The Lobbying Game: How Chemical Companies and Environmental Advocates Shape Policy

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In the U.S., conservatives and liberals are sharply divided over environmental policy, and over climate policy in particular. The former group is more unconvinced about the potential benefit of environmental policies, and tends to prioritize the needs of the economy and big business over social issues such as climate change. Corporate lobbying of Congress has been influential since the 1870s (Keefe, 2020), but it sharply accelerated after 2010, when the Supreme Court ruled in *Citizens United v. FEC* that interest groups' spending on elections cannot be limited. As a result, the already large influence of corporations and special interest groups was increased even more, and political spending by these groups massively increased as well. Chemical companies spent about $47 million on lobbying in 2020 (Opensecrets.org, 2020).

Conversely, environmental advocacies have lobbied for environmental protection policies, spending about $17 million in 2020 (Opensecrets.org, 2020). How do U.S. chemical companies, environmental advocacies, and others compete to influence federal legislation? In order to promote legislation in their favor, American chemical companies utilize lobbying to limit environmental regulations from being passed, in order to conduct their business operations in a laissez-faire manner, while environmental groups and other participants lobby against them to protect the environment. The primary lobbying strategy used by these groups is to fund campaigns for political candidates who will push for favorable legislation.

Literature Review

Researchers have examined environmental policymaking in profound depth. Chepesiuk (1994) examined trade associations, nonprofit interest groups, and scientific research organizations, finding that the industrial sector has the most resources at its disposal. In a paper

examining the activities of the American Chemistry Council (ACC), Goldman (2015) analyzed the amounts that different chemical companies spent between 2008 and 2014 on lobbying (fig. 1). Goldman furthers his argument by discussing the ACC's immense budget and shows how they use their resources to influence federal legislation. Goldman concludes by stating that one of the biggest ways to discourage massive influence in policy by chemical companies would be to make the political activities more transparent to the public. Similarly, Smoot (2008) examined the Chemical Facilities Act of 2008, specifically noting that environmental groups formed a coalition to lobby for stricter safety regulation at chemical plants, while industry opposed the measures, claiming they required "expensive innovation."

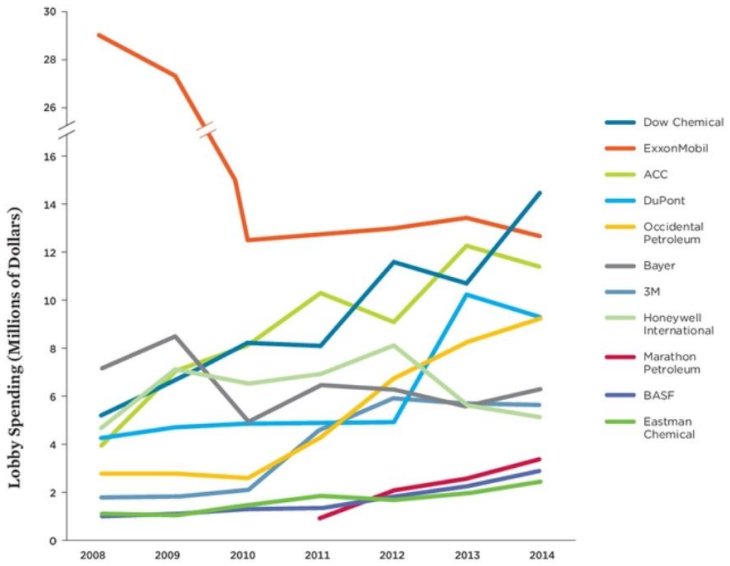

Figure 1. Lobbying Spending by the American Chemistry Council and Select Member Companies (Goldman et al., 2015)

Drutman (2015) discusses that there is a general theory in which various interest groups aim to donate to various candidates looking for funding in exchange for benefits such as subsidies or favorable regulations. This results in the creation of a sort of market in policymaking and campaign finance. However, Drutman rejects this theory and claims that "lobbying is primarily about working with allies," and not about the monetary exchange. Polk and Schmutzler

(2005) discusses the trend between lobbyists' budgets and the type of lobbying utilized. If the lobbyist has a smaller budget, they will often resort to "loophole lobbying", in which an industry aims to obtain tax exemptions. Delmas (2015) examined the correlation between political activity/lobbying and performance. She concluded that "firms on opposite ends of the environmental performance spectrum spend the most lobbying policy-makers, while middle-of-the-road performers—firms with neither exemplary nor particularly poor performance records—spend the least."

