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## Regulating Lobbyists: a Comparative Analysis of the USA, Canada, Germany and the European Union

Raj Chari  
*Trinity College Dublin*

Gary Murphy  
*Dublin City University*

John Hogan  
*Technological University Dublin, john.hogan@tudublin.ie*

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Raj Chari  
*Trinity College Dublin*

Gary Murphy  
*Dublin City University*

John W. Hogan  
*Dublin Institute of Technology, john.hogan@dit.ie*

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**Regulating Lobbyists: A Comparative Analysis of the USA, Canada, Germany and  
the European Union**

Raj Chari,  
Department of Political  
Science,  
Trinity College Dublin,  
Dublin 2,  
Ireland,  
Email: raj.chari@tcd.ie

Gary Murphy,  
School of Law and  
Government,  
Dublin City University,  
Glasnevin,  
Dublin 9,  
Ireland  
Email: gary.murphy@dcu.ie

John Hogan,  
College of Business,  
Dublin Institute of  
Technology,  
Aungier Street  
Dublin 2,  
Ireland  
Email: john.hogan@dit.ie

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### *Abstract*

Lobbying is central to the democratic process. Yet, only four political systems have lobbying regulations: the United States, Canada, Germany and the EU (European Parliament). Despite works offering individual country analysis of lobbying legislation, a two-fold void exists in the literature. Firstly, no study has offered a comparative analysis classifying the laws in these four political systems, which would improve understanding of the different regulatory environments. Secondly, few studies have analysed the views of key agents - politicians, lobbyists and regulators - and how these compare and contrast across regulatory environments.

We firstly utilise an index measuring how strong the regulations are in each of the systems, and develop a classification scheme for the different 'ideal' types of regulatory environment. Secondly, we measure the opinions of political actors, interest groups and regulators in all four systems (through questionnaires and elite interviews) and see what correlations, if any, exist between the different ideal types of system and their opinions. The conclusion highlights our findings, and the lessons that can be used by policy-makers in systems without lobbying legislation.

### *Introduction and Objectives*

Lobbying is a central and legitimate part of the democratic process in all political systems. Although the term has often been associated with negative connotations, the work of lobbyists is essential: the provision of input, and feedback, to the political system, thereby helping develop policy outputs. Lobby groups may include those with economic interests (corporations), professional interests (trade unions or representatives of a professional society) and civil society interests (such as environmental groups). These groups may seek to influence political decisions by many means, including direct communications with governmental officials, presentations, and telephone conversations.

Notwithstanding the importance of lobby/interest groups, only four political systems in the world have regulations with regard to lobbying activity: the United States, Canada, Germany and the European Union (most particularly, the European Parliament). 'Regulations' refer to 'rules', which interest groups must follow when pursuing lobbying activity including, registering with the state before contact can be made with any public official. It is assumed that regulation of

interest group activities offers several advantages to the political system. Some include increased accountability and transparency, as well as diminishing loopholes in the system which would otherwise allow for corrupt behaviour. In this regard, schemes to regulate lobbying derive from concerns over the democratic deficit, the openness and transparency of government, equality of access to public affairs, and the perceived need to manage information flows to and from governments.<sup>1</sup>

We turn first to the United States. In the 1930s Congress enacted legislation in response to a number of scandals concerning the lobbying of public utility companies and the maritime industry. However, these regulations were perceived as inadequate. The Lobbying Act 1946 (Federal) thus sought 'to disclose to the legislators and the public the identity of the principals, representatives, and the means involved, to make the free play of legislative interest transparent'<sup>2</sup>. In other words, the registration of lobbyists 'should at least work in the direction of greater transparency'<sup>3</sup>. However, this Act, hurriedly drafted, contained numerous loopholes. Since publicity was considered important in diminishing bad lobbying practices, critics claimed the statute provided inadequate publicity for the activities of pressure groups<sup>4</sup>. As Wolpe and Levine's data shows, 'a 1991 General Accounting Office report found that fewer than 4,000 of the 13,500 individuals listed in a directory of Washington lobbyists were registered'<sup>5</sup>. It over a half a century for the 1946 Act to be replaced by the Lobbying Disclosures Act in 1995, which increased the reporting requirements of lobbying organizations. This law extended the definition of lobbyists to include those that lobby directly, as well as those that hire lobbying firms<sup>6</sup>. All states, except Pennsylvania, have individual lobbying legislation. Pennsylvania did have legislation, the 1998 Lobbying Disclosure Act, but this was struck down in 2000 by the Pennsylvania Supreme Court as it pertains to attorneys, with the court saying the General Assembly of Pennsylvania's efforts to monitor the activities of lobbyists amounted to illegal regulations on the practice of law. This invalidated the law. In 2002 the Pennsylvania Supreme Court reaffirmed its decision.

