

## THE LEGITIMACY OF LOBBYING

**Abstract.** *Lobbying is traditionally viewed quite negatively, often based on limited empirical research backing. With more good case studies and elaborate methodologies – mostly in the USA – there is now greater empirical evidence of the positive and negative aspects of lobbying, which should lead to the more balanced treatment of this important phenomenon. Considering the generic nature of lobbying, the key issue is why lobbying tends to cross the line of legitimacy and even legality, and in what conditions lobbying can represent an instrument of democracy and quality decision-making.*

**Keywords:** *interest representation, legitimate and ethical lobbying, lobbying regulation, and self-regulation*

### Introduction

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In order to contribute to an objective interpretation of the background and underlying causes of the phenomenon, we wish to explore the very nature of lobbying, its doctrinal evolution, and the causes of its prevailing negative public image.

We intend to answer the following research questions:

- (1) What is the generic nature of lobbying, and which main conditions or determining factors qualify it as an instrument of a vibrant democracy?
- (2) Which are the primary causes of lobbying's negative image, and how can they be restricted to 'contaminated' cases (when lobbying is abused for criminal purposes and degenerates into corruption or extortion)?
- (3) What can be expected of lobbying in the future knowledge society?

Our starting positions and working assumptions are as follows:

- In relation to (1): The generic nature of lobbying is complex but neutral. In certain conditions, it is an important instrument of democratic, high-quality and responsible decision-making in public life. Otherwise, in the presence of insufficient transparency and responsibility lobbying can degenerate into an illegitimate or even illegal activity. Notwithstanding cultural differences, in countries with an advanced genuine democracy lobbying

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\* Boris Cizelj, PhD, President KEN, Professor at the DOBA Business School, Slovenia; Fazı Mehmet Gökğöz, PhD, Member of the Turkish Delegation to NATO, Brussels.

is treated in a more balanced way. More reliable empirical research will help establish a clearer, authentic picture of the phenomenon.

- In relation to (2): Lobbyists and their clients are chiefly responsible for this poor reputation as they abuse lobbying for short-sighted, egoistic and even anti-social interests. However, the authorities and politicians should also play a more determined and responsible role in properly regulating and addressing lobbying in a more differentiated manner. This also applies to the media.
- In relation to (3): More, not less, lobbying can be expected in the future, primarily due to increasingly educated people, and their legitimate claim to be better informed and more actively involved in decision-making. As modern ICT facilitates participatory democratic procedures, while all interests can be more easily expressed and properly communicated, interest representation and legitimate lobbying should become a pillar of democracy.

## In relation to (1): The Generic Nature of Lobbying

### *Categories of Lobbying and Their Impact*

Interest representation and lobbying are constituent parts of any democratic decision-making, be it generally in society, in politics – particularly in the legislative process – and equally in business, culture and sports. Where is the dividing line between interest representation and lobbying? While the first also takes place beyond the direct context of decision-making, lobbying strictly occurs when interest groups are actively and intentionally influencing decision-makers – directly, via hired lobbyists or other intermediaries.

The positive attribute of lobbying depends on requirements on three levels. First, full respect of the law makes lobbying legal – and that excludes corruption in any form. The second level – legitimate lobbying – implies full compliance with the Code of Conduct of the respective Lobbying Association. Moreover, the third level – to be recognised as ethical lobbying – is based on respect of the public interest. In reality, only some cases of lobbying may be labelled ethical, most cases are in the second category but, unfortunately, too many cases do not even manage to satisfy the criteria of legality. This qualifies such behaviour as a criminal act and should be treated as such.

When discussing these challenges, several authors<sup>1</sup> use the term responsible lobbying, which relates to the concepts of business ethics, corporate

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<sup>1</sup> Among them: Anastasiadis S. (2014); Banerjee S. B. (2008); Bauer T. (2016); Williams S. (2008); Argandoña A. & Høivik H. (2009); Lawton T., McGuire S., Rajwani T. (2013). Basic requirements refer to authentic identification, avoidance of conflicts of interest, use of credible data and information, no manipulation of persons lobbied.

citizenship, and corporate social responsibility (CSR). This forms part of a bigger debate among the opponents of liberal economic doctrines, reflected in views on the relationship between corporate and broader public interests<sup>2</sup>.

