

Wrap up

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Dollars, lobbying, and secrecy: how campaign contributions and lobbying affect public policy

Money in politics: how corporations effectively influence public policy through paid lobbyists and campaign contributions to members of congress, and why the American public has been cut out of the regulatory process....so far

Abstract: Public policy is too often determined not by the merits of the case but, rather, by individuals, corporations, and even countries who buy influence and alter public policy for the benefit of only a few. As a wrap-up for this conference on “Corporate Interference with Science and Health: Fracking, Food and Wireless,” it is our intent to provide a personal story of how money can buy favors and determine policies that are often counter to the public interest and can even lead to failure to protect the health of the public. Given our background in law specific to the US, the basis of our evidence comes from legal rulings as well as legislative actions that have had an impact on policies in the US. While the specifics of governments vary, related activities surrounding money, lobbying, who knows who, and how decisions are made in secret to benefit a few are events that occur everywhere.

Keywords: corporate influence; FCC; money; money in politics; public policy.

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Introduction

The issue: how do Washington lobbyists gain access to influence legislation and executive regulations on behalf of their clients, which are favorable to the corporate bottom line and often at the cost of human health?

Supreme Court Justice Oliver Wendell Holmes once said that men must “turn square corners” when dealing with the government. That is no longer true. Now, when corporate lobbyists deal with government they employ three basic strategies as follows:

1. dollars (for campaign contributions);
2. cronyism (for quick and easy access); and
3. secrecy (to avoid public protest and news media reporting).

These are the three keys to present-day lobbying in Washington. Large corporate expenditures are a bargain for most big corporations who hire lobbyists with access to the very agencies that set the regulations, conduct the oversight, and set the budgets for the agency staff and the quality of the staff the agency will have. These lobbyists move large sums of money for campaign contributions in return, and they operate completely in secret, so that the rest of us do not know what is going on. Those are the activities that must be exposed and attacked to get the American government back on track and end the abuse of lobbying practices, big corporate political campaign expenditures, revolving door staff access, and secret meetings.

An example of a purchase of high-level government access is the Oval Office of the President where all the

action is. During Reagan's time, there were daily meetings at the White House Oval Office among White House senior staff and important visitors every working morning. When President Reagan was reelected to office, Michael Deaver, his former top aide for confidences, support and getting his public image out, resigned and set up a lobbying firm. One of Deaver's first clients was the South Korean government, which wanted to open US markets for South Korean products but was encountering obstacles in the trade office in the federal government at that time. Deaver was retained by South Korea for US\$250,000 to demonstrate what he could do to influence the trade office. Deaver then went to a pal of his, the National Security Advisor, who had time available on the President's schedule every morning to discuss national security matters. On this particular morning, instead of talking about national security, Deaver arranged with his friend for the Trade Representative of the South Korean government to use the national security slot. Ordinarily, somebody at the level of a Trade Representative never gets in to see the President of the US. One has to be a head of state, a King, or a Prime Minister – somebody at that rank. However, in this case, a fellow whose job was to improve his country's exports (and eliminate US jobs along the way) gets in to meet with the President of the US. They shook hands and had a photograph taken. After the Trade Representative left the Oval Office, the President's former aide, Michael Deaver, was retained as a lobbyist for US\$475,000 a year by the South Korean government because he had arranged that meeting and was able to break the trade barrier. The people in the US trade office quickly got the message – that the President was personally interested – which motivated them to do things to help South Korea sell more goods to US markets. At that time, US\$475,000 a year was a lot of money to a lobbyist in 1980s dollars, but this was a real bargain for South Korean manufacturers.

Cronyism

The kind of activity in which Michael Deaver engaged has become a much bigger institution in the nation's capital. Those were the early days of the buddy system when people were learning that the secret of effective lobbying was cronyism.