In Canada, consensus developed among politicians that legislation requiring the registration of lobbyists was necessary to promote transparency and accountability.<sup>7</sup> The federal level was first to pursue lobbying legislation in 1989 by way of the Lobbyist Registration Act (Canada). The 1989 Act, was amended in 1995 with the Amendment to Lobbyist Registration Act, which sought to beef up the information requirements to be forwarded by lobbyists when registering. The final major amendment to the federal Act came with Bill C-15 in 2003 (enforce in 2005) that sought to close loopholes in the previous system with regard to definitions of

‘lobbying.’ Following from the federal lead, the provinces of Nova Scotia, Quebec, Ontario, British Columbia (BC) and most recently Newfoundland enacted lobbying legislation. Proponents of Canadian regulations identified two beneficiaries – the public, and government officials<sup>8</sup> – where the acts have ‘thrown light on the activities of professional lobbyists in Canada’.<sup>9</sup> Despite this, some critics contend that the legislation is weak compared to US laws.<sup>10</sup>

The German Bundestag is currently the only parliament in Europe that has adopted formal rules on registration of lobbyists, and those wishing to lobby either the Bundestag, or the Federal Government, or both, must register on this public list to promote transparency. In principle, lobbyists cannot be heard by parliamentary committees, or be issued with a pass admitting them to parliamentary buildings, unless they are on the register. This system was first regulated in the Rules of Procedure of the Bundestag in 1951, through article 73 which referred to participation by associations. It was subsequently amended on two further occasions, in 1975 and 1980, which indicated an increased use of the hearings system.<sup>11</sup> The Bundestag can, however, also invite organisations that are not on the register to present information on an ad hoc basis. This in essence means that not being on the register is no real barrier to being in contact with parliamentary committees or members of the Bundestag. The Bundestag makes quite clear that consulting with interest groups and professional associations is crucial when drafting legislation. Article 77, paragraph (1) of the Basic Law of the Federal Republic of Germany provides for legislative bills to be adopted by the Bundestag. The Bundestag is of the view that many people should participate in the substantive elaboration of bills, but responsibility for enacting bills must be assumed by those elected for this purpose, hence the nature of invitations to those not on any register.

Even though the size of the interest group population in Brussels raises concerns over equality of access to, and the ethical standards of, European decision-making,<sup>12</sup> the only EU institution which has lobbying regulations is the European Parliament. The debate on lobbying, linked to the issue of transparency in EU institutions, began in 1992 with the report of MEP Marc Galle, and was followed in 1996 by the report of MEP Glynn Ford. However, apart from minimalist regulations adopted, there was insufficient support for the idea that in exchange for the annual renewal of their entry passes, lobbyists should provide detailed reports of their efforts to influence the Parliament's decision-making process. In some contrast to the EP, the Commission has continued to favour self-regulation of interests, despite traditionally being the primary target of lobbyists in Brussels.<sup>13</sup>

Despite the many works that have offered individual country analysis of development of lobbying legislation, there is a two-fold void in the literature. First, no study has offered a comparative analysis that classifies the types of laws in these four political systems. This will allow for better understanding of the different regulatory environments one finds in this issue area. Secondly, few studies have analysed what are the views of key agents involved in the process, including politicians, lobbyists and regulators, and how these compare and contrast across different regulatory environments.

The objective of this paper is two-fold. First, we will use a quantitative index to measure how strong or weak the regulations are in each system, allowing us to devise a classification scheme of the different 'ideal' types of regulatory environments. We will argue that the three ideal types are lowly, medium, and strongly regulated systems. Secondly, we will measure the opinion of political actors, interest groups and regulators in all four systems (as measured through questionnaires and elite interviews) and see what correlations, if any, one can draw between the different ideal types of systems and their opinions. We will argue that actors in highly regulated systems claim to know more about legislation, are more likely to argue that accountability is ensured, and feel that there are fewer loopholes in the system than those respondents from lower regulated systems. Nevertheless, even in relatively highly regulated systems, the regulations can be undermined under the 'if there is a will there is always a way' principle.

#### *Rating Regulation – Regulatory Environment Ideal Types*

There are two measures of the rigour with which the US regulates lobbying. The first is Opheim's rating of the stringency of lobbying regulation in 47 states.<sup>14</sup> Opheim's index consists of 22 separately scored items drawn from three different dimensions of lobbying regulation requirements. The dimensions were: (1) statutory definitions of a lobbyist (seven items); (2) frequency and quality of disclosure (eight items); and (3) oversight and enforcement of regulations (seven items). The values of the index range from a low of 0 for Arkansas to a high of 18 for New Jersey, Washington, and Wisconsin. The second measure is Brinig et al.'s, rating of the restrictiveness of state lobbying laws.<sup>15</sup> Rather than offer explicit coding schemes, their work highlights specific examples. They consider the frequency with which lobbyists are required to register and report, and their scheme emphasises the severity of penalties for violations of lobbying laws. The values of the index range from a low of 1 for Arkansas to a high of 14 for Alabama and Kentucky.

An extension of this method of analysis has been pursued by the Centre for Public Integrity (CPI), which has analyzed lobbying legislation in the 50 US jurisdictions with such (the federal level and 49 states that have legislation) and measured the legislations' effectiveness. The detailed process of analysis is referred to as the 'Hired Guns' method, which results in a 'CPI Scores.' The CPI writes

'Hired Guns' is an analysis of lobby disclosure laws in all 50 states. The Center for Public Integrity created a ranking system that assigns a score to each state (with lobbying legislation) based on a survey containing a series of questions regarding state lobby disclosure. The questions addressed eight key areas of disclosure for state lobbyists and the organizations that put them to work:

- Definition of Lobbyist
- Individual Registration
- Individual Spending Disclosure
- Employer Spending Disclosure
- Electronic Filing
- Public Access (to a registry of lobbyists)
- Enforcement and
- Revolving Door Provisions (with a particular focus on 'cooling off periods')

Example 1 (Appendix A) – which offers an example of the CPI's examination of Washington State– shows how the CPI extends on Opheim's model by considering 48 questions in its 8 sections.

