

Views Of Slovenian Citizens On Lobbying

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ABSTRACT:

Commercial lobbying, i.e., influencing decision-makers with the help of a hired lobbyist, has its roots, according to most authors, in the early nineteenth century in the USA. Lobbying is a phenomenon that is familiar to all modern countries. It has become part of the democratic process of formulating and implementing public policy, and countries are trying to systematically regulate it through control and sanctioning. At the same time, lobbying is an industry involving billions of euros. It is also one of the most misunderstood and misrepresented activities in politics and public life in general. Not only among the general public but also among public officials, lobbying is very often equated with corruption. However, lobbying is inherently legitimate if it adheres to legal frameworks and rules and if registered lobbyists carry it out. Unfortunately, many individuals in Slovenia still try to influence decision-makers illegitimately. Consequently, the word lobbying in Slovenia usually has a negative connotation, with many equating it with one of the forms of corruption.

KEYWORDS: *lobbying, lobbyist, corruption, perception, negative connotation of lobbying.*

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I. Introduction

Lobbying is the exercise of influence where an individual (a lobbyist) attempts to influence the decisions of decision-makers (lobbied persons) who are active in the field of formulation and adoption of legislation and public policies, doing so in a non-public way and in the interests of an interest organization. In essence, lobbying is about expressing and representing the particular interests of individuals, groups and organizations, as well as influencing decision-makers in deciding on those interests.

However, lobbying often crosses legislation boundaries; unofficial lobbying often turns into illegitimate lobbying and even corruption. Not only that, but problems also often arise due to a lack of understanding of lobbying and non-compliance with the framework governing the operation of lobbyists. Nevertheless, research and articles on this topic are scarce (Cizelj and Mlakar, 2023), so the question arises about what constitutes unofficial lobbying. Depending on the case, it may even be illegal, but certainly at least illegitimate, when the lobbyist does not comply with the law and the lobbyists' code.

Certainly, lobbying is a phenomenon familiar to all modern countries and one that has become part of the democratic process in the formulation and implementation of public policy, and which countries, due to its dual nature, are trying to systematically regulate by means of control and sanctioning. On the other hand, lobbying is an industry where billions of euros are involved (Jenkins and Mulcahy, 2018). However, although it is a well-established practice in the old democracies, where frameworks and limits are well-defined, such is not the case in the so-called new democracies or otherwise named countries in transition (mainly post-socialist or post-communist countries), where regulation does exist, but is very often not respected. Consequently, as all of the above casts a bad light on legal, legitimate lobbying, a very poor opinion of lobbying has been formed in Slovenia.

II. Lobbying

Lobbying is as old as human society, with the forms and techniques of lobbying evolving and changing in different periods and regimes. Initially, the word "lobby" meant a hall or corridor on the central floor of a public building. Later, however, it started to denote that space in the legislative body to which the public also has access, in addition to elected representatives. Today, it has gained political significance in connection with a particular political practice.

Lobbying, i.e., the practice of trying to influence the decisions of various government officials, has been present in various forms for centuries. Thus, Zetter (2008, p. 6) explains that lobbying is a natural and inevitable process, which had an impact on the development of British democracy with the signing of the Magna Carta in June 1215, where the limits of royal power were set under pressure from rebel barons. Other authors argue that a form of

lobbying existed already in BC time, in the time of antiquity, Cicero and Atticus (Zetter, 2008, p. 6; Handlin, 2014, p. 3).

Many authors agree that lobbying (as we know it today) has a long historical tradition. However, there is no consensus on when and where it started. Zetter (in Dreven, 2012, p. 36) places the beginning of lobbying in the USA, referring to accounts of Virginia veterans hiring a lobbyist who then lobbied for the extension of their wartime rights. The same author admits that lobbying originated in the UK, yet ultimately concludes that commercial lobbying originated in the US. Fink-Hafner (ibid.) also agrees that lobbying originated in American political practice but places its origins in 1829. At that time, the term "lobby agent" began to describe people hired to seek privileges in the corridors of the legislative authority in Albany.

Cooper (2017), however, attributed the title "lobbyist" to President Ulysses S. Grant, who allegedly took an interest in the people who gathered in the lobby of the Willard Hotel in Washington to discuss various matters. He referred to them as lobbyists.

In the European Union (hereinafter referred to as the EU), lobbying began much later than in the USA (towards the end of the 1970s) and, because the EU is a de facto political system as opposed to the US, which is a state, the decision-making system is significantly more complex, which is why companies, NGOs and other entities need specialist and professional help when dealing with EU institutions (Geugen, 2007).

There are three overlapping levels of lobbying: legal, legitimate and ethical. Legal lobbying means respecting the law (i.e., there is no room for corruption); legitimate lobbying means compliance with the injunctions of the codes of ethics of lobbying associations; and ethical lobbying means respecting the interests of society.