Full compliance with the CSR principles is still far away, although it should be recognised that an increasing number of companies care at least about their public image, not only locally, but also abroad. This concern is also starting to cover the domain of lobbying. Along these lines, several international corporations like Novartis, Bayer, etc. recently adopted their own Corporate Codes that require any lobbying on their behalf anywhere in the world be done legally and legitimately.<sup>3</sup> Although full implementation of these Codes may take some time, they are certainly a promising sign.

### *Evolution of the Lobbying Doctrine*

Without being referred to as “lobbying”, this type of communication with decision-makers is as old as organised human society. The origins of the term go back to the “labium” in the Roman Senate, later (since 1640) the “lobby” in the English Houses of Parliament, and the “lobby” in the Willard Hotel in Washington, where President Ulysses S. Grant (1869–1877) was known to have been targeted by senators coming there to ‘lobby’ him for various issues in the privacy of the hotel environment. Therefore, the term has traditionally been linked to the physical environment in which lobbying activities have usually been conducted, and is nowadays used in the English “original” (lobby, lobbying) around the globe.

Generally, the differences seen in the existing definitions mainly refer to their coverage. Primarily in the USA, it is usually restricted to the legislative arena, which is the most restrictive definition. On the other hand, everybody agrees there can be no politics without lobbying. There is also a specific type of political lobbying, “electoral lobbying”, a little more pronounced in the USA than elsewhere. Hardly any big business is concluded anywhere without at least some lobbying activities being engaged in. In our opinion, lobbying is practised in all areas of public life, as well as in our private lives

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<sup>2</sup> *The classical position of the liberal economic doctrine was expressed by M. Friedmann in his famous New York Times Magazine article entitled “The Social Responsibility of Business is to Increase its Profits” published on 13 September 1970.*

<sup>3</sup> *The Novartis Global Guidelines for conducting lobbying activities based on transparency, honesty and integrity claim that “Lobbying should not be misused for any corrupt or illegal purposes, or to improperly influence any decision. Relevant functions (e.g., Public & Government Affairs) provide guidance on how lobbying should be conducted based on the values of transparency, honesty and integrity” (Novartis, 2017: 3). The recently discovered payment of 1.2 mil.USD to President Trump’s former lawyer Michael Cohen by ex-CEO Josepf Jimenez shows that actual practice is still far from the verbal commitment of the company.*

– about which we are even less aware, and is not treated in the lobbying literature – except in psychology, which looks at lobbying from its own perspective<sup>4</sup>.

An important source<sup>5</sup> of the lobbying doctrine is the research on interest and pressure groups, with a rich tradition in the USA in particular. Observing this academic evolution, Woll (2007: 457) identifies four waves in European and American interest group studies – all still in the political science framework. The first wave deals with the actions of diverse groups and alliances in US politics (e.g.: Herring, 1929; Schattschneider, 1960) eventually culminating in the development of literature on interest groups (Truman, 1951; Olson, 1965). The second wave started in the late 1950s when interest group research emerged in other countries as well (Ehrmann, 1958; Finer, 1960). Fuelled by studies on corporatism in the 1970s, the third wave focused on neo-corporatist arrangements and cross-national differences in interest group systems. The fourth wave includes studies on lobbying at the European level and has developed largely independently from the other waves. In fact, “...the bulk of studies on EU lobbying was a reaction to the growth of interest representation at the supranational level during the period following the Single European Act” (Woll, 2007: 458).

Baumgartner (2007: 486) notes that studies of EU lobbying are strongly rooted in the policy-making process. In this regard, efforts have so far concentrated on mapping activity in particular fields, e.g. in telecommunications (Schneider, 1992), the electronics industry (Cawson et al., 1990), aviation (Van den Polder, 1994), fruit trade policy (Pedler and Van Schendelen, 1994), biotechnology (Greenwood et al., 1994), postal policy (Campbell, 1994), transport (Stevens, 2004) and the environment (McCormick, 1995; Mahoney, 2008).

Moreover, scholars working on EU lobbying have focused on the type of actors involved in the policy process by distinguishing: business groups (McLaughlin et al., 1993; Coen, 1998; Bouwen, 2002; Grossman, 2004); diffuse interests (Pollack, 1997); farmers (Klandermans et al., 2001; Bush and Simi, 2001); trade associations (Martin and Ross, 2001); regional interests (Hooghe and Keating, 2001) and consultancies (Lahusen, 2002; Mahoney, 2008). However, Mahoney (2008: 7) notes that, although EU lobbying studies have looked closely at mapping interest and issue characteristics, very few accounts address both items simultaneously. To date, studies have

<sup>4</sup> For example: John M. Grohol, »The Psychology of Lobbying and Subtle Persuasion«, *World of Psychology*, accessible at <https://psychcentral.com/the-psychology-of-lobbying-&-subtle-pesuasion> (10. 3. 2018).