In fact, the CPI's index goes well beyond the extent of Opheim's work by looking at individual lobbyist registration, electronic filing, public access, and revolving door provisions. On one level, this broader examination of lobbying regulations is a natural product of time, and technological development. Electronic filing of returns by lobbyists, and public internet access to detailed databases of lobbyists, was far in the future in 1991. But, on another level, the CPI's framework is more thorough than Opheim's, in that it examines the issues of individual lobbying registration, public access to a directory of lobbyists, and the revolving door provisions, which Opheim bypassed. Thus, in expanding upon the range of lobbying regulations studied by Opheim, and setting out 48 separately scored items, as opposed to Opheim's 22, the CPI's framework constitutes a broader, and deeper, approach to analysing the rigour with which states regulate lobbies.



That the CPI's framework was designed for examining lobbying regulations in the US should not render it inapplicable to other jurisdictions. As the framework is capable of taking account of the widely varying standards of lobbying regulation across all 50 American states, and at the federal level, it should also be capable of taking account of lobbying regulations in other countries. The very thoroughness of the framework makes it analytically encompassing.

Based on analysis of the legislation, each question is assigned a numerical (i.e. point) value according to the answer given. The more points that are given, the 'better' the legislation in terms of promoting concepts such as full disclosure, public access, and transparency. The maximum score a jurisdiction could attain is 100 points, the minimum 1 point (a score of zero would be given to a state with no lobbying legislation). According to the CPI, if a jurisdiction attains a score of 60 points, or more, it is deemed to 'pass', based on the grading system used in American schools. Regardless of the somewhat arbitrary rule of what constitutes a 'passing grade', as a general rule one can argue that the lower the CPI score, the less robust the lobbying regulations in place.

To gain comparative insights, we transfer the CPI method to analysing lobbying legislation in Canada, Germany and the European Parliament. As an objective here is to offer a comparative analysis of the lobbying legislation in place in four political systems, it was felt that, given its robustness and detailed method of analysis, application of the CPI methodology would allow for greater insights with regard to how the different countries studied compared and contrasted to each other, and how this could be theoretically classified. For illustrative purposes, Example 1 (Appendix A) also shows how the CPI scores for Canadian federal lobbying legislation, and German lobbying legislation, were calculated by this research team. As in the previous example of Washington State, point values are assigned to each of the 48 questions.

With the above in mind, we applied the CPI method of analysis to all other jurisdictions where lobbying legislation exists, including the state and provincial levels in the US and Canada respectively. Because all Länder level legislation is similar to the German federal legislation, only the German Federal level is reported. Table 1 summarises our findings, illustrating the CPI scores for each of the jurisdictions in descending order. The scores for the US are taken from the CPI website, whereas all other scores were calculated by the research team.

(Table 1 about here)

Based on analysis of the table, at least three observations can be made. First 50 per cent of the US observations have scores of 60 points or more, where the American federal legislation has a score below most states. Second, all Canadian observations have scores that hover between 35 and 50 points. Finally, the lowest jurisdictions are Germany and the European Parliament.

With Table 1 in mind, and given that it is useful to gain a theoretical understanding of the different sorts of regulatory systems, one can consider developing a theoretical classification of the different types of lobbying regulatory environments. Clearly, any classification scheme will be debated and challenged. But, using classification schemes, and developing what Max Weber referred to as ‘ideal types’, where the ideal type is formed from characteristics and elements of the given phenomenon but is not meant to correspond to all of the characteristics of any one particular case, forms the basis for helping us understand common trends as well as differences. We argue that there are three ‘ideal types’ of regulatory systems relative to each other: lowly regulated systems, medium regulated systems, and highly regulated systems.

The first, *relatively lowly regulated systems* correspond to jurisdictions that attained CPI scores between 1 and 19, and refers to Germany and the European Parliament. Such systems entail the following qualitative characteristics. They have rules on individual registration, where lobbyist must register, but few details have to be given (such as in the case of the EP where lobbyists do not have to state which subject matter/bill/institution they are lobbying). There are no rules on individual spending disclosure (lobbyists are not required to file spending reports) or an employer spending disclosure (lobbyists’ employers are not required to file spending reports). There is a weak system of on-line registration. Lobbyists’ lists are available to the public, but not all details are displayed. Finally, there are little enforcement capabilities, and no cooling-off period in the legislation, which means legislators can register as lobbyists immediately after leaving office.

The second type, *medium regulated systems* correspond to those jurisdictions that attained a CPI score between 20 and 59, and include all the Canadian jurisdictions plus several American ones, including the federal level. In these systems the rules on individual registration are tighter than in ‘*Lowly Regulated Systems*’. For instance, those registering must state the subject matter/bill/governmental institution being lobbied. Regulations exist surrounding individual spending disclosures, whereby gifts are prohibited, and all political contributions must be reported. Yet, there are loopholes, such as free ‘consultancy’ by lobbyists to political parties.

There are no regulations for employer spending reports, so a lobbyist's employer is not required to file a spending report. There is a system of on-line registration, which in some cases, such as Ontario, is efficient and effective, requiring few resources to use and maintain. Public access to a lobbying register is available and updated at frequent intervals, although spending disclosures are not publicised. In theory, a state agency can conduct mandatory reviews and audits, although it is unlikely the agency will prosecute violations of regulations given its lack of resources and information. There is only one case of a prosecution in the whole of Canada, that was in Quebec in 2006. Finally, there is a cooling off period before legislators, having left office, can register as lobbyists.