Lobbying involves more than just persuading legislators or other decision-makers. Professional lobbyists research and analyze legislation or legislative proposals, attend congressional hearings and educate government officials and entrepreneurs on important issues. Lobbyists also seek to change public opinion through advertising campaigns or by influencing the "opinion of the leader". They must, therefore, have good communication skills and knowledge of the legislative process and, e.g., the industry or organization (i.e., relevant content knowledge) they represent (Šeško, 2023).

Suppose we understand lobbying as a permanent or lasting and direct attempt to influence decision-making processes while respecting the principles set out in the previous paragraph. In that case, we can understand how important the relevant legislation governing lobbying is and how important it is that this legislation is properly respected.

Legitimate and illegitimate lobbying

Interest groups are often represented by lobbyists who try (legally or not) to influence the government, the parliament (in Slovenia's case, the National Assembly), or other state institutions. Consequently, too much influence from lobbyists can lead to the adoption of "strange" laws, laws that benefit primarily narrow circles and a less wide circle of citizens or taxpayers, or to dubious policy decisions (Beyers and De Bruycker, 2017; Albamate, Bel, Gragera, 2019; Šumah, 2020). However, the stakes are high, and many people yearn for the unjustified money, so lobbying can sometimes cross the line.

Despite corruption and lobbying being two entirely different matters, with corruption being overwhelmingly illegal from¹ both a legal and moral point of view or often pure criminality, lobbying is nevertheless regulated by law; there is a fine line between lobbying and corruption that can be crossed fairly quickly, which is why lobbying often has a very negative and pejorative connotation. However, as long as lobbying is carried out in accordance with specific legal regulations, it is a perfectly legal activity. The problem arises when lobbying is done in a way that is not legally defined; that is when it can turn into corruption. Lobbying is the exercise of influence where an individual (a lobbyist) attempts to influence the decisions of decision-makers (lobbied persons) who are active in the field of formulation and adoption of legislation and public policies, doing so in a non-public way and in the interests of an interest organisation.

In Slovenia, lobbying is precisely defined in the ZIntPK (the Law on Integrity and Prevention of Corruption)²: "Lobbying" is the activity of lobbyists who, on behalf of interest organizations, exert a non-public

¹ All corruption is immoral, but not all corruption is criminal or a crime. However, the question arises as to which is more important: legal or right? Or as the late Zdenka Cerar used to say: not every filth is a crime (Turk, 2020).

² However, the ZIntPK limits the definition of lobbying by limiting decision-makers/lobbied persons only to state bodies, local community bodies and holders of public authority, and decisions only to those related to the adoption of regulations and other general acts and other matters that are not the subject of judicial and administrative procedures, public procurement procedures and other procedures in which the rights or obligations of individuals are decided.

influence on the decision-making of state authorities, local community authorities and holders of public authority in the consideration and adoption of regulations and other general acts, as well as on the decision-making of state authorities, authorities and administrations of local communities and holders of public authority on matters other than those that are the subject of judicial and administrative proceedings, proceedings carried out according to the regulations governing public procurement, and other proceedings in which decisions are made about the rights or obligations of individuals. Every non-public contact of the lobbyist with the lobbied, which is intended to influence the content or the process of making the aforementioned decisions, is considered an act of lobbying."

Lobbying is one of the most misunderstood and misrepresented activities in politics and public life in general. Among the general public and public officials, lobbying is often simply equated with corruption or - at least in terms of its effects - with socially harmful behavior. It is, therefore, not surprising that many - including high-ranking political figures in the world and our country - say they do not want to deal with lobbyists, as they believe that lobbying is an adverse action that harms broader social interests, as well as their reputation. In reality, however, they cannot escape them (Cizel and Mlakar, 2022).

According to the crudest estimates, around 30,000 lobbyists operate in Brussels, making this European political headquarters the second-largest lobbying capital in the world after Washington, and many believe that few critical decisions are made without the influence of lobbyists in one way or another.

As many as 12,400 companies³ and organizations are now registered in the European Register of Lobbyists. Their budget, intended exclusively for lobbying, today (officially) revolves around 1.8 billion euros. At the top of the list are the giants known as Big Tech, Big Pharma and Big Energy. These lobbying corporations alone officially spend between four and six billion euros annually, and probably several times that amount unofficially (Soban, 2022). Since we have already mentioned that lobbyists in Washington are paid much better than their European counterparts, I would add that during President Obama's presidency, at his request, the number of lobbyists decreased significantly. Nevertheless, the funds allocated to lobbying remained the same, meaning many lobbyists only changed their way of operation.

Approaches in lobbying

In lobbying, a distinction between a legitimate and an illegitimate approach can be made. Legitimate lobbying approaches include (Zučko, 2011, p. 21):

- persuasion,
- data transmission,
- preparation of analyses and their transmission to decision-makers,
- gathering information on ongoing or announced public policy processes.

