

[The unintended consequences of lobbying laws](#) [1]

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Something odd has happened in Washington. The cause, of course, is the usual one ? inept legislation. The result, naturally, is the opposite of what was intended. But the really worrying thing is that the UK seems set to do exactly the same.

The Lobbying Disclosure Act was brought in to keep an eye on Washington lobbyists and make sure that politicians were not being bribed by business and other interests. Basically it says that anyone who spends more than a fifth of their time interacting with government officials, politicians or staffers in any quarter ? including their time preparing material for such meetings ? has to register as a lobbying organisation, which in turn subjects them to various disclosure obligations.

It sounds a good idea. But all over America there are independent policy think tanks who have found themselves caught up in these rules. Experts and expert organisations who are interested in policy naturally have to talk to politicians; and since politicians read think-tank reports, the entire output of a policy think-tank can be seen as an 'interaction' with them. So expert think-tanks, independently promoting policy ideas for the good of the general public, and who do not represent any special interests, who merely want to inform the public debate, and who would not even think of bribing politicians now find themselves having to register as lobbyists.

Because the rule is 20% of your time in any quarter, the problem is particularly intense when particular issues arise in any one quarter ? issues on which expert staff might be deeply involved. The fact that they have no contact at all with Congress once the issue has passed over does not save them.

Some of them have set up registered sub-groups, into which they place the staff that are most involved in meeting or informing politicians and officials. Even then they have to watch how other staff use their time, in case they might be regarded as breaking the 20% rule, which is a big bureaucratic hassle. Others, like Brookings, have not set up separate organisations but then have to monitor the activities of all of their staff lest the perception emerges (whatever the reality might be) that some of them might be spending a lot of time around politicians and officials. Again, since issues are cyclical and experts focus on particular issues that come and go, the result is an enormous cost and bureaucratic headache.

The net effect of this 'anti-corruption' law has not, of course, been to reduce corruption nor even lobbying. Those who want to lobby politicians, or fear they may be accused of doing so, simply register ? or find some way round the rules. The net effect is actually that people in legitimate, pro-bono expert policy organisations have been loaded with regulator cost, while lawmakers find it harder to get the independent advice of experts who do not actually want favours from them in return. Think tanks whose only purpose is

to promote the public policy debate are now seen as part of the party politics world. So people are regarding them as more and more partisan rather than independent ? and perhaps indeed they may be growing more partisan as a result, which means that the quality and independence of policy advice on Capitol Hill is declining.

Another fine example of unintended consequences.

But now the UK government is proposing similar lobbying regulation ? setting up a statutory register of lobbyists ([PDF](#) [3]). The public consultation on this ends Friday. Professional public-affairs companies ? lobbyists, to you and me ? are fighting hard to get independent policy groups regarded as 'lobbyists' too, on the usual 'level playing field' arguments (or more properly, the 'if we are going to be skewered by new regulations we will darn well make sure that everyone else is too' argument). But there is a big difference between independent policy experts and hired-gun lobbyists. So the result is that this well-intentioned move could, just possibly and quite unintentionally, change the whole UK policy debate for the worse and cut the political class even further adrift from ideas from non-vested-interest sources.

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