

CHARLES UNIVERSITY
FACULTY OF SOCIAL SCIENCES

Institute of Political Studies
Department of International Relations



Master's Thesis

2020

Bc. Lucia Vilimovská

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**US lobbyists in the EU: significance of home country
regulation for lobbying behaviour in a less regulated
environment**

Master's thesis

Author: Bc. Lucia Vilimovská

Study programme: Mezinárodní vztahy

Supervisor: PhDr. Irah Kučerová, Ph.D.

Year of the defence: 2020

Declaration

1. I hereby declare that I have compiled this thesis using the listed literature and resources only.
2. I hereby declare that my thesis has not been used to gain any other academic title.
3. I fully agree to my work being used for study and scientific purposes.

In Prague on 6. 1. 2020

Lucia Vilimovská

References

VILIMOVSKÁ, Lucia. *US lobbyists in the EU: significance of home country regulation for lobbying behaviour in a less regulated environment*. Praha, 2020. 75 pages. Master's thesis (Mgr.). Charles University, Faculty of Social Sciences, Institute of Political Studies. Department of International Relations. Supervisor PhDr. Irah Kučerová, Ph.D.

Length of the thesis: 97 040

Abstract

Diploma thesis "US lobbyists in the EU: significance of home country regulation for lobbying behaviour in a less regulated environment" tackles the topic of lobbying in terms of comparing two differently regulated environments and the behaviour of lobbyists in these environments. In the introduction, the thesis analyses the current definitions and theoretical anchoring of the expert debate on lobbying, attempts to define this concept and to determine the basic research characteristics. The thesis attempts to describe why lobbying should be regulated and how is affected by lobbying transparency enhancement debate. Subsequently, the thesis describes and compares the regulation of lobbying in the United States and the European Union, while also taking into account international standards. The empirical part of the thesis is based on data provided by the American research center "Center for Responsive Politics". From this basic dataset, the companies and associations that lobby in the United States and the European Union, in particular, their basic documents and websites, are then researched based on established criteria. The aim of the thesis is to analyse whether companies and associations lobbying in a more regulated environment of the United States of America are transferring their 'taught' behaviour to a less regulated environment of the European Union. The research aims to indicate the level at which companies inform the public of their lobbying activities.

Abstrakt

Diplomová práce "Američtí lobbisté v EU: význam regulace v lobbistickém chování v méně regulovaném prostředí" pojednává o tématu lobbingu z hlediska komparace dvou různě regulovaných prostředí a chování lobbistů v těchto prostředích. V úvodu práce analyzuje momentální definice a teoretické ukotvení expertní debaty o lobbingu, pokouší se o vymezení tohoto pojmu a stanovení si základních výzkumných charakteristik. Práce se pokouší popsat, proč by měl být lobbing regulován a jak ovlivňuje politika transparentnosti lobbování. Následně práce popisuje a srovnává nastavení regulace lobbingu ve Spojených státech amerických a v Evropské unii, zároveň zohledňuje i mezinárodní standarty. V empirické části práce vychází z dat poskytnutými americkým výzkumným centrem „Centre for Responsive Politics“. Z tohoto základního datasetu pak následně na základě stanovených kritérií je prováděn výzkum firem a asociací, které lobbují ve Spojených státech amerických i v Evropské unii, především pak jejich základních dokumentů a webových stránek. Cílem práce je analyzovat, zda si firmy a asociace lobbující v regulovanějším prostředí Spojených států amerických