The most effective kind of lobbying is done by someone who is a former employee of a public office or public official. Every time there is an election, there is a turnover of staff when those who have worked inside the federal government go out looking for lobbying jobs. They are often hired at very high salaries by lobbying firms. This is the most effective thing they can do – get into a

lobbying firm in Washington with a huge salary and then go back and lobby their former colleagues. What is important to note here is that they go in as friends. They do not go in with a briefcase full of information. They go in and say, "How are you, Charlie, and how are the kids?" and pretty soon Charlie says, "Now, what can I do to help you?" The former colleague says "I can sign up a big client if you could increase the budget for his project, or hold up implementing that new regulation." Because such requests are usually made by friends, it is more likely that these are granted.

Secrecy

The third element is that all of this happens behind closed doors, so "We the People" know nothing about it. We talk so much these days about transparency in the government, but this buddy lobbying system is the worst kind of keeping the citizen ignorant of what is really going on in the government, like how new regulations are made, and how they are implemented to benefit the industry and not the public interest.

How much money the industry spends on lobbying

In 2012, US industries spent over US\$3 billion to hire lobbyists: most of it for ex-employees to go in to federal offices and carry the message from the industries. Let us take for example the telecommunications industry. The telephone industry last year spent US\$47 million for lobbying, just for industry issues alone. American Telephone & Telegraph (AT&T) alone spent US\$14 million on lobbying. That's a lot of money to the ordinary lobbyist, and what the client gets for that money is an extraordinary return of benefits. In relation to this, how much lobbying money would it take to get the Federal Communications Commission (FCC) to change its wireless safety regulations to protect the public instead of industry profits?

The FCC EMF gag rule: FCC regulations prohibit ordinary citizens from raising questions about adverse health effects from cell towers and rooftop wireless transmitters

The Telecom Act of 1996 was passed by Congress during a frenzy of campaign contributions from the telecom

industry. The Act prohibits state and local governments from considering environmental effects of cell tower siting decisions.

Instead, Congress directed the FCC to set its own safety standards for emissions from cell towers. The House Committee on Commerce said it was the Commission's responsibility to adopt uniform standards "with adequate safeguards of the public health and safety" (1). In 1996, the FCC set safety standards for cell tower emissions based on the "thermal effects" (i.e., the power level at which flesh is heated).

The Connecticut Siting Council is believed to be one of only two statewide tower siting agencies in the 50 states. The Council interpreted the 1996 Telecom Act as completely preempting consideration of human or wildlife health issues. "The TCA preempts the Council from considering thermal and non-thermal effects of radio frequency (RF) emissions on human health when those emissions comply with the levels established by the FCC" (2). Since 1996, scientific studies conducted in other countries around the world have repeatedly reported harmful non-thermal biological effects of cell tower transmissions on those living close to cell transmitters. Such effects even include the destruction of DNA and mutations in cells.

A short history of the Telecom Act

Congressional background

The 1974 U.S. Department of Justice antitrust lawsuit against AT&T resulted in the breakup of *AT&T. US v. AT&T* (3), led to a settlement in 1982, under which "Ma Bell" agreed to divest its local operating companies, in return for a chance to go into the computer business. In 1984, AT&T's local operations were split into seven independent Regional Bell Operating Companies (RBOCs), or "Baby Bells." AT&T, reduced in value by approximately 70%, continued to operate its long-distance services, although it lost portions of its market share to competitors, such as MCI and Sprint, in the ensuing years.

During this same period, microwave technology – previously used for government purposes – was approved for private communications. Seeing the commercial potential in harnessing this technology, AT&T and its competitors made multi-million dollar contributions to members of Congress to pass the Telecommunications Act of 1996 and preempt local control of the new technology.

The total contributions to Congress from the Telecom industry in 1990 were US\$861,337 (4). Those congressional campaign contributions mushroomed to nearly US\$5 million (5) in 1996 to ensure the passage of the industry-crafted Telecom Act. By 2000, telecom and media contributions to Congress reached nearly US\$17 million (6), –representing a nearly twenty-fold increase in just a decade.

At the same time, a large portion of available digital licenses was given away for free to big media companies such as CBS, ABC and NBC, who never paid for their licenses to the FCC, thanks to their friends in Congress. Newcomers to the industry had to pay for their bands in the new digital spectrum, generating huge licensing revenues for the FCC, and even bigger contributions to Congress.

