobbyists to be effective. The press in Britain and in America has been captivated by the influence of lobbyists.[26] *The Guardian* and *The Independent* in the UK have long run stories about their access and supposed efficacy.[27] This journalistic obsession was illustrated in 1998 by a team from *The Observer* posing as representatives

of an American energy company.[28] The story rested on the foundation that lobbyists were unduly effective. The lead journalist argued that Labour modernisers were 'now boasting that the contacts they made when the party was in opposition can now be used to gain access to and information from their erstwhile fellow-modernisers playing key roles in government'.[29] Although government dismissed the investigation as empty boasting by ambitious thirty-somethings, Palast disagreed: '*The Observer* has demonstrated the boasts were well-founded.'[30] He pointed to a No. 10 Policy Unit member who said one lobbyist was part of the inner circle and offered preferential access.[31]

Two Cabinet ministers, David Clark and Clare Short, expressed concern at lobbyists flitting around special advisers and ministers like moths around a flame. Short argued that ministers should not deal directly with lobbyists and advised colleagues: 'we should frown on it and completely distance ourselves from it'.[32] The Association of Professional Political Consultants' report, which pointed to human error rather than management system deficiencies, extinguished the matter.[33]

Journalistic commentators suggest professional lobbyists have too much influence over policy-making. However, a correlation does not prove a causal relationship, and the press has frequently taken a one-dimensional view of policy-making. In general the validity of journalistic assertions has been difficult to establish.

In support of the journalists some scholars advocate the 'interest-group dominance' thesis, suggesting lobbyists and groups play an important role in policy communities and can be dominant.[34] Schattschneider's study of tariff policy found that interest groups were effective.[35] Various scholars make normative judgements about the desirability of their activity and deem lobbyists effective only because they judge their activities undesirable.[36] Lobbyists are alleged to be detrimental to good government. They supposedly pull decision-makers away from the public interest.[37]

This book moves on from the sterile debate on whether or not lobbyists matter. The two camps talk past one another 'with academics dismissing the validity of popular claims in a few paragraphs and the popular press ignoring the research of scholars or quickly rejecting its methods and conclusions as irrelevant'.[38] Confusion is inflated by concealment. Twelve ministerial departments failed to answer parliamentary questions about the meetings ministers, officials, special advisers and parliamentary private secretaries had with lobbyists. Ministers replied baldly that meetings are all governed by the 'Ministerial Code', the 'Civil Service Code' and 'Guidance for Civil Servants: Contacts with Lobbyists'.[39]

The contradictory conclusions in the lobbying literature are partly explained by the perspectives of the researchers, their methodology and those to whom they speak. An incomplete explanation of the variation is that some academic studies concentrate on legislative voting and find little effect. In a parliamentary system, for example, it is almost certain that such studies look at the wrong stage in the process. Second, to look at an issue from the perspective of the lobbyist, researchers concluded lobbyists were often ignored, spent most of their time submitting information, and were ineffectual. From the standpoint of government, however, researchers who saw decision-makers under pressure from lobbyists and interest groups accorded them influence.

Neither finding is wrong. The difference between the two approaches appears irreconcilable only if debate is limited to the misleading question of whether lobbyists are important, and if that answer must be defended over time and under all circumstances. There is sufficient anecdotal evidence to suggest lobbyists make a difference on a case-by-case basis. This book moves forward by recognising that the existing literature allows us to state that lobbyists matter sometimes. What is worth examining is the circumstances under which lobbyists matter.

The contradictions are variations that need to be explained.[40] It is necessary to examine the *circumstances* under which lobbyists are effective. This research adopts a contextually-rich approach to the policy process to explain effectiveness.[41] It recognises that lobbyists' effectiveness depends on context. Policy outcomes depend on the combined influence of a number of factors.

The principal argument

The effect of a lobbyist will depend on both external and internal variables. With the context of a congenial external environment, success will depend on the lobbyist's possession of the internal characteristics necessary for effectiveness.