<sup>5</sup> Full references to the sources listed but not quoted are accessible at <http://www.ecpd.org.rs>; in the reference section of the PhD Thesis by F. M. Gökgöz entitled: “The process of interest representation in Brussels: Lobbying for Turkish RTDI interests”, ECPD, Belgrade, 2017.

concentrated on one type of interest group and failed to take account of different policy domains, or focused on different policy domains while paying much less attention to distinct interest group types.

Moreover, following a survey of about 300 studies on EU lobbying, Andersen and Eliassen (1995 and 1998 quoted in Woll, 2007: 458) criticised "...the empirical richness but theoretical poverty of the literature". The qualification largely refers to the relatively descriptive and insufficiently analytical nature of the research. Nevertheless, Woll (2007) argues that EU lobbying studies sought to contribute to theoretical debates, particularly in four areas:

- the corporatist-pluralist debate;
- studies on collective action;
- studies on European governance; and
- contributions assessing the Europeanisation of interest groups.

In the USA, scholarship on lobbying has predominantly examined the advocacy process itself, i.e. the strategies, tactics and influence of interest groups – defending their interests – in the policy-making process. Mahoney (2008: 7) highlights the contributions to group theory (Bentley, 1908; Truman, 1951; Milbrath, 1963), studies focusing on mobilisation (Dahl, 1961; Olson, 1965; Walker, 1983), lobbying tactics (Schlozman and Tierney, 1986; Berry, 1989; Baumgartner and Leech, 1998), lobbying targets (Bauer et al., 1963; Austen-Smith and Wright, 1994; Hojnacki and Kimball, 1998), lobbying coalitions (Hula, 1999; Hojnacki, 1998; Whitford, 2003) and influence (Smith, 1984; Gerber, 1999; Smith, 1995; Tauber, 1998). Unlike their European peers, Mahoney (2008: 7) notes that scholars addressing lobbying in the USA have consistently neglected the institutional structure of the policy-making arena, which is the "critical independent variable" in lobbying. Studies have so far focused on one interest group type and shown scant interest in comparing various policy domains, and interpreting activities of various types of interest groups.

One may conclude that the doctrine of lobbying has two distinct origins: in the USA, evaluating how interest and pressure groups influence the legislative and broadly the policy-making arena. In Europe – within the EU, to be more precise – the integration process has affected researchers in their observations and interpretations of lobbying EU institutions, paying special attention to the changing role of these entities. These developments reflect the differences between the two political cultures and the fact that the USA is a federal state, while the EU is a regional integration of countries with the longest traditions of being a nation state.

Interestingly, among the many authors writing about lobbying, a large number has avoided entering into the discussion of ethics, while most end

up finishing in that position implicitly, by qualifying the activities of particular lobbyists only in terms of the quality of their applied strategy, techniques and results. Therefore, these authors leave the moral judgement of lobbyists' acts to the reader.

An interesting concept has been developed by Theresa Bauer (2017: 311–313), the author of “Responsible Lobbying: Conceptual Foundations and Empirical Findings in the EU”. She defines responsible lobbying in terms of Corporate Social Responsibility. This concept combines all three levels of our definition of legal, legitimate and ethical lobbying, implying that a responsible organisation should lobby responsibly in order to serve its own interests in the long run.

### *Empirical Research on the Impact of Lobbying*

In spite of the abundance of literature on lobbying, actually not many empirical studies assess with scientific rigor the full impact of a certain lobbying process. Confirming this point, de Figueiredo and Kelleher Richter (2013: 35–39) raised several pertinent aspects in need of a proper response in future empirical research:

- Given the magnitude of the potential benefits of lobbying, why is just 0.1% of GDP reportedly spent on lobbying in the USA, and why do only 10% of companies actually lobby?
- When and in which conditions does lobbying produce a payoff, and how is it distributed among the relevant interest groups?
- While surveys allow researchers to identify who is targeted, little research has looked at the intensity and kind of messages that are most influential.
- Little, if any, research has been conducted on how interest groups allocate resources across different instruments (lobbying, campaign contributions, grassroots organisation, endorsement, media campaign, etc.).