The final type, *relatively highly regulated systems* entail jurisdictions, which attained a CPI score of over 60 and under 100. This corresponds exclusively to 50 per cent of the American States, with the highest being Washington State. The rules on individual registration in these systems are the tightest of the three. For example, not only is the subject matter/institution required when registering, but also the lobbyist must state the name of all employers, notify almost immediately any changes in the registration, and provide a photograph. Tight individual spending disclosures are required, in stark contrast to both lowly and medium regulated systems. In this context a lobbyist must file a spending report, his/her salary must be reported, all spending must be accounted for and itemised, all people on whom money was spent must be identified, and all campaign spending must be accounted for. Employer spending disclosure is also tight. Unlike 'lowly regulated' or 'medium regulated' systems, an employer of a lobbyist is required to file a spending report and all salaries must be reported. A system for on-line registration exists, and public access to a lobbying registry is available, which is updated frequently. This includes spending disclosures, which are available to the public, a provision not found in the other two systems. State agencies conduct mandatory reviews and audits, and there is a statutory penalty for late and incomplete filing of a lobbying registration form. Finally, there is a cooling off period before legislators, having left office, can register as lobbyists.

(Table 2 about here)

#### *Actors' Opinions; and Correlations with Ideal Types*

To understand how effective the legislation has been questionnaires were sent to lobby groups, politicians, and public sector administrators in the federal and provincial jurisdictions

with lobbying legislation in Canada, including Nova Scotia, Quebec, Ontario, and British Columbia; the federal level and a representative sample of states in the US, including Washington, New York, California, Texas, Georgia, Colorado, Florida, Illinois; and actors working at both the federal German level and the EP. As Newfoundland only implemented legislation in late 2005, no surveys were sent there. The total number of questionnaires sent between October and December 2005 was 1808, of which 1225 were dispatched to lobbyists, 91 to public sector administrators, and 492 to politicians. Given that questionnaires sent by email generally yield a low response rate, hardcopies sent by post was the approach adopted here. Taking all four political systems, a total of 140 questionnaires were completed: 6.5 per cent of all lobbyists, 19.8 per cent of all public sector administrators, and 8.7 per cent of all politicians responded. Several respondents replied that although interested in the study, they were unable to, or did not want to, fill in the questionnaire. This can partly explain why response rates were not higher, especially for politicians. It reflects the fact that some felt the subject matter sensitive and did not want to state their positions (despite the guarantee of anonymity). Another factor impinging upon our response rate was that several respondents had moved, changed address, changed portfolios or, in the case of politicians, retired. When completing the questionnaire, respondents were also asked if they would be willing to partake in a follow up interview. As such, we held over 25 on-site interviews in Canada and the US, and several telephone interviews with officials in Brussels and Germany, between March and April 2006. Taking both the questionnaires and elite interviews, we consider the respondents' answers to the various questions, while attempting to see if there are correlations between the overall responses to questions and the ideal type of system respondents come from. We recognise that, when compared to large N studies, the numbers of respondents is relatively small, but, it was our intention to gain an indication of trends and relations, not to conduct a 'large N' study per se.

One of the first questions asked if respondents considered themselves knowledgeable on the relevant legislation pertaining to regulation of lobbyists. Approximately 85 per cent of elected representatives and public sector administrators considered themselves knowledgeable. 77 per cent of lobbyists saw themselves as knowledgeable, with the only outlier being Germany where almost half were neutral on the issue, and slightly more than 50 per cent did not consider themselves knowledgeable. To ascertain if there are correlations between answers to this question and our classification of 'ideal types' of systems discussed above (lowly, medium and highly regulated) we first compressed all the responses from the question into the three

categories, defined by CPI ranges of 0-19, 20-59, and 60-100. Then we carried out cross-tabulations: Pearson chi-square tests the hypothesis that the CPI ranges and the answers to the questions are independent. The lower the significance value for a correlation the less likely it is that the two variables are independent. In other words, the lower the score the more likely they are related. With this test a value of less than 0.05 is considered significant. When the cross-tabulations were completed, a correlation was found: actors in higher regulated systems are more likely to strongly agree with the idea that they are more knowledgeable about the legislation. This makes intuitive sense because if an actor is in an environment where there are more robust 'rules,' the more likely they will feel responsible to learn what these are. The opposite is also true as reflected in the responses from lobbyists in Germany: the less robust the regulations, then the less likely respondents would feel responsibility to learn about the rules as their impact is minimal in any case.

Another question we sought to measure was whether respondents felt the overall regulations in their jurisdiction help ensure accountability in government. Over 76 per cent of elected representative felt lobbying legislation helped ensure accountability, while this figure dropped to 71 per cent for lobbyists. Nevertheless, only 50 per cent of public sector administrators felt lobbying regulations ensured accountability. Regulators at the Canadian federal level represented an outlier, with none considering lobbying regulations as helping ensure accountability. When performing the cross-tabulations a correlation was found: actors in higher regulated systems were more likely to argue that the system ensures accountability. Again, this does make intuitive sense given that tighter regulatory systems promote accountability precisely because the rules are stronger. On the other hand, the weaker the regulations the more likely they will have less effect in promoting accountability.

Another question sought to measure whether respondents felt having public access to an official list of lobbyists ensures accountability. The following answers were given across all four countries: almost 70 per cent of elected representatives, and 80 per cent of administrators, considered public access to an official list of lobbyists ensured accountability. However, only 60 per cent of lobbyists regarded public access to an official list of lobbyists as ensuring accountability. There was a correlation here: respondents in higher regulated systems were more likely to strongly agree that having an official list of lobbyists ensures accountability than those in lower regulated systems. When cross tabulations were run on whether there was a correlation between CPI scores and if public access to an official list of lobbyists was freely available, a

correlation was found: higher regulated systems guarantee public access and knowledge of who is lobbying the government. This indicates that higher regulated systems foster transparency. Taking both observations together, one interpretation is that higher regulated systems are more likely to have safeguards that ensure a list of lobbyists is in place at all times, and is readily accessible to the public via the internet.