King and Lenox discuss the concept of industry self-regulation as an addition to conventional government regulation. They define it as "voluntary association of firms to control their collective action" (King and Lenox, 2000). King and Lenox identify the Responsible Care Program (discussed later in this paper) created by the American Chemical Council as one of the leading examples of self-regulation. Gamper-Rabindran (2013) offers a statistical analysis based on data across the chemical industry. Their results found that voluntary or self-regulated programs in the chemical industry did not significantly reduce pollution levels, a result shared by King and Lenox (2000). Maxwell and Decker (2006) similarly created a statistical game-theoretic model to investigate firms voluntarily acting to improve environmental effects. Their results showed that responsive regulation could result in voluntary environmental action by the chemical industry. However, they also noted that their environmental actions were often not sufficient.

ACC and Lobbying

The American Chemistry Council (ACC) is a trade association for American chemical companies, representing some of the largest chemical companies including Dupont, Monsanto, and ExxonMobil. The ACC acts as a representative group for the chemical industry and lobbies

for legislation that is beneficial to its member companies, even if the policy is scientifically proven to be harmful to health or the environment. The ACC has constantly been under fire for their actions in trying to lobby for looser regulation in the chemical industry. While consistently lobbying for decades, they have tried to be discreet and distance themselves from it. In 1989, the ACC created the Responsible Care Program after the Bhopal Disaster in India shattered the public's faith in the chemical industry (King & Lenox, 2003). The ACC described one of the Responsible Care Program's purposes: "To promote pollution prevention, minimization of waste and conservation of energy and other critical resources at every stage of the life cycle of products" (ACC, 2020). However, the convenient timing of the program's inception points to an alternative function of the Responsible Care Program, namely to improve the public image of the chemical industry and restore public opinion (King & Lenox, 2003).

The ACC's stance on bisphenol-A (BPA) highlights these different functions. BPA is a substance that was commonly used in plastic and resin production. Extensive scientific research has shown that BPA in plastics can leak into the food or beverage contained inside, and that BPA can negatively affect the brain and other areas. In 2005, the first bill to limit BPA in children's cups and bottles was introduced in California. Since 2005, the ACC spent over $9.4 million on lobbying against its ban. The ACC also created the website bisphenol-a.org to convince the public that BPA was safe. However, in October 2011, the ACC shifted its stance and stated that BPA was no longer an issue, since they no longer used BPA in children's sippy cups in the US (Jacobs, 2011). So why would the ACC spend so much money on lobbying efforts, if they did not even use BPA in those products? The ban on BPA in children's containers could easily expand to include all kinds of other plastics, so the ACC aimed to prevent the legislation from being passed by showing the issue was not present anymore (Jacobs, 2011). This was a notable

shift by ACC, which initially heavily lobbied for their legislation. Upon realizing this strategy was not successful enough to prevent the BPA ban from passing, the ACCs last ditch effort was to eliminate the perceived need for the legislation to pass.

One of the first significant pieces of legislation for the chemicals industry is the Toxic Substances Control Act (TSCA), which was passed in 1976. While TSCA was successful in managing the production of polychlorinated biphenyls (PCBs), it did not have a large influence otherwise (Silbergeld, 2015). This bill was finally amended in 2016, but the new legislation contains massive loopholes. RepresentUs, a non-profit aiming to eliminate corruption from American politics, describes the contents of the updated bill (2020). One of the most divisive loopholes in the bill states that only the EPA can take action on "high-priority" chemicals. Because of this, states cannot take their own action for years and rely on federal legislation passing. With the gridlock in Congress, it would take years for potential legislation or EPA reviews to pass. For example, there have been substances like methylene chloride which the EPA has been investigating for 30 years, while the fumes have killed people for decades (RepresentUs, 2020). The new bill makes it harder for the EPA to regulate imported products with hazardous chemicals into the US.

These loopholes, among others, were implemented into the bill because of lobbying. The chemical industry spent lots of money to ensure the legislation would not be too unfavorable. The resulting bill was supported by over 100 interest groups in the chemical industry, including the ACC and the American Petroleum Institute. These groups outspent environmental and public health advocates by a factor of 8 (RepresentUs, 2020). It was also recently revealed that the ACC could have written entire sections of the legislation. The bill was headed by a bipartisan team consisting of Senator Tom Udall (NM, Dem.) and Senator David Vitter (LA, Rep.). This duo has

been largely impacted by the money of the chemical industry. The ACC spent thousands of dollars on TV advertisements to ensure his re-election. The chemical industry also donated large sums to Senator Vitter's campaign as well as his super PAC (RepresentUs, 2020).