Lowery (2013: 1) is also critical of the lack of empirical research, saying that:

*All too often, research on the influence of interest organizations in democratic politics produces null findings” and pointing to “... a deep paradox in our attention to influence. Simply put, we all look for it, but rarely find evidence of it.*

He insists that, in reality, it is very seldom that just two entities confront each other in a fight over a proposal, and reminds us that ignoring the other influences might lead researchers to false conclusions. He also claims that much of lobbying research fails to measure the real impact of lobbying, not

paying sufficient attention to the distinction between the capacity to influence and the actual impact. Lowery points to the distinction between the power potential and the actual execution of power and political influence. In his words, “the bases of power” and the “exercise of power” should be carefully distinguished since – as defined by Mills (1956) in his classic work on the Power Elite – resources do not automatically translate into actual political influence and impact.

This leads researchers, the media and the public to strongly overestimate the actual impact of lobbyists on a certain decision taken, or the failure of lobbying, namely, maintaining the status quo. In this regard, Lowery (2013: 7) argues that:

*Virtually all sociologists and political scientists publishing in the top journals hypothesize that...interest groups...influence public policy, and it is safe to assume that they generally expect the impact to be substantial. This hypothesis is not as well supported by the data as we might expect. The impact of political organizations is significantly different from zero, by conventional statistical tests, only about half the time, and important in policy terms (as assessed by the authors) in just over a fifth.*

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This lack of empirical research allows room for sweeping generalisations about lobbying processes and for conclusions to be made on visible, external manifestations, while accepting the claims of lobbyists and their clients (who sometimes have a strong interest in overemphasising the impact of their action). By doing so, we thus support the general impression that lobbyists have managed to have a decisive impact on the outcome of a political or legislative decision. It tends to be overlooked that some major and influential actors have not wanted to be mentioned or explicitly involved (for a variety of reasons), but their well-known positions and interests have had a major impact on the final outcome (perhaps one could refer to this as “passive lobbying”). In any case, lobbying rarely occurs in a simple two-actor context.

We may conclude that the lack of empirical research is partly due to difficulties in gathering data and information on specific lobbying activities, and partly because some stakeholders and potential research funders may not be very interested in publishing certain lobbying results (showing them as aggressive, lacking in social responsibility, or failing in their attempts).

### *In relation to (2): Causes of the Negative Public Perception of Lobbyists*

In a recent survey by Burson-Marsteller (2013: 8–11) of 600 respondents in 20 European countries concerning how the public views the role of

lobbyists, up to 77% of respondents claimed that business lobbyists can act against the public interest. In addition, 70% of respondents believed that lobbyists have an important (possibly even an excessive) impact on the decisions of EU institutions.

It is interesting that the top three answers point to the easily recognisable deficiencies of lobbying: insufficient transparency, prioritising the interests of the rich and powerful, and manipulation of data/information.

This invites the conclusion that the bad name of lobbyists is often justified or even well deserved. A lobbyist once wrote in her autobiography that:

*It always startles people when you say you are a lobbyist. They stare at you with a sort of embarrassed horror as if you'd just made a shocking confession...* (Moore, 1949: 11)

While to some extent this is understandable<sup>6</sup>, it is also regrettable since lobbyists are part of the policy-making process in any democratic system. In authoritarian systems, professional lobbyists may not exist but a lot of lobbying is still going on, albeit in a far less accountable fashion, which is even worse.

In any case, the issue remains of when, in which conditions, and to what extent lobbyists are beneficial for democracy. They should be accepted as an unavoidable part of political dynamics, and a reality of governance, yet efforts should be made to prevent their abuse originating from breaches of the law, ignoring codes of conduct, and acting against the public interest.