While illegitimate approaches are associated with:

- bribery with financial resources, material goods,
- corruption in a disguised material form (e.g., using services paid for by a lobby or lobbyist),
- corruption in various intangible forms (e.g., trading in positions),
- manipulation of data (unfair or fraudulent presentation of data to lobbied persons),
- unfair acquisition and dissemination of official data and threats.

However, since all legal lobbying is not legitimate, nor is it necessarily ethical, Cizelj and Mlakar (2022) divide lobbying into three categories:

- legal lobbying – where no one violates any laws;
- legitimate lobbying – where lobbyists comply with all the provisions of their codes of ethics;
- ethical lobbying – where lobbying activity is not in any way contrary to social interests.

III. Research

Lobbying is not a particularly common topic in the media (especially in Slovenia). Still, it often occurs in everyday conversation: "I lobbied for this, for that... we have already started lobbying ... lobbying will have to be done...". The word lobbying, thus, usually has a negative connotation, and many even equate lobbying with one of the forms of corruption. However, lobbying is inherently a legitimate matter if it adheres to legal frameworks and rules and if registered lobbyists carry it out. Of course, lobbyists can also operate outside these frameworks, or lobbying can be carried out by unregistered lobbyists using illegal approaches. Such activity is well hidden from the public, and consequences may arise that people feel yet do not know their causes. The ultimate consequence of such actions can thus be, if not the hijacking of the state, then at least the hijacking of a particular sub-system of the state by interest groups. In Slovenia, the health system, in particular, is often said to be a prisoner of interest groups, and the same is true for parts of the state infrastructure. However, whether this is

³ To compare, there are 83 official lobbyists registered in the Register of Lobbyists in Slovenia.

due to lobbyists or simply to sufficiently powerful individual interest groups is another issue. The influence of lobbyists and lobby groups on the legislative process would not be controversial (in fact, this is the primary task of lobbyists) if lobbying were carried out transparently and in accordance with the law. However, the rules are being bent, and behind the scenes, networks are trying to hijack (or have already hijacked) the state or particular sectors. Covert lobbying, like corruption, is a multi-directional process. On the one hand, there is the benefit seeker; on the other, the benefit giver (whether in the form of rigged laws, rigged tenders, various concessions, etc.); both are aware of the action, which remains clandestine because they both benefit from it. And the third link in the chain is everyone else, the victims. If any such collusion is not a criminal offense, it is nevertheless unethical and detrimental to society's economic and political development.

According to the results of the survey, and also based on the scientific articles and articles in the media that have been studied, the reason for the negative connotation of lobbying, in addition to the reasons already mentioned (covert, unethical lobbying), is above all the misuse of the word "lobbying," as it is already used by practically every "meddler" with influence at the local level. The term "we will lobby" is therefore used very often at the local level, whether regarding the allocation of municipal housing, a director's position at a local public institution or municipal money for an association. It is also very likely that those who use the term frequently do not clearly understand the essence of lobbying, and lobbying for them is just a simple matter of meddling with different jobs and influencing municipal tenders. As a result, the concept of lobbying loses its real meaning and is attributed to something other (negative) than what it actually is.

What is important in perceiving a thing or an activity is the association with a concept that characterizes it. Šeškotova's (2023) research, as part of her broader research on lobbying, shows what people in Slovenia think about lobbying or how they feel about it. Her question was: "What would you associate lobbying with? What do you think of when you hear these words?" Then, she gave the respondents a range of possible words to associate with lobbying.

IV. Results

77 (29%) respondents answered that lobbying is a legal activity or legal influence on decision-makers. 44 (16%) respondents decided that lobbying is "meddling out of the public eye" and "illegal influencing" on decision-makers. 42 (15%) respondents associated lobbying with corruption, 35 (13%) with "behind-the-scenes decision-making," and 25 (9%) with "under-the-table collusion."

77 respondents, or 29%, identified lobbying as a legal activity, while the remaining 71% associated lobbying with negative concepts (including corruption).

S čim bi povezali lobiranje? Na kaj pomislite, ko zaslišite to besede?				
Odgovori	Frekvenca	Odstotek	Veljavni	Kumulativa
1 (na legalno vplivanjem na odločevalce)	77	29%	29%	29%
2 (na mešetarjenje izven oči javnosti)	44	16%	16%	45%
3 (na korupcijo)	42	16%	16%	61%
4 (na nelegalno vplivanje na odločevalce)	44	16%	16%	78%
5 (na odločanje v zakulisju)	35	13%	13%	91%
6 (na dogovarjanje pod mizo)	25	9%	9%	100%
Skupaj	267	99%	100%	/

Table 1: Respondents' association with the word lobbying
(source: own, 2023)



Chart 1: Graphical representation of what the word lobbying reminds the respondents of
(source: own, 2023)