To this day, AT&T remains the single largest telecom campaign contributor to the US Congress (7), providing US\$3,553,968 in contributions to members of Congress in 2011/2012, and spending US\$14,030,000 for lobbying in the same period (8).

The role of the FCC

Through the Telecom Act of 1996, Congress designated the FCC to set safety standards for emissions from telecommunications towers as well as to regulate the towers and enforce the safety standards. The safety standards established in 1996, the same year as the passage of the Act under the influence of telecom industry money, were based on the thermal effects of microwaves. This means that the standards are based on the power level at which radio frequency (RF) microwaves heat flesh (similar to the effects of a microwave oven).

In recent years, a growing body of scientific studies from around the world has shown the non-thermal, biological effects, such as destruction of DNA inside human cells, from RF microwave exposure. Despite these studies, the FCC has never updated its safety standards. Furthermore, the FCC also failed to update the standards despite the Congressional Committee statement preceding the passage of the Telecom Act of 1996, which stated that the agency's standards should provide "adequate safeguards of the public health and safety." This failure to update safety standards in the face of increasing scientific evidence of biological harm to humans and wildlife is a graphic example of the corrupting effect of industry money on Congress, and a perfect example of why huge amounts of industry money compromises democracy.

A recent independent film called “Full Signal” (9) documents this problem.

The Federal Courts have repeatedly upheld the power of the FCC to set its own cell transmitter safety standards and block citizens from questioning the effects of the placement of new cell transmitters in close proximity to where people live and sleep and where children go to school. The leading Federal case upholding the FCC gag-rule against citizens questioning the possible health effects is *Cellular Phone Taskforce v. Federal Communication* (10).

As recently as 2010, a Federal District Court in Connecticut held (11):

1. The Telecommunications Act of 1996

“Jaeger does not dispute that the TCA preempts the Council from making siting decisions based on human health effects of RF emissions. Instead, she maintains, in her third and fourth claims for relief that it is evident that the FCC’s established guidelines for RF emissions are outdated and fail to account for non-thermal RF emissions in light of the studies provided to the Council. Accordingly, she argues, the Council was not preempted from denying Cellco’s application on the basis of human health effects of non-thermal RF emissions. Additionally, she alleges that, even if the TCA preempts the Council from considering the human health effects of RF emissions, up-to-date research “invalidates and nullifies the preemption clause by removing its underlying premise – the FCC guidelines must provide ‘adequate safeguards.’” For the following reasons, Jaeger’s arguments fail, and defendants’ motion to dismiss claims 3 and 4 is granted”.

“It is clear that the FCC has considered the effects of non-thermal RF emissions. The FCC promulgated exposure limits that are set forth in 47 C.F.R. §1.1310, Table 1. The parties do not dispute that Cellco’s proposed tower will not exceed the RF emission limits established by the FCC. The recommended guidelines consider exposure limits published by the National Council on Radiation Protection and Measurement (NCRP) and the American National Standards Institute (ANSI). See 47 C.F.R. §1.1310. The FCC relied on findings by the NCRP and ANSI in issuing the Second Order, which states”:

[the] guidelines are based on recommendations of expert organizations and federal agencies with responsibilities for health and safety. It would be impracticable for us to independently evaluate the significance of studies purporting to show biological effects, determine if such effects constitute a safety hazard, and th[en] adopt stricter standards than those advocated by federal health and safety agencies. This is especially true for such controversial issues as non-thermal effects and whether certain individuals might be “hypersensitive” or “electrosensitive.” (12)

The ANSI concluded that “no reliable scientific data exist indicating that [n]onthermal... exposure may be meaningfully related to human health.” The NCRP found that the existence of non-thermal effects “is clouded by a host of conflicting reports and opinions.” See *Cellular Phone Taskforce*, 205 F.3d at 90.