Misconceptions of the meaning and role of lobbyists create challenges for both lobbyists in seeking to explain their profession, and for academics when attempting to objectively analyse their activities. As Browne (1998: 344) puts it, "As a job, lobbying is highly subject to stereotyping and misunderstanding". The general unfavourable attitude to lobbying has some significant consequences. In the words of Milbrath (1963: 298):

*It is curious that lobbying, which is protected by the constitutional right to petition, should be so thoroughly distrusted by the press and the public. Many lobbyists are sensitive to the stigma attached to their profession and try to avoid being labelled as lobbyists.*

Similarly, Pertschuk (1986: 9) remarks that "Journalists as a rule have not been much interested in the stuff of lobbying - unless it gives off a foul

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<sup>6</sup> *In the words of a lobbyist: "Being a lobbyist has long been synonymous in the minds of many Americans with being a glorified pimp" (Lipsen and Leshner, 1977: 3). This view about lobbyists comes from the lobbying practice in the early days of the USA (18th century) when the almost open bribing of congressmen was "the name of the game" for lobbyists.*

aroma". Milbrath (1963) suggested a long time ago, and it seems to be equally relevant today, that public perceptions of wrongdoing by lobbyists are often encouraged by politicians publicly criticising lobbyists in a populist tone. This remains a challenge for lobbyists, until now even more in the USA than in Europe.

### *The Contribution of Regulation and Self-Regulation*

National authorities as well as EU institutions have a long track record in efforts to influence lobbying activities in order to limit their abuse. However, the verdict in terms of achievements is quite mixed: individual countries give various levels of emphasis to legislation: with a long history here, the USA now already has its fifth regulation. Compared internationally, it is by far the toughest, although there is still not much reason for satisfaction. In fact, during the last 10 years the number of registered lobbyists has dropped from 12,000 to 9,000 while the total levels of reported spending on lobbying (about USD 3 billion annually) remains the same according to the Open Secrets<sup>7</sup> Series of the Centre for Responsive Politics (Gökgöz, 2017: 36). There are over 12,000 registered lobby organisations (accessible at <https://corporateeurope.org/tags/transparency-register>) in the EU, but many have registered simply to gain prestige in their local environment.

Since 2000, only 15 countries have adopted specific lobbying laws and/or secondary legislation, while the total number of countries that regulate lobbying remains limited to 20 (Vasić, 2015: 25). The problem is that regulation is truly effective only in some countries. Some governments and parliaments relied on this argument to defend their rejection of the idea of regulating lobbying (for instance in Croatia, whereas Macedonia has done this since 2008, Slovenia since 2010, Montenegro since 2011, yet none are really effective yet). The Serbian parliament accepted a draft law on lobbying in March 2018.

The most intensive is the regulation in the USA, similarly in Canada, while the EU currently possesses a less intensive regime, but there is a tendency towards tougher regulations. Namely, the Transparency Register is soon about to become mandatory, although this promise has been delayed several times over the last 3 years.

Due to the modest democratic traditions in the transition and developing countries, it is particularly important for them to regulate lobbying (Hafner, 2007: 9). With a formal commitment to fight corruption, in 2014 the Slovenian Parliament pledged to adopt a Code of Ethics, which has not happened yet. This gives the grounds for a critical assessment of

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<sup>7</sup> For details, accessible at <https://www.theopensecret.com/>.

the Parliament's attitude on this issue by the president of the Slovenian Association of Lobbyists (Cigler, 2015).

Lobbying can be abused not only due to the absence of proper legislation, but also when several implemental and control mechanisms as well as law enforcement have failed. For instance, during 2016 on average the company Google had senior-level Commission contacts once a week! This is possible since the Joint Transparency Register with the Code of Conduct have been waiting to be formally adopted by the Council and the EP already since 2013.

After evaluating the national regulation on lobbying, in December 2015 Transparency International, which works relentlessly on issues of corruption, in collaboration with the Sunlight Foundation, Access Info Europe, and Open Knowledge published the first "International Standards for Lobbying Regulation - Towards greater transparency, integrity and participation".

The Guiding Principles of the Standards contain the following very clear statements (Transparency International, 2015: 5):

- Lobbying is a legitimate activity and an important part of the democratic process.
- There is a significant public interest in ensuring the transparency and integrity of lobbying, as well as a diversity of participation and contribution to public decision-making.
- Any regulatory measures to secure these ends shall be proportionate, fit for purpose and not impede on the individual rights of assembly, free speech and petition to government.

It is worth mentioning that the European Commission has supported this joint effort, and the Standards should help governments in designing regulations; of course, if and when they decide to prepare them and submit it to their respective parliaments.