The ACC also had a role in lobbying against the banning of dangerous flame retardants. Scientific research has shown that flame retardants contain specific chemicals that can cause diabetes, fertility issues, and other health problems. For many years, the ACC claimed that flame retardants were crucial in fire safety and were safe to use. The ACC had denied all accusations of involvement in lobbying to defend the use of flame retardants. The ACC frequently collaborated with Citizens for Fire Safety (CFS), a coalition of firefighters, activists, doctors, and educators. Citizens for Fire Safety spent $22 million in 2007 to fight a California bill to ban certain flame retardants (Heath, 2015). CFS was also accused of using false testimonies from burn victims to convince people that flame retardants were essential. In 2012, a *Chicago Tribune* investigation exposed CFS as an industry group working with ACC to lobby against the ban on flame retardants. The ACC used CFS as an apparent reputable expert source for the safety of flame retardants. The ACC initially denied any involvement with CFS, but soon after acknowledged their coordination with CFS. After intensely lobbying against the flame retardant ban, the bill failed to pass in the state Senate by one vote. For the chemical industry and organizations like ACC, heavily lobbying is the most effective and direct way to achieve further their desired legislation.

Environmental Advocacy Groups and Lobbying

Though chemical companies have had a heavy hand in American politics with lobbying, environmental groups have also taken action to ensure the environment remains intact. The Pesticide Action Network (PAN), a prominent environmental advocacy group, aims to

counteract the chemical industry's effort to deregulate pesticides. In 2016, PAN published the *Glyphosate Monograph*, a 97-page report of over 400 scientific studies on the harmful environmental effects of glyphosate (PAN, 2019). Though PAN does not actually engage in lobbying activities, their publication helped spread information about the issue. Conversely, the Nature Conservancy (TNC) spent about $1.7 million in 2020 on pro-environmental lobbying. On their Code of Conduct, they claim that they "comply with the lobbying laws and regulations that apply to the work we do for TNC and avoid excessive lobbying" (TNC, 2020). Despite this, the Nature Conservancy has led pro-environmental lobbying for several years. The Nature Conservancy rationalizes this by claiming, "Our science shows that we have a limited time to make big changes in the world needed for people and nature to both thrive, and we know that we'll need policy changes to have an impact at the scale we need" (Dillon 2018). Though the Nature Conservancy aims to advocate for environmental health instead of corporate profit, but critics have pointed out the Nature Conservancy's ties with corporations. The Nature Conservancy began to interact with businesses to promote "greener" practices, instead of complete environmental preservation. However, these corporate ties became more profound over time, to the point where the Nature Conservancy's governing board consisted of oil company executives, chemical company directors, among others (PND, 2013). Though the Nature Conservancy has lobbied for legislation to benefit the environment, they remain silent on regulation involving its board members. For example, when the Bush administration aimed to continue oil drilling in Alaska, the Nature Conservancy did not act, while other environmental groups fought against it. As a result, the Nature Conservancy influenced legislation by selectively only lobbying for deregulation when it did not involve board members.

The U.S. Public Interest Research Group (U.S. PIRG) also has a large role in influencing legislation. PIRGs are progressive state advocate groups lobbying for state legislation. U.S. PIRG is a national organization for state-based PIRGs, responsible for overseeing their advocacy efforts. U.S. PIRG also is a hub for state PIRGs to lobby for federal legislation. When U.S. PIRG lobbying fails to yield the desired result, they turn to state PIRGs to lobby for state legislation. Since 2012, U.S. PIRG spent more than $725,000 on federal lobbying expenses (Table 1). Over seven years, U.S. PIRG lobbied on 357 bills and 872 specific reports (InfluenceWatch, 2020).

