06 / 2009

Policy Position

TRANSPARENCY INTERNATIONAL
the global coalition against corruption


© iStock

Controlling Corporate Lobbying and Financing of Political Activities

Corporate lobbying and financing of political activities are carried out by most large corporations. Lobbying enables them to understand, track and shape the development of legislation and regulation. Financial and in-kind contributions to parties and campaigns can be used to support a country's political process and development. Both sets of activities, when undertaken with integrity and transparency by a company, can be a legitimate and positive force. Yet, the extensive funds at the disposal of businesses and the close relationship that exists between many companies and lawmakers can lead to undue, unfair influence in a country's policies and politics.

Tighter regulation of and enhanced transparency in lobbying help to balance the interests of companies, parties and politicians. Companies must present their advocacy positions and actions with transparency and politicians must match these efforts by honestly representing their ties to business. These commitments involve full disclosure of political contributions by political parties, politicians and companies alike, and the creation of registries to track the activities, spending, contacts and targets of lobbyists.

Table of Contents

What are Political Contributions and Corporate Lobbying?

According to the *TI Anti-Corruption Plain Language Guide*, a 'political contribution' is "any contribution, made in cash or in kind, to support a political cause. Examples include gifts of property or services, advertising or promotional activities endorsing a political party, and the purchase of tickets to fundraising events".[1]

'Lobbying' is "any activity carried out to influence a government or institution's policies and decisions in favour of a specific cause or outcome. Even when allowed by law, these acts can become distortive if disproportionate levels of influence exist — by companies, associations, organisations and individuals".[2]

Driven in part by civil society, pressure is growing in the boardroom and among shareholders for accountable and transparent political interactions by companies in order to monitor where corporate political spending goes and whether company positions on matters of public policy are aligned with the values and long-term interests of the enterprise. Businesses must respond to these demands by accounting to their shareholders and the public on the extent and nature of their public policy engagement. By providing timely reports on lobbying and political financing, companies will unequivocally acknowledge that disclosing outreach efforts is an essential element of responsible corporate citizenship.

1. Navigating between legitimate lobbying and regulatory capture

The dividing line between acceptable and improper lobbying and political financing activities can be difficult to discern given the overt and discrete avenues that companies have to exert influence. Inappropriate lobbying and political financing, which can result in undue influence, can take many forms:

Political corruption

The risk of political corruption is rife in environments where public salaries are low, tenures uncertain or the need to generate campaign funds high. Even in the absence of such elements, simple greed may motivate lawmakers or civil servants to accept inappropriate hospitality, gifts, company board positions or illegal bribes in exchange for decisions that favour vested commercial interests.

Favouritism may also be hidden through intricate forms of political corruption that enable personal relationships between business and political leaders to trump the public good. Almost 45 per cent of executives from 13 member countries of the Organisation for Economic Co-operation and Development (OECD) noted in their response to *TI's 2008 Bribe Payer's Survey* that personal and familiar relationships are frequently used to win public contracts in the non-OECD countries where they do business.

Campaign finance laws and criminal penalties for bribing public officials are an essential element to help curb undue political influence in many countries. Yet often national laws fail to reflect strong standards included in international agreements. Many countries have been slow to adopt legislation that prohibits the bribery of foreign public officials, although international agreements — the UN Convention against Corruption (UNCAC), the OECD Anti-Bribery Convention and the Council of Europe's Criminal Law Convention on Corruption — include such provisions.

In 2008, the German Federal Court of Auditors called for changes in the widespread practice of corporate and interest group employees working in federal ministries while retaining private sector jobs. At least 100 employees were found to have held dual employment during which time they attended internal meetings and represented government institutions without revealing their corporate affiliations.

Conflicts of interest

Conflicts of interest emerge when lawmakers or their families have direct financial stakes in the industries they are meant to regulate. A common and disconcerting practice in the United Kingdom is the granting of seats on company boards to politicians. Equally troubling is the 'revolving door' phenomenon that describes the exchange of staff between corporations and government — a practice that frustrates attempts to separate business interests from political decisions. At recent count, at least 70 former US state senators from Texas were working as lobbyists, employed to seek influence with former colleagues. In the UK, politically connected firms account for almost 40 per cent of the value of publicly-traded companies, a figure which rises to over 80 per cent in Russia.[3]

Unequal access to policy-makers

Regulation of lobbyists is a fairly new global practice and in many places legislation lags behind the skyrocketing growth of the industry. Most countries have yet to implement legislation to control lobbying activities, and those that have often lack strict laws. The European Commission's lobbyist registry, for example, could be more effective were it mandatory, as it is in the United States and Canada. Without greater transparency and accountability in lobbying practices, the public — already unable to keep pace with corporate political spending — faces increasing difficulties to remain engaged in the policy debate.

Greater oversight of corporate spending on lobbyists and political campaigns can also benefit companies. Political spending may not be aligned with the long-term strategy of the company, its owners or other stakeholders. Lobbying efforts rarely require approval by boards of directors, often lack transparency and tend to fall outside the system of checks and balances that companies rely on for strategic decisions. In 2008, roughly one-third of Standard & Poor's 100 companies required board oversight of political spending. Lobbying decisions made without board consultation may reflect the political preferences of individual executives or a narrow focus on short-term profits over long-term company growth.