There is an inherent danger of placing the lobbying register and reporting in the framework of the responsibilities of government bodies in charge of fighting corruption. This discourages lobbyists from registering and makes the law a dead letter. For example, Slovenia has had a law since 2010 (with two later amendments) but reports on contacts are to be sent to the 'Anticorruption Commission', which explains why the number of registered lobbyists remains unrealistically low<sup>8</sup>: currently there are only 71, while 3 years ago there were 63.

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<sup>8</sup> The real number is estimated at 200–300. The Croatian and Serbian Lobbying Associations have prepared some drafts for their Parliaments, but they are not receiving due attention. The Croatian Association recently even changed its own name, using "Public Affairs" instead of "Lobbying".

What can be said about lobbyists' self-regulation? All lobbying professional associations have their own Ethical or Codes of Conduct, which if fully observed by their members would reduce cases of illegal and illegitimate lobbying to a negligible level. They all ask their members to act professionally, avoid conflicts of interest, the manipulation of information, and, of course, strictly forbid any type of corrupt practices.

Already back in 2002, the European Commission adopted a set of rules to be followed by lobbyists while encouraging individual lobbyists to join the existing professional associations. In fact, there are four<sup>9</sup> of them in Brussels, and – interestingly – not one of them uses the word “lobbying” in its name. Obviously, this reflects the prevailing negative public perception of lobbying.

Unfortunately, no studies or statistics are available on actual implementation of the Codes of Conduct within these associations. However, Prof. Daniel Guéguen, a respected veteran among Brussels lobbyists, in a private conversation in 2014 shared his experience with us, at least in the association from which he resigned in protest, of the adopted rules being followed quite “flexibly”. Actually, his assessment is confirmed by the fact there are very few disciplinary procedures, and no expulsions from the association, as envisaged in the respective statutes and codes.

Occasional scandals notwithstanding, only very few lobbyists use illegal techniques such as bribery, blackmail or extortion. Moreover, studies of both types of lobbyist and public officials show that honesty and credibility are essential for credible and successful lobbying (Nownes, 2006: 42). Another finding that contradicts the generalised negative stereotype of lobbyists is that most lobbyists must act professionally and legitimately and, failing that, at least in the long run, they will have very few customers.

### *In relation to (3): Future Prospects of Lobbying*

No expert in the field forecasts a reduction of lobbying activities in the future. Quite the opposite, there are shared expectations that it will take on an even more active position in local and national politics since electorates are increasingly educated (80% of those aged 25– 34 years have a university degree in Korea, about 60% in Canada, 40% is the target for 2020 in the EU). The same is expected in business, via globalised corporate citizenship. There is also a growing trend of civil society or non-governmental organisations being active at all levels, including globally, as the issues of the

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<sup>9</sup> They are: the European Public Affairs Consultancies Association, EPACA; the Society of European Affairs Practitioners, SEAP; the European Centre for Public Affairs, ECPA; and the International Public Relations Associations, IPRA. Of course, much lobbying is part of public affairs, but the bulk of these organisations' activities are actually traditional lobbying.

environment, energy and health are becoming ever more internationalised. All of these trends and processes imply more frequent and more effective lobbying.

Our expectation is also justified by the fact people in all corners of the world are increasingly demanding more transparent, open government and inclusive management of public affairs. The public, and particularly organised social actors like NGOs, will gradually understand that lobbying is one of their inalienable rights and offers an effective tool for exercising their democratic rights, going well beyond the “right to petition”. It is a constituent part of good, inclusive and participatory governance. Yet it should be mentioned that NGOs sometimes may take “one-sided, extremist positions”, which can be understood as long as they have to scream and fight to be heard. As they will become a more equal partner in the political discourse, they will be able to take more balanced, generally more acceptable positions. It is expected that NGOs will experience further growth and a bigger influence on society by effectively using modern ICT.

When this is linked to the ‘online globalisation’, there is no small, private issue in the last corner of the globe that is unable to overnight become a big issue for a global NGO-type pressure group, bringing it to the attention of millions worldwide. Brown (2015) claims that globalisation and the use of social media create “isomorphic pressure on interest groups to adapt new lobbying tactics...”.<sup>10</sup> Through donations, such groups can raise money to engage the best specialists to exert huge pressure on entities acting anti-socially or unfairly towards a social group, an individual, or towards animals anywhere in the world. An excellent example of a global pressure network-group is the Canadian-based AVAZZ (on 28 January 2018 it launched a successful campaign against the Hong Kong authorities for allowing the slaughter of 100 elephants in the interest of an ivory trading lobby). Research indicates that social media may even contribute to making lobbying more accessible to interest groups with limited financial resources.<sup>11</sup>

Networking as a particular type of structured communication between people with substantial social capital is rapidly evolving, especially thanks to ICT. This is also the case of policy networking, as presented by Hafner (1998: 816–821), which has created a much richer environment for lobbying, and provides critically verified professional analysis and argumentation, thereby making lobbying more effective, credible and productive.