When asked if reviews or audits of lobbyists by agencies are effective in ensuring accountability, almost 38 per cent of elected representative were neutral on this question, while only 43 per cent regarded reviews or audits of lobbyists as effective in ensuring accountability. Over 58 per cent of public sector administrators were neutral. Only about 40 per cent of lobby groups agreed that reviews or audits of lobbyists by agencies are effective in ensuring accountability. Lobbyists were more inclined than the other two groups towards neutrality or disagree. Unlike the previous questions on accountability, there was no correlation: suggesting no relationship between the type of regulations in place and whether or not reviews or audits ensure accountability.

Beyond the above finding showing that higher regulatory systems promote transparency in the political process through ensuring public lists of lobbying groups are freely available, another question sought to measure whether specific rules surrounding individual spending disclosures help ensure transparency. Over 93 per cent of elected representative agreed, or strongly agreed, that specific rules surrounding individual spending disclosures help ensure transparency, while this number dropped to 65 per cent and 75 percent for administrators and lobbyists respectively. No correlation was found between CPI scores and transparency with regard to individual disclosures: mostly all respondents believed that individual spending disclosures promoted transparency. However, of all systems, only highly regulated ones have the strongest rules surrounding individual and employer spending disclosures, such as whether a lobbyist is required to file a spending report, if salaries are to be reported by lobbyists on spending reports, and whether the recipient of the expenditure is required to be identified. While this finding suggests respondents from highly regulated systems are satisfied with regulations surrounding individual spending disclosures, the survey finding suggest one of two things for those respondents from lowly, and medium, regulated systems. Either they would not unreasonably want to see more rules surrounding individual spending disclosures forming part of their legislation, or they like the idea 'in theory,' but do not want to see it form a full part of their legislation.

An interesting finding relates to loopholes. We initially asked respondents whether they thought there are loopholes in the system that would allow individual lobbyists to give/receive 'gifts', regardless of the legislation in force. In Germany and the EP, 35 per cent of elected representatives agreed there are loopholes in the system permitting lobbyists to give/receive 'gifts.' However, in American jurisdictions such as New York and California, the opposite is the case. Public sector administrators tended to be more neutral or disagreed with this question (78 per cent). Only at the federal level in Canada do administrators believe there are loopholes. In jurisdictions such as Germany, 58 per cent of lobbyists held there are loopholes, while the remainder were neutral. In New York and California, lobbyists are much less likely to agree with the view there are loopholes. A correlation found that the more lowly regulated the system, the more likely it was perceived to have loopholes. This again makes some intuitive sense: if there are tighter rules, it is less likely that you will find a 'loophole'. However, it is important to note that several of the interviewees mentioned the idea that, 'regardless of the legislation in force, there are *always* ways of getting around it,' even in highly regulated systems; or, as a Canadian interviewee put it 'where there's a will, there's a way!' Even in Washington State, the highest regulated jurisdiction in the study, a CPI report in August 2005 found that the spirit of the state's exemplary disclosure law was being undermined by lobbyists who report their clients' purposes on disclosure forms in vague terms. This view was reiterated by both lobbyists and regulators in interviews in Olympia, Washington State, in March 2006. A senior official of the Public Disclosure Commission (PDC), in Washington State remarked that while the vast majority of lobbyists, and those they lobby on behalf of, were happy to obey the rules, there were always a few who would try to flout them. If we take the case of Canada, legislation exists specifying that only \$1,000 can be given to any political party during a campaign. Ways of 'getting around this' include: free consultancy work by lobbyists for a political party during an election with the view of attaining pay-offs if the party gets elected; or helping 'fund-raise' for a party by holding special private events (such as a fund-raising supper).

The problems of loopholes relates to the other problem of enforcement. Although there is little enforcement capabilities in lowly regulated systems, most legislation in highly and medium regulated systems encompasses a system of fines if, for example, a lobbyist has not registered. But, how effective are registrars in enforcing that lobbyists register in medium and highly regulated systems? When asked if they thought there are lobby groups working that have

not registered Canadian regulators answer ‘probably.’ But, the following response by an interviewee in Canada illustrates the effectiveness of enforcement:

Some lobby groups are not registered because they are ignorant of the rules. Others, such as some lawyers, don’t realise that they are lobbyists. If I receive a complaint from a third party, I investigate it... but I have usually found that ‘human error’ is the reason for not having registering.... (there is no maliciousness). Registering helps increase the credibility and trust that citizens have in lobby groups and politicians alike.

A similar point was made in Washington State, where the PDC observed that much of the problem in relation to non registration was human error and not malicious. Those that were malicious were quickly discovered and punished, as the registration system has gained widespread credibility, and those who hire lobbyists demand they are registered. Interestingly, many lobby groups register not only because it is required in certain jurisdictions, but also because it is good ‘public relations’, and in their ‘self-interest’. As several lobbyists in medium and highly regulated systems mentioned, with the registration system they could illustrate to their members what their lobbying activities were at the local government level. Some lobbyists said they registered to show other lobbyists and consultants what ‘they were doing,’ or ‘showing how successful they are in terms of the work that is being done.’ From this perspective, enforcement is not a problem as lobby groups strategically use the registry to legitimate what they are doing, and to get the ‘message across’ to citizens and competitors alike.

### *Conclusions*

Despite the existing literature on lobbying, no study has offered a comparative analysis of developments in the four systems where lobbying legislations exists. Nor has there been a comparative study seeking to better understand politicians’, lobbyists’ and regulators’ views of the regulations, and how these vary according to the specific regulatory environment. With this in mind, the paper’s first objective was employ a quantitative index to measure the strength of regulations in each of the four systems, which would allow for a classification scheme of the ‘ideal’ types of regulatory environments. The second objective was to gauge the opinion of political actors, interest groups and regulators in all four systems, and measure what correlations, if any, can be drawn between the different ideal types of systems and their opinions.