The central proposition of this book is based on three external variables: lobbyists tend to be effective on low-profile, non-political and technical issues. Lobbyists certainly 'operate more regularly, and more effectively, at the level of incremental day-to-day policy-making rather than at the more visible level of medium and high policy'.[42]

As the effect of lobbyists depends on the presence or absence of a range of variables, *ceteris paribus* lobbyists will be effective when other variables do not impinge on decision-makers.[43] On high-profile, political and

general issues the concept of effectiveness becomes more diffuse as lobbyists have to wade through areas of subjective human factors.

On low-profile, non-political, technical issues lobbyists are effective because contacts, persuasion and reasoned argument matter more. Within a closed community external variables do not operate as powerfully as they do outside. Organised opposition and media interest are less likely on technical issues. Lobbying, which on high-profile matters would not exert influence, can tip the balance on low-profile, non-political, technical issues. These are the factors that influence effectiveness.

Lobbyists are not masters of their own destiny, so it is important to account for both internal and contextual factors that are fundamental determinants of effectiveness.

What counts as lobbying?

It is difficult, and not really necessary, to give a precise definition of the activity of professional lobbyists. The concept of lobbying has meanings so varied as to lead inevitably to misunderstanding.[44] Salisbury, writing about lobbyists in America, noted of the word 'lobbying', 'that much-abused word is so fraught with ordinary language meaning, most of it unsavoury, as to defy rehabilitation anyway, but it is also true that none of its historic uses comfortably fits with what many Washington representatives do'.[45]

The term 'lobbying' need not be hostile, but attempts at close definition can be self-defeating. Statutory definitions of lobbying are 'either hopelessly restrictive infringements on free speech or because they are so narrow ... only a few rare behaviors are affected'.[46] Salisbury argues the word does not reflect what 'lobbyists' do, such as the presentation of a technical case or a legal challenge; he prefers the term 'interest representation'.[47] In reality professional lobbyists can be described in a number of ways, such as public affairs consultant, government relations counsellor, communications adviser, regulatory specialist or parliamentary officer. 'What lobbying is even goes beyond the elephant problem of being something one instantly recognises but cannot define precisely, because what may be lobbying to one individual, or in a particular cultural setting, may be a routine exchange to another.'[48]

There are some boundaries: lobbying relates to government decision-making; it is motivated by a desire to influence government decisions; it implies the presence of a representative; and it involves communication.[49]

One definition of a lobbyist is any person who, for payment, attempts to influence, directly or indirectly, the passage of legislation or the taking

of public policy decisions.[50] Some scholars have argued lobbying occurs only when an individual or group acts on behalf of someone else.[51] However, the definition of lobbying does not necessarily have to centre on the act of representing an interest to and before Parliament, government and officials.

Lobbying may include non-direct work such as providing strategic advice and monitoring, since both fall under the concept of representation. The fact is that most of the day-to-day work of lobbyists is monitoring and intelligence gathering. However, monitoring can be 'seen as a form of representation [because it] requires the third party's presence to be meaningful'.[52] Therefore the distinction between advocacy and advice should be disregarded because the attendance of the lobbyist is a requirement of both services.

Rush *et al.* defined lobbyists as:

- professional lobbyists or consultants whose business is to advise their clients on lobbying, and sometimes to lobby on their behalf;
- organisations outside Parliament and government who themselves seek to lobby, ranging from those who are fully professionalised or bureaucratised ... to entirely voluntary bodies, who have no paid staff and only limited resources;
- MPs and other individuals with direct access to parliament who also have a pecuniary interest in a particular policy area or who receive some sort of remuneration to represent the interests of an outside organisation;
- MPs and other individuals with direct access to Parliament who have non-pecuniary interests in a particular policy area and who represent the interests of, or make representations on behalf of, an outside organisation.[53]

Lobbying involves communicating the client's aims and preferences and advising clients how to influence public policy. The most comprehensive definition of a lobbying firm is provided by the Association of Professional Political Consultants:

> Individual partnership or company (including divisions of companies) who either hold themselves out as offering consultancy services (meaning advice, representation, research, monitoring or administrative assistance provided for commercial gain by a professional political consultant relating to the institutions of UK central and local government and/or other public bodies) whether such activities are the principal business of that consultant or are ancillary or incidental to it, such work in each case being undertaken for their parties for commercial gain.[54]

It follows that a 'lobbyist' is a principal of a lobbying company, whilst the verb 'lobbying' encompasses the representative work undertaken by the lobbyist on behalf of a third party. The APPC paper continues:

> These criteria therefore cover advisers, the majority of whose trading revenue is derived from advice or advocacy related to dealings with public authorities, or those undertaking one-off or ad hoc projects, and others, such as law and accounting firms, who may deal with Government on behalf of third parties but only on a basis incidental to their main business since in undertaking such work they are implicitly holding themselves out as possessing professional competence.[55]

Who counts as a professional lobbyist?

Lobbyists often have experience in political parties.[56] One firm, the Public Policy Unit (PPU), described itself as 'a group of former officials, Ministers, MPs, Peers and political advisers who now act as policy analysts and consultants on dealing with political and regulatory bodies at central and local government levels in the UK and EC'.[57] In Washington, DC, the majority of lobbyists are lawyers. This legal dominance does not apply to the UK, where British lobbyists tend to have political and/or administrative experience. They bring with them a detailed knowledge of the policy process and friends within the political system.

An advertisement in *The House Magazine*, from a leading professional lobbying firm seeking a managing director, sought a candidate with a 'Westminster, Whitehall, Brussels or similar background, together with existing consultancy experience. Experience in publishing, information services, journalism or economic consultancy would also be considered.'[58] Many have experience at the periphery of the political arena, such as civil servants, lobby correspondents, or departmental press officers.

Lobbyists are mainly an amalgam of ambitious white male middle-class political activists and a gaggle of aristocrats. They all have in common experience of and contacts in politics, the administration, the monarchy or elite business circles.

Several types of consultancies offer lobbying services. First, the specialised professional lobbying consultancies, which are members of the

APPC, tend to be the largest firms and the market leaders. Second, there exist smaller independent professional lobbying consultancies, eligible to become members of the APPC, but who choose not to for various reasons. Third, there are several large public relations companies with large public affairs departments and genuine experience (some US-owned): for example, Burson-Marsteller and Hill & Knowlton. Fourth, there is a vast number of smaller public relations companies which offer 'political services', treating government as another 'public' or 'stake-holder'.

Fifth, a host of 'one-man bands' exploit their contacts and experience of the political system. Sixth, the larger legal practices have public affairs departments (DLA and Clifford Chance). The boundary between the services provided by a lobbying company and those provided by a legal firm is hazy. Lobbyists have seen 'increasing competition from law firms in Brussels and the UK [and] from a number of merchant banks'.[59]

Seventh are registered parliamentary agents, with passes giving privileged access to the Palace of Westminster, who offer political consultancy services.[60] Since the replacement of the Private Bill with the Transport and Works Act (1992) and subsequent Orders and Regulations, they have moved into lobbying. The distinction between professional lobbyists and some parliamentary agents is no longer relevant. Both are concerned with case-building and advocacy.

Eighth, the 'Big Five' accountancy firms have established offices in Brussels to monitor and lobby the EU Commission and EU Parliament. Some firms provide a full range of legislative lobbying services, whilst others offer monitoring and strategic planning but avoid advocacy. The accountancy firms have developed sophisticated systems to track EU legislative processes. UK-based accountancy houses also offer legislative and policy services to their clients.

Finally, journalists have stepped in to exploit the lobbying market. The European Parliament has noted: 'some journalists express a specifically political agenda; and sometimes even ... receive income from industrial or commercial interests for their advice and insights'.[61] Peter Luff, MP, argued in evidence to the Select Committee on Members' Interests that:

> there are a number of paid relationships between outside interests and Lobby correspondents who are able to obtain more information on a confidential basis than even Members of Parliament, and if there were any attempt to curtail Members' ability to maintain relationships with outside interests ... one could easily be left with a situation