With their research confirming that lobbying usually has good returns and revealing that lobbying expenditures in the USA are five times higher

<sup>10</sup> Brown Heath (2015): *Does globalization drive interest group strategy? A cross national study of outside lobbying and social media*. *Journal of Public Affairs* 16 (3): 231–244.

<sup>11</sup> Van der Graaf A., Otjes S., Rasmussen A.: *Weapon of the Weak? The social media landscape of interest groups*. *European Journal of Communication* 31 (2): 120–135.

than interest-group campaign contributions, de Figueiredo and Kelleher Richter (2013: 13) expect that business lobbying – particularly by big corporations – will further increase, while small firms will tend to agglomerate their lobbying efforts in trade associations.

## **Conclusion**

Irrespective of the ongoing lack of clarity and consistency of the related public discussion, and partly also in the academic literature, the phenomenon of lobbying is omnipresent and clearly recognisable in, or suspected of being behind, all important decisions. It is positive that lobbying is receiving greater public attention as this may reduce the opportunities for abuse and anti-social behaviour by lobbyists.

It would be of course highly naïve to expect that all lobbying will more or less by itself become completely legitimate and even ethical. It will certainly take time and considerable efforts to increase the legitimacy of lobbying, but the potential benefits for all of society, in terms of inclusive governance and quality decision-making, are all too important to be neglected. Lobbying that is responsible and follows the “honesty is the best policy” principle should therefore be strongly encouraged wherever possible, by all concerned, by educators, consultants, lobbying associations and, finally, by the parties being lobbied and their institutions. All clever lobbyists should understand that the legitimacy of their operations is chiefly in their own interest, if not always obvious in the short run, then certainly over a longer time.

The direct answer to our initial question about the generic nature of lobbying and whether lobbyists benefit democracy is straightforward, but differentiated: yes, on the condition they are acting ethically; only partly, if they act legitimately – in proportion to their respect of the public interest; and not at all, if they break the law. There is a clear two-way interdependency between democracy and lobbying: they are mutually supportive: a good democracy thrives with healthy and legitimate lobbying, and legitimate lobbying can only prosper in a well-functioning and transparent democratic environment. By its generic nature, lobbying cannot be regarded negatively as such while, in specific cases, it all depends on fulfilling the criteria of legitimacy and ethics.

Our research demonstrates the complexity and simultaneous importance of lobbying in all spheres of public life. However, when lobbying moves into the sphere of corruption it cannot be considered just an abuse of or a negative instance of lobbying but should strictly be defined and treated as a criminal activity involving at least two parties, and called to account. The government is responsible to act to prevent such cases and prosecute the perpetrators. The professional duty of the members of

lobbying associations is to respect and fully comply with all provisions of their Codes of Conduct, noting that this does not reduce the responsibility of the authorities to adopt and fully implement proper and effective regulation<sup>12</sup>. Competent and responsible government officials and politicians can only gain from legitimate and ethical lobbyists since they are expected to provide evidence and relevant facts, as well as estimates of the implications of proposed acts.

In all these processes, the role of civil society organisations or NGOs is paramount and, along with the expected growth in their quality and impact, lobbying may be anticipated to develop further into a constructive instrument of democratic decision-making.

Finally, within the context of changes in future curricula at all levels, but especially at the post-secondary level, educational experts agree that a bigger emphasis on “soft skills” is needed. Therefore, education and training on methods and techniques of interest representation and lobbying – qualifying as a soft skill today, but expected to be a hard skill tomorrow – is now more necessary than ever. It will make an important contribution to the future positive development of lobbying. Teaching how to represent legitimate interests and lobby for them ethically should not be restricted to students of some business schools and diplomatic academies. These skills together with the underpinning values of legitimacy and ethics are an essential part of the civic education and political culture needed for the proper functioning of any type of modern, consensual democratic system.

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<sup>12</sup> This view is also expressed by Johnson (2006: 56) and several others.

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