“The NCRP and ANSI findings were upheld in *Cellular Phone Taskforce*, where petitioners, as Jaeger does here, argued that the FCC guidelines were outdated and failed to account for the non-thermal effects of the RF emissions and, therefore, were arbitrary and capricious. The Second Circuit held that the FCC, relying on the NCRP and ANSI, had considered the non-thermal effects of RF emissions, and that the FCC’s reliance on the challenged findings was not arbitrary and capricious. *Id.* The Court concluded that, even though experts may disagree, the FCC is the entity with the express authority to regulate acceptable RF emissions levels for cellular tower facilities.”

The FCC has recently conceded that the agency’s regulation of RF emission levels require updating (13). The industry and its lobbyists will undoubtedly oppose any change.

Rabbit stew

There is a story about the American tourist who visited a small town restaurant in France and saw on the menu “Rabbit Stew.” He has always wanted to taste rabbit stew done in a country style, and so he ordered it. However, when he tasted it, it seemed a little strange, so he called the proprietor over and asked, “Is this really rabbit stew?” The proprietor admitted, “Well, monsieur, there is a little horsemeat in it” and so the American asked, “How much horsemeat?” The proprietor answered “Half and half – one rabbit, one horse.”

Today, the horse in the federal government is the lobbyist. He (or she) dominates the working of Congress and executive agencies. There are 374 former members of Congress who are currently registered as lobbyists. When a former Member of Congress comes into (a) a Congressman’s office, or (b) an Executive office where he is recognized as having helped with their budget or other issues, he gets an audience. In this case, he is the horse and we are the rabbits. We don’t have a special privilege to get “in.” We can write a letter, we can try to send an email, but we cannot get in to have that private meeting. On top of that, we have no idea what is going on during that meeting. The whole purpose of having open and transparent popular government is lost.

How campaign contributions to members of congress buy corporate influence

There are two related, but different issues about (a) lobbying an Executive office, whose administration head is not elected but appointed, and (b) lobbying a Congressman, who must run for election and therefore needs campaign contributions.

Campaign contributions are part of the lobbyist's tool chest to gain sympathetic access to Members of Congress. The reason is that every Congressman is always thinking about job security ("How can I be sure of getting re-elected?"). The re-election tools that work are as follows:

1. Right after the last election, build up a war-chest for the next election. That scares off challengers. A pile of several million dollars intimidates even the most decent civic-minded citizen in the same congressional district from running for the same seat. The potential challenger knows she or he cannot match that amount of money to cover even start-up campaign expenses.
2. Plan a TV blitz campaign just before next election day. Even if a highly qualified candidate runs against an incumbent, come the last two or three weeks before election day, that TV blitz – which costs a lot of money – will bury the opponent through TV spots saying how good the current Congressman is, and attacking the qualifications of the other candidate.

Those are the tools that industry has available to get results from Congress. Hire a lobbyist to attend fundraisers and make contributions early and often – always to the incumbent and never to the challenger. That is when the Congressman feels a real sense of gratitude and an obligation to do a favor in return.

Congress can also influence regulations adopted and enforced by federal administrative agencies. One of the best methods is through the budget: If the industry lobbyists can obtain the enforcement budget of an agency cut back, then there are fewer inspectors to worry about. Before the wireless cell phone legislation was passed in 1996, thus starting the drive to get cell towers constructed across the country, the Environmental Protection Agency (EPA) had a skilled group of eight researchers studying adverse RF radiation and its harmful effects on human health. When the EPA budget was adopted that year, the funding for that unit was cut down from eight researchers to one-half of one staff person. That effectively eliminated any EPA enforcement of health protection from cell tower radiation, which is why so many local governments and state governments are so concerned about it today. Nobody in the Federal

government is studying the kind of harm can happen when a cell tower is placed too close to where people live or where kids go to school, as demonstrated in existing European studies. The same is true for harm to pets, birds, and wildlife.

What can I do about it?

No antidote will work as long as people remain uninformed about how lobbying works; and as long as people resign themselves to the problem being just too big to tackle. This is wrong thinking. There is something we can do about it.

Campaign finance and lobbying reform: what works

The fact is there is something every citizen can do about campaign and lobbying reform. The real question is whether you have the vision and energy to seize the opportunities and to act.