The first significant finding is that three ideal types of regulatory environment can be conceptualised with respect to lobbying regulations, and that there is not simply one model *per se*. The first are lowly regulated systems, and the main conclusion drawn from them are that rules on individual lobbyists registration exist, but few details beyond this are required. Moreover, while lobbying lists are available for public scrutiny, details such as spending reports are not. The political systems that fit within this ideal type are Germany and the European Union. By contrast, the main findings from medium regulated systems are that lobbyists must not only register, but must also state the institutional actors they are lobbying, and the subject matter they are lobbying on. Some regulations exist surrounding individual spending disclosures, gifts are prohibited, and all political contributions must be reported. But, there are no regulations for employers' spending reports, and lobbyist spending disclosures are not available for public scrutiny. The systems within this ideal type include the federal levels in Canada and the United States, all Canadian provinces, and several US states. In strongly regulated systems lobbyists must reveal their employers, the institutional actors they are lobbying, and the subject matter they are lobbying upon. Rigorous individual spending disclosures are required of both lobbyists, and their employers. Scrutiny of spending disclosures is open to the public, and regulatory transgressions are punishable by means of significant penalties. Fitting within this ideal type are half the American states.

The second significant finding relates to the opinions of agents involved in lobbying, including politicians, regulators and interest groups. Actors in highly regulated systems were more likely to agree, compared to actors in lowly regulated systems, that regulations help ensure accountability in government. In other words, the stronger the rules the more accountability is fostered in the political system. It was also found that actors in higher regulated systems are more likely to strongly agree that they are knowledgeable about legislation. In this scenario, the tighter the rules, the greater the responsibility actors feel to study them. Another finding was that the weaker the regulatory environment, the more lightly respondents were to think there were loopholes. Nevertheless, it was argued that even in relatively highly regulated systems, if there is a 'will' there is always a 'way' of undermining the regulations. From this perspective, while highly regulated systems help ensure fewer loopholes, no ideal type is infallible.

While this study has been concerned with understanding lobbying regulations in four systems, the findings may offer two primary insights for states such as the UK and Ireland that have considered regulating lobbying activity, but have yet to adopt such rules. The first is that

there are *different ways* to regulate lobbyists. For example, the lowly regulated ideal system suggests that there is 'light' way of regulating, while the highly regulated system suggests there is 'heavy' way of so doing. Depending on what the objectives of the regulation are, states may implement different ideal types. The second insight is that adoption of different ideal types will have different impacts. For example, if a highly regulated ideal type is implemented, this seems to foster accountability in the political system as well as promote safeguards against different loopholes. Nevertheless, with regard to the latter point, this study has shown that lobbying legislation is no panacea: if lobbyists and politicians desire to pursue corrupt activities, no piece of legislation will prevent them from so doing. Yet, it may be argued that pursuit of lobbying rules may serve as framework to establish a paradigm within which all policy-makers can effectively function. This paradigm ultimately promotes the long term goals of accountability and transparency while it potentially serves as a deterrent, if not an antidote, for corrupt practices.

## Appendix A

*Example 1: CPI Score for Washington State (calculated by the Centre for Public Integrity); Canada Federal; and Germany.*

	Question	Washington State Answers	Point Value	Canada Federal Answers	Point Value	Germany Answers	Point Value
<b>Definition of Lobbyist</b>							
1	<i>In addition to legislative lobbyists, does the definition recognize executive branch lobbyists?</i>	Yes	3	Yes	3	No	0
2	<i>How much does an individual have to make/spend to qualify as a lobbyist or to prompt registration as a lobbyist, according to the definition?</i>	Must register irrespective of how much made/spent	4	Must register irrespective of how much money made/spent	4	Must register irrespective of how much money made/spent	4
<b>Individual Registration</b>							
3	<i>Is a lobbyist required to file a registration form?</i>	Yes	3	Yes	3	Yes	3
4	<i>How many days can lobbying take place before registration is required?</i>	0 days	4	1 to 10 days	2	16 or more days	0
5	<i>Is subject matter or bill number to be addressed by a lobbyist required on registration forms?</i>	Subject matter only required	1	Bill number subject matter	3	Subject Matter	1
6	<i>How often is registration by a lobbyist required?</i>	Every other year	1	Every six months	2	Every year	2
7	<i>Within how many days must a lobbyist notify the oversight agency of changes in registration?</i>	6 to 10 days	2	16 or more days	0	16 or more days	0
8	<i>Is a lobbyist required to submit a photograph with registration?</i>	Yes	1	No	0	No	0
9	<i>Is a lobbyist required to identify by name each of employer on the registration form?</i>	Yes	1	Yes	1	Yes	1
10	<i>Is a lobbyist required to clearly identify on the registration form any additional information about the type of their lobbying work (ie, compensated or non-compensated/contract or salaried)?</i>	Yes	1	Yes	1	Yes	1
<b>Individual Spending Disclosure</b>							
11	<i>Is a lobbyist required to file a spending report?</i>	Yes	3	No	0	No	0
12	<i>How often during each two-year cycle is a lobbyist required to report spending?</i>	10 or more filings within two years	3	No	0	N/A	0
13	<i>Is compensation/salary required to be reported by a lobbyist on spending reports?</i>	Yes	2	No	0	No	0
14	<i>Are summaries (totals) of spending classified by category types (ie, gifts, entertainment, postage, etc.)?</i>	Yes	2	No	0	No	0
15	<i>What spending must be itemized?</i>	All spending required to be itemized	4	No	0	N/A	0
16	<i>Is the lobbyist employer/principal on</i>	Yes	1	No	0	N/A	0