In the last decade, lobbying expenses have doubled in the United States, where there are now on average five lobbyists for each politician. At the state level in the US, lobbying expenditure averages US$ 200.000 per legislator, with an approximate 16.000 lobbyists in the country. Brussels, the seat of the European Union and Parliament, currently counts 2.500 lobbying organisations and 15.000 lobbyists, two-thirds of whom represent commercial interests.

Covert channels for political influence

Increasingly, businesses take their interests and appeals directly to the public through advocacy, campaigns and corporate sponsorship. But legitimate efforts to participate in the public discourse can be undermined if private sector actors present unbalanced information or fail to represent their interests openly.

The creation of 'astroturf' organisations — fake grassroots groups formed and funded by lobbying firms or corporate interests — may suit short-term business goals, but can distort honest public debate on important policy issues and carry lasting reputational consequences if uncovered. Activities such as 'journo-lobbying', in which seemingly independent media are supported by corporations to promote industry-friendly perspectives, are on the rise and increasingly sophisticated, making it hard to discriminate between independent news and paid content. Additionally, company support to the scientific community through the sponsorship of academic chairs, university departments and think tanks must be disclosed to ensure the integrity of these research institutions is not at risk and conflicts of interest on both sides are not being fostered.

According to news reports, the pan-European 'Cancer United', ostensibly an advocate for patients' rights, was entirely funded by a Swiss pharmaceutical company which produces cancer drugs. In addition to having a senior company executive on the board of Cancer United, the company's public relations firm served as the organisation's Secretariat. Concerned by Cancer United's lack of transparency, members of the European Parliament and the head of the European Cancer Patients coalition withdrew from the group's executive board.[4]

2. Responses

The blend of methods and regulations to curb undue corporate influence in public policy are necessarily shaped by unique business and political conditions in each country, including the strength of the lobbying industry and the character of civil society locally. Recognising the need for nuanced approaches, TI presents some policy responses that are equally applicable wherever corporate engagement threatens fair and transparent public policy development.

Business must:

Make decisions on political engagement at the board level.

- Decisions on public policy engagement and political spending must be decided among a company's board and in consultation with shareholders.

This policy position draws on the TI Global Corruption Report 2009: Corruption and the Private Sector. It is one of four papers based on the Report. The others cover corporate integrity, regulatory policies and cartels. All facts and figures, unless otherwise stated, are cited from the Report.

The GCR 2009 brings together more than 80 leading experts and practitioners to explore a wide range of corruption risks in and solutions for the private sector. To learn more, see: www.transparency.org/publications/gcr.

To purchase this and other GCRs in the series, visit Cambridge University Press at www.cup.cam.ac.uk.

Include political activities and spending in corporate reporting.

- Company engagement in the political arena should be mainstreamed into corporate sustainability reports, as environmental and social standards are.
- In addition to reporting on lobbying efforts, companies must disclose their other forms of political engagement, such as funding or support for civil society organisations, scientific research or public relations activities.

Government must:

Reduce opportunities for conflicts of interest.

- Governments at the national, regional and local level must establish and enforce regulations that reduce opportunities for conflicts of interest. These include asset and interest disclosure by public officials and mandatory 'cooling-off' periods to slow the 'revolving door'.

Introduce mandatory lobbying registries.

- National and regional governments should consider instituting mandatory registries that require lobbyists to publicly and regularly disclose their clients, issue areas, targets, techniques and financial information. Lawmakers should consider introducing penalties for failure to adhere to these standards.

Create transparency in decision-making processes.

- To moderate corporate influence and encourage democratic participation, policy-makers should facilitate open hearings on policies and consultative decision-making processes to ensure that citizens' inputs are included.

Civil society, media and the scientific community must:

Maintain independence and acknowledge conflicting interests.

- To maintain public trust and the integrity of their institutions, media, civil society and the scientific community must all make funding streams transparent and proactively disclose conflicts of interest.

Monitor corporate political engagement.

- Civil society and media organisations that work on issues of governance and democracy should consider tracking lobbying activity. Such exercises arm citizens with the information to participate in informed public debates.

References

[1] *Transparency International, 'The Anti-Corruption Plain Language Guide' (Berlin, TI, July 2009). www.transparency.org/content/download/45306/725785/file/TI_Plain_Language_Guide_280709.pdf.*

[2] *Transparency International, 'The Anti-Corruption Plain Language Guide' (Berlin, TI, July 2009). www.transparency.org/content/download/45306/725785/file/TI_Plain_Language_Guide_280709.pdf.*

[3] *Defined in this context as firms in which controlling shareholders or top officials are also members of parliament, ministers or are closely related to a top politician or party. See, M. Faccio, 'Politically Connected Firms', American Economic Review, vol. 96, no.1 (2006).*

[4] *See: S. Boseley, 'Concern over cancer group's link to drug firm', Guardian, (UK), 18 October 2006. www.guardian.co.uk/society/2006/oct/18/cancercare.health.*

TRANSPARENCY INTERNATIONAL

Telephone

+49-30-343820 -0

Fax

+49-30-347039 -12

International Secretariat

Alt-Moabit 96

10559 Berlin

Germany

Transparency International (TI) is the civil society organisation leading the global fight against corruption. Through more than 90 chapters worldwide and an international secretariat in Berlin, Germany, TI raises awareness of the damaging effects of corruption, and works with partners in government, business and civil society to develop and implement effective measures to tackle it. For more information go to: www.transparency.org

ISSN 1998-6432