First: there are at least three very important non-profit groups that can provide useful information over the Internet with their user-friendly sites:

1. The Center for Responsive Politics' website (14) is loaded with up-to-date detailed information about industry contributions to Members of Congress, plus information about lobbyists, and about the revolving door practices. They have information not just about the Congressmen, but also about members of the staff of a Congressman or a regulator enforcement office who seem to have a pattern of resigning, getting a job in a lobbying firm, and then going back through the side door and lobbying former colleagues – talk about the kids and other mundane things and then getting what the industry wants. All these happen while "We the People" are knocking on the front door and nobody is saying "Come in!"
2. The second powerful reform website is Public Campaign (15), which is staffed by knowledgeable legislative watchdogs as well as state and federal campaign public funding advocates.
3. Public Campaign Action Fund (16) pushes "accountability" reform efforts with information on Congressional misdeeds connected to campaign contributions.

In a nutshell, we have to get two things going in Congress as detailed below.

1. Public financing of elections:

Optional public financing of elections ensures a viable opponent to every incumbent when he or she comes up for reelection. That opponent must have the money to challenge an incumbent. The industry will never give money to a challenger because they know if they do, they will never get back in to see the incumbent, who, present odds are, is going to be reelected.

Since industry donors do not give money to the new-comer, where is the money going to come from to level the playing field? The best answer is a system of public funding, under which a challenger who can collect a specific number of small donations will qualify to receive enough public funding to run an effective campaign. With public taxpayer dollars supporting challengers, we have suddenly turned the tables in a significant direction and have qualified candidates competing for election, instead of just industry-funded incumbents. Public financing of elections is already in practice in several states and cities, and is working well.

2. Lobbying disclosure law:

We actually have a federal law that requires disclosure of lobbying activities when the client is a foreign government. It is called the Foreign Agent Registration Act (FARA), and is administered by career people in the Department of Justice. It is the one tool that has been effective in the few lobbying prosecutions that have come along, including the prosecution of Michael Deaver. That same disclosure principle should be extended to all paid lobbying activities, not to the private citizen or do-gooder group that go in as volunteers: but those who are paid to lobby. Paid lobbyists should be required to file public reports with the Department of Justice, saying, “on such and such a date, I met on behalf of my client with so-and-so, the chief regulator at the Federal Communications Commission (or whatever the agency is).” Reporters can then ask questions of the lobbyist and public official: What were you talking about? What did the lobbyist want?

Those two pieces of legislation, public funding of elections and reporting of lobbyist meetings, can make all the difference in restoring democratic government. However, the only way they are going to be enacted is by pushing our legislators to support them.

Voter action

The best way for individuals to make a difference is to support legislation for public financing of elections

and a meaningful lobbyist disclosure law. Citizens can get informed by studying the websites of the Center for Responsive Politics and Public Campaign, and can always find up-to-date factual information to stay informed.

All politics is local

The individual vote is still the most powerful force in democratic government. It is what those who have to run for reelection fear the most, local voters becoming dissidents, complaining about their Congressman, questioning campaign contributions he is accepting, asking about positions he is taking to favor industry and hurt ordinary people. If that information is spread locally in handouts at shopping malls and given to parents picking up kids at school, suddenly you begin to have something that makes a Congressman say: “Hey, wait a minute. Industry may be giving me money, but these are the people who I need to reelect me, so I’d better hear what they have to say, and do something about it.” That is when you can start demanding that he support public funding of elections and stop doing favors for industry lobbyists. Facebook and Twitter can also be effective local voter organizing tools.

We believe this is the only way you can build a voter constituency to 1) accomplish public financing of elections, and 2) open up what goes on behind the scenes in the lobbying process.