	<i>whose behalf the itemized expenditure was made required to be identified?</i>						
17	<i>Is the recipient of the itemized expenditure required to be identified?</i>	Yes	1	No	0	No	0
18	<i>Is the date of the itemized expenditure required to be reported?</i>	Yes	1	No	0	No	0
19	<i>Is a description of the itemized expenditure required to be reported?</i>	Yes	1	No	0	No	0
20	<i>Is subject matter or bill number to be addressed by a lobbyist required on spending reports?</i>	Subject matter only required	1	Bill number required	3	No	0
21	<i>Is spending on household members of public officials by a lobbyist required to be reported?</i>	Yes	1	No	0	No	0
22	<i>Is a lobbyist required to disclose direct business associations with public officials, candidates or members of their households?</i>	No	0	No	0	No	0
23	<i>What is the statutory provision for a lobbyist giving/reporting gifts?</i>	Gifts are limited and reported	2	Gifts prohibited	3	None	0
24	<i>What is the statutory provision for a lobbyist giving/reporting campaign contributions?</i>	Contribute allowed; disclosed on spending report/ prohibited during session	1	all political contribution reported by recipient	1	None	0
25	<i>Is a lobbyist who has done no spending during a filing period required to make a report of no activity?</i>	Yes	1	No	0	No	0
<b>Employer Spending Disclosure</b>							
26	<i>Is an employer/principal of a lobbyist required to file a spending report?</i>	Yes	3	No	0	No	0
27	<i>Is compensation/salary required to be reported on employer/principal spending reports?</i>	Yes	2	No	0	No	0
<b>Electronic Filing</b>							
28	<i>Does the oversight agency provide lobbyists/employers with electronic/online registration?</i>	Yes	1	Yes	1	No	0
29	<i>Does the oversight agency provide lobbyists/employers with electronic/online spending reporting?</i>	Yes	1	Yes	1	No	0
30	<i>Does the oversight agency provide training about how to file registrations/spending reports electronically?</i>	Yes	1	Yes	1	No	0
<b>Public Access</b>							
31	<i>Location/format of registration or active lobbyist directory:</i>	Searchable database on the Web	3	Searchable database on the Web	4	Yes	3
32	<i>Location/format of spending reports:</i>	Searchable database on the Web	3	No	0	No	0
33	<i>Cost of copies:</i>	Less than 25 cents per page	1	\$1 per page	0	0	1

34	Are sample registration forms/spending reports available the Web?	Yes	1	No	0	No	0
35	Does the state agency provide an overall lobbying spending total by year?	Yes	2	No	0	No	0
36	Does the state agency provide an overall lobbying spending total by spending report deadlines?	Yes	2	No	0	No	0
37	Does the state agency provide an overall lobbying spending total by industries lobbyists represent?	Yes	2	No	0	No	0
38	How often are lobby lists updated?	Daily	4	Daily	4	Annually	1
<b>Enforcement</b>							
39	Does the state have statutory auditing authority?	Yes	2	Yes	2	No	0
40	Does the state agency conduct mandatory reviews or audits?	Yes	2	Yes	2	No	0
41	Is there a statutory penalty for late filing of lobby registration form?	Yes	1	Yes	1	No	0
42	Is there a statutory penalty for late filing of lobby spending report?	Yes	1	No	0	No	0
43	When was a penalty for late filing of a lobby spending report last levied?	Within 0 to 1 year	3	N/A	0	N/A	0
44	Is there a statutory penalty for incomplete filing of a lobby registration form?	Yes	1	Yes	1	N/A	0
45	Is there a statutory penalty for incomplete filing of a lobby spending report?	Yes	1	N/A	0	No	0
46	When was a penalty for incomplete filing of a lobby spending report last levied?	Within 0 to 1 year/don't accept incomplete filings	3	N/A	0	N/A	0
47	Does the state publish a list of delinquent filers either on the Web or in a printed document?	No	0	No	0	No	0
<b>Revolving Door Provision</b>							
48	Is there a "cooling off" period required before legislators can register as lobbyists?	Yes	2	Yes	2	N/A	0
<b>Total Number of Points</b>			<b>87</b>		<b>45</b>		<b>17</b>

Sources: <http://www.publicintegrity.org/hiredguns/nationwide.aspx?st=WA&Display=DrStateNumbers>; authors' analysis of Canadian Federal and German legislation.

Table 1: CPI Scores for USA, Canada, Germany and the EP

STATE	CPI SCORE	STATE	CPI SCORE
<b>Washington</b>	<b>87</b>	<b>Montana</b>	<b>56</b>
<b>Kentucky</b>	<b>79</b>	<b>Delaware</b>	<b>56</b>
<b>Connecticut</b>	<b>75</b>	<b>Arkansas</b>	<b>56</b>
<b>South Carolina</b>	<b>75</b>	<b>Louisiana</b>	<b>55</b>
<b>New York</b>	<b>74</b>	<b>Florida</b>	<b>55</b>
<b>Massachusetts</b>	<b>73</b>	<b>Oregon</b>	<b>55</b>
<b>Wisconsin</b>	<b>73</b>	<b>Vermont</b>	<b>54</b>
<b>California</b>	<b>71</b>	<b>Hawaii</b>	<b>54</b>
<b>Utah</b>	<b>70</b>	<b>Idaho</b>	<b>53</b>
<b>Maryland</b>	<b>68</b>	<b>Nevada</b>	<b>53</b>
<b>Ohio</b>	<b>67</b>	<b>Alabama</b>	<b>52</b>
<b>Indiana</b>	<b>66</b>	<b>West Virginia</b>	<b>52</b>
<b>Texas</b>	<b>66</b>	<b>Newfoundland</b>	<b>48</b>
<b>New Jersey</b>	<b>65</b>	<b>Iowa</b>	<b>47</b>
<b>Mississippi</b>	<b>65</b>	<b>Oklahoma</b>	<b>47</b>
<b>Alaska</b>	<b>64</b>	<b>North Dakota</b>	<b>46</b>
<b>Virginia</b>	<b>64</b>	<b>Canada Federal</b>	<b>45</b>
<b>Kansas</b>	<b>63</b>	<b>Illinois</b>	<b>45</b>
<b>Georgia</b>	<b>63</b>	<b>Tennessee</b>	<b>45</b>
<b>Minnesota</b>	<b>62</b>	<b>South Dakota</b>	<b>42</b>
<b>Missouri</b>	<b>61</b>	<b>British Columbia</b>	<b>44</b>
<b>Michigan</b>	<b>61</b>	<b>Ontario</b>	<b>43</b>
<b>Nebraska</b>	<b>61</b>	<b>Quebec</b>	<b>40</b>
<b>Arizona</b>	<b>61</b>	<b>New Hampshire</b>	<b>36</b>
<b>Colorado</b>	<b>60</b>	<b>America Federal</b>	<b>36</b>
<b>Maine</b>	<b>59</b>	<b>Nova Scotia</b>	<b>36</b>
<b>North Carolina</b>	<b>58</b>	<b>Wyoming</b>	<b>34</b>
<b>New Mexico</b>	<b>58</b>	<b>Germany</b>	<b>17</b>
<b>Rhode Island</b>	<b>58</b>	<b>EU Parliament</b>	<b>15</b>

## Key



America (Those in red represent jurisdictions where surveys were sent as discussed later; other states whose CPI scores are only reported are in black)



Canada



European Parliament



Germany



**Table 2: The Three Ideal Types of Regulatory Systems**

	<b>Lowly Regulated Systems</b>	<b>Medium Regulated Systems</b>	<b>Highly Regulated Systems</b>
<b>Registration regulations</b>	Rules on individual registration, but few details required	Rules on individual registration, more details required	Rules on individual registration are extremely rigorous
<b>Spending disclosure</b>	No rules on individual spending disclosure, or employer spending disclosure	Some regulations on individual spending disclosure; none on employer spending disclosure	Tight regulations on individual spending disclosure, and employer spending disclosure
<b>Electronic filing</b>	Weak on-line registration and paperwork required	Robust system for on-line registration, no paperwork necessary	Robust system for on-line registration, no paperwork necessary
<b>Public access</b>	List of lobbyists available, but not detailed, or updated frequently	List of lobbyists available, detailed, and updated frequently	List of lobbyists and their spending disclosures available, detailed, and updated frequently
<b>Enforcement</b>	Little enforcement capabilities invested in state agency	In theory state agency possesses enforcement capabilities, though infrequently used	State agency can, and does, conduct mandatory reviews /audits
<b>Revolving door provision</b>	No cooling off period before former legislators can register as lobbyists	There is a cooling off period before former legislators can register as lobbyists	There is a cooling off period before former legislators can register as lobbyists

## Endnotes

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<sup>2</sup> Luigi Graziano, *Lobbying, Pluralism and Democracy*, Basingstoke, Palgrave, 2001, p. 94.

<sup>3</sup> Johan Largerlof and Lars Frisell, 'Lobbying, Information Transmission and Unequal Representation,' *Centre for Economic Policy Research*, No. 4313, 2004, pp. 1-27.

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<sup>5</sup> Bruce C. Wolpe and Bertram J. Levine, *Lobbying Congress: How the System Works*. Washington, DC: CQ Press, 1996, p. 193.

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<sup>7</sup> Rand Dyck, *Canadian Politics, Critical Approaches*, 4<sup>th</sup> ed., Ontario: Thomson Nelson, 2004, p. 367.

<sup>8</sup> Andrew Stark, 'Political Discourse Analysis and the Debate over Canada's Lobbying Legislation,' *Canadian Journal of Political Science*, Vol. 25, No. 3, 1992, pp. 513-534.

<sup>9</sup> Michael Rush, 'The Canadian Experience: The Lobbyists Registration Act,' *Parliamentary Affairs*, Vol. 51, No. 4, 1998, pp. 516-523.

<sup>10</sup> Dyck, *Canadian Politics, Critical Approaches*, p. 368.

<sup>11</sup> Karsten Ronit and Volker Schneider, 'The Strange Case of Regulating Lobbying in Germany,' *Parliamentary Affairs*, Vol. 51, No. 4, 1998, pp. 559-567.



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<sup>12</sup> Morten Bennesen and Sven E. Feldmann, 'Lobbying Legislatures,' *Journal of Political Economy*, Vol. 110, 2002, pp. 919-946.

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<sup>14</sup> Cyhthia Opheim, 'Explaining the Differences in State Lobby Regulations,' *The Western Political Quarterly*, Vol. 44, No. 2, 1991, pp. 405-421.

<sup>15</sup> Margaret F. Brinig, Randall G. Holcombe, and Linda Schwartzstein, 'The Regulation of Lobbyists,' *Public Choice*, Vol. 77, No. 2, 1993, pp. 377-384.