V. Discussison

Lobbying is not a particularly common topic in the media (especially in Slovenia). Still, it often occurs in everyday conversation: "I lobbied for this, for that... we have already started lobbying ... lobbying will have to be done...". The word lobbying usually has a negative connotation, and many even equate lobbying with one of the forms of corruption. However, lobbying is inherently a legitimate matter if it adheres to legal frameworks and rules and if registered lobbyists carry it out. Of course, lobbyists can also operate outside these frameworks, or lobbying can be carried out by unregistered lobbyists using illegal approaches. Such activity is well hidden from the public, and consequences may arise that people feel yet do not know their causes. The ultimate consequence of such actions can thus be, if not the hijacking of the state, then at least the hijacking of a particular sub-system of the state by interest groups. In Slovenia, the health system, in particular, is often said to be a prisoner of interest groups, and the same is true for parts of the state infrastructure. However, whether this is due to lobbyists or simply to sufficiently powerful individual interest groups is another issue. The influence of lobbyists and lobby groups on the legislative process would not in itself be controversial (in fact, this is the primary task of lobbyists) if lobbying were carried out transparently and in accordance with the law. However, the rules are being bent, and behind the scenes, networks are trying to hijack (or have already hijacked) the state or particular sectors.

Covert lobbying, like corruption, is a multi-directional process. On the one hand, there is the benefit seeker; on the other, the benefit giver (whether in the form of rigged laws, rigged tenders, various concessions, etc.); both are aware of the action, which remains clandestine because they both benefit from it. And the third link in the chain is everyone else, the victims. If any such collusion is not a criminal offense, it is nevertheless unethical and detrimental to society's economic and political development.

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VI. Conclusion

There is a fine line between lobbying, even though it is regulated, and corruption. As this line can be crossed fairly quickly, lobbying often has a negative and pejorative connotation. However, as long as lobbying is carried out in accordance with specific legal regulations, it is a perfectly legal activity. The problem arises when lobbying is done in a way that is not legally defined; that is when it can turn into corruption. Lobbying is the exercise of influence where an individual (a lobbyist) attempts to influence the decisions of decision-makers (lobbied persons) who are active in the field of formulation and adoption of legislation and public policies, doing so in a non-public way and in the interests of an interest organization.

In lobbying, a distinction between a legitimate and an illegitimate approach can be made. As a result, when it comes to the attitude of respondents towards lobbying, it turned out that lobbying in Slovenia has a very negative connotation. Of course, the sample is too small to statistically significantly claim that people have a very negative attitude towards the concept of lobbying and that they equate it primarily with negative concepts, i.e., corruption, under-the-table bargaining and semi-legal collusion, but the research, albeit carried out on a limited sample, does suggest that this is the case. It could be said that the respondents have a moralistic view of lobbying, which is, from a legal point of view, more emotional than realistic.

Of course, this is conditioned by the still weak legislation in this area, which still allows a whole range of "lobbyists" to operate through connections, acquaintances and networks behind the scenes. In domestic terms, they can still "do their business." That is why one often hears phrases like "we need to lobby" and "we're going to lobby" in connection with exciting jobs, building permits, deals with the municipality and the state, etc. Consequently, because the word 'lobbying' is misused and often refers to matters regarding nothing other than personal gain, it has acquired a bad reputation and a negative connotation. Therefore, it could be safely argued that the word "lobbying" is too often misused by self-proclaimed "lobbyists" and in everyday conversation.

But how to sort this out - there are very few options. The first step would be to get the relevant legislation in place. A few articles in the Integrity and Prevention of Corruption Act are clearly insufficient, as illegitimate practices are constantly repeated, especially at the local level. Introducing an independent lobbying law with appropriate offense and penalty provisions might even make sense. If the status or manner of lobbying were to be retained in the existing law, it would be reasonable to extend or amend it with additional articles that would regulate lobbying in even greater detail and add criminal provisions to it. Nevertheless, such a law must be used, which is not yet the case in Slovenia. In any case, the CCP (Commission for the Prevention of Corruption) should be given more authorization, power and the possibility of sanctions. As many commentators nowadays note, the Commission is just a dog that barks but seldom bites as it cannot seriously act or has very limited powers to do so.

Another such measure could be for lobbying organizations to register or enter into the register of lobbyists various non-governmental organizations, various, mainly consulting companies, various interest groups and associations, as well as influential individuals with a vast network of acquaintances, who are currently circumventing the system and exploiting flawed legislation.

Also, a lobbying chamber should be established to educate and license lobbyists and possibly penalize those who do not comply with the lobbyists' code. To quote the president of the Slovene Association for Legal Lobbying again: "The Association for Legal Lobbying advocates the establishment of a lobbying chamber that would take care of education and licensing, and on the other hand, the sanctioning of 'rotten apples' (STA, 2023)."

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