The place to begin is with your own elected representative, because he or she is going to listen to you if you are a constituent and a voter. You are the one person in all the world that he or she is scared of, simply because you might vote against him or her. You might, by talking about an issue that concerns you, get other people to vote against him or her, and pretty soon your representative may be looking for a new job. So that person will inquire “What is this person talking about? What does he or she want?” If you ask, the representative may send a letter to a federal agency, e.g., the FCC. He or she may send a staff person to meet face-to-face. He may even go to the head of an agency himself and talk to see if something can be done. That is where the power lies. The individual voter who takes an interest in these issues and does something to stir up other voters to pressure your representative has the real chance to make the change.

Organizing a constituency

In order to get an elected official’s attention, it does not have to be you alone advocating for change. A committee of

just three or four noisy people can make a huge difference. Consider the health threats to kids in an elementary school with a cell tower just 100 feet away. There is research from Europe showing this is potentially a very harmful situation for the children. The French legislature recently voted to outlaw wifi in elementary school classrooms (17), as have districts in Canada, Austria, Germany, some schools in England and Wales, and the National Library of France. Write that up in a flyer. When school lets out, each one of you can give a flyer to every parent who picks up a child after school. By just having done that, if any of the parents follow-up with a phone call to the Congressman's District Office or Washington Office, the Congressman's staff will report those constituent complaints to the boss. Then when you see the boss, the boss is going to shake your hand and ask, "How can I help you?"

It works. Always has and always will, because it is the local voter who votes the candidate in or out of office.

Close elections are the nightmares of incumbents

The number of candidates who are elected by small margins is legion. A former Attorney General of the State of New York was first elected to public office by a margin of 27 votes. The First Selectman of a small Connecticut Town was elected by 17 votes. Her running mate was defeated by 2 votes. There are vote re-counts all the time. Close elections are the nightmares of incumbent Congressmen, especially in political party primaries. What the concerned citizen needs to do is play on that nightmare. The way this is done is by Free Speech. Buy an ad in the local Penny Saver. Use the internet. Print an Open Letter to your Congressman: Dear so and so: Why did you accept \$50,000 from the X Company? What are you doing for them? What did they ask you to do? On the Center for Responsive Politics website (18) you can learn every contribution that industry gives to your Congressman, and then you can see the government action those industries are trying to get for themselves in return for contributions to Congress. Match the two up, put the information on a

piece of paper and get it into the hands of the Congressman and members of his or her staff as well as to the people who live across the street from the Congressman or in the neighborhood. All of a sudden, you have the Congressman's attention.

He wants to get rid of you and the problem you are creating for him. The way he is going to do that is by talking to a commissioner at the FCC or writing a letter, if that is what you are after. He is going to do it. You are now a threat to his re-election and he does not want the controversy out there.

In the 1930s, the great progressive populist leader of the Puerto Rican people was Luis Munoz Marin, who walked the entire length of Puerto Rico talking to peasants in the field to get out the vote. He told them: "You have a vote. In government, your vote is your machete (the long knife used for cutting sugar cane). You would never throw your machete away. Don't throw your vote away. Use it to fight for good government." He was elected and helped to create modern Puerto Rico.

One person can make a big difference. You can do it yourself and make a huge difference! There is now a very credible movement to amend the US Constitution to take personal voting and speech rights away from corporations, where plainly the founders never intended them to be.

If you want to know how to get important legislative reform, or a tough Constitutional Amendment passed, go see the movie "Iron Jawed Angels," which tells the amazing story about women's suffrage. It describes a seemingly uphill battle, which a group of determined women won, vote by vote. What a triumph it was! In addition, womens' right to vote was won by a single vote in the Tennessee legislature.

Do not throw your vote away. Use your voting power to change your government. That is how our democracy was created. That is how it is supposed to work. That is how we can make it work again in this country. Get started now. Today.

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Gabriel North Seymour is a member of the bars of New York and Connecticut, admitted before the Second Circuit Court of Appeals and U.S. Supreme Court. She has successfully opposed cell tower placement posing threats to people and wildlife habitats. She served as First Selectman of her town as the first woman elected to the post in 250 years. She is an advocate for science-based RF exposure limits for wireless signals to prevent biological harm. An honors graduate of Princeton University and a Fulbright Scholar, she is a graduate of Albany Law School.