Table 1. U.S. PIRG Lobbying 2012-2017

Year	**U.S. PIRG Lobbying Expenses $**
2012	$236,800
2013	$144,864
2014	$75,848
2015	$168,364
2016	$80,000
2017	$20,000
Total	$725,876

Similar to other environmental advocacy groups, U.S. PIRG used lobbying in conjunction with other strategies to ensure favorable legislation was passed. For example, U.S. PIRG was one of many environmental advocacy groups who filed a lawsuit in October 2020 to defend the health of the environment. The issue of the lawsuit was a new rule implemented by the U.S. Department of Energy in which they set the standard of acceptable energy efficiency. These new standards make it easier for manufacturers to justify lower energy efficiency standards (U.S.

PIRG, 2020). U.S. PIRG is a clear example of an environmental group using a myriad of strategies to push favorable legislation.

Scientists and Lobbying

The Union of Concerned Scientists (UCS) is one of the most prominent scientific groups involved in influencing American environmental legislation. The UCS is a non-profit organization originally founded by students and scientists at the Massachusetts Institute of Technology. The group currently consists of about 250 experts in science, policy, communication, and other fields. They state that their mission is "to use rigorous, independent science to solve our planet's most pressing problems. Joining with people across the country, we combine technical analysis and effective advocacy to create innovative, practical solutions for a healthy, safe, and sustainable future" (UCS, 2020).

Similar to U.S. PIRG, UCS does not rely heavily on lobbying to achieve their goals. Instead, UCS uses four other strategies to fulfill their mission: analyze, expose, advocate, and activate. UCS uses their network of experts to extensively research and analyze issues that are not only scientifically sound, but cost-effective as well. Another way UCS seeks to influence is to expose fraudulent studies and false claims, to ensure the proper facts are available. UCS also advocates for political change by communicating with the public and policymakers. Finally, UCS employs a strategy to mobilize and activate their 500,000 supporters to push for legislation that benefits the environment and public health. UCS is solely funded by foundations and individuals, and they do not accept money from corporations or grants.

UCS has also played a role in reporting on ACC's actions in lobbying for environmentally harmful legislation. In 2015, UCS published a report detailing ACC's involvement in influencing TSCA. In the report, UCS discussed how in the few years where

Congress was discussing changing TSCA, ACC spent over $11 million on lobbying as well as donating generous sums to specific members of Congress who led the charge on chemical reform (Trager, 2020). UCS also took a firm stance and claimed that the ACC was acting like the tobacco industry by blatantly denying the science. The UCS pushed for more transparency from the ACC, as well as advocating for the US Securities and Exchange Commission to require organizations like the ACC to release information about their political activity. The UCS is pushing for business investors to apply pressure to companies to be transparent (Trager, 2020).

Similarly, the American Association for the Advancement of Science (AAAS) does not rely on lobbying to further their goals. AAAS claims that they do not "as a general policy, engage in direct or grass roots lobbying" (AAAS, 2018). Despite this, AAAS encourages its members to communicate with Congress, and has a history of heavy involvement in lobbying. Furthermore, they specify that non-partisan analyses and similar activities do not qualify as lobbying activities, and state that Congressional requests are crucial. Since AAAS is a non-profit organization, they are expected to keep their lobbying expenses less than about five percent of their annual revenue. The AAAS maintains that their involvement with congressional staff is a very minor piece of their organization. Though the AAAS may not use lobbying as a major tactic in shaping legislation, they do influence policy in more indirect ways. For example, in 2008 the AAAS had more than 150 of its science-minded members in specific executive and legislative offices throughout the country (Ballantyne, 2008).

Conclusion

Though many different groups aim to influence legislation, they way in which they achieve that goal varies drastically. Many people see lobbying as a strategy to further specific interests at the expense of the public good. For example, many people see lobbying as the main

driving factor in environmental policymaking, however there are other strategies in play that make the lobbying game so complex. Furthermore, even environmental advocacy groups use lobbying to further their own agendas. Chemical companies and the ACC heavily use lobbying to gain favor with policymakers and to ensure that legislation with severe regulation of the chemical industry does not pass.

Though organizations like the ACC try to be discreet with their lobbying expenditures and even lie about their involvement, other participant groups such as UCS report on these mistakes and inform the public about these dishonest practices. Scientist groups like the UCS also employ lobbying strategies, but to a much smaller degree relative to the chemical industry. If only lobbying expenditures are examined, it seems logical to assume that the chemical industry has a drastically larger influence on environmental policymaking than other groups. However, to fully understand the effect all these participants have on the creating of environmental legislation in the U.S., a wider scope must be used to analyze other strategies apart from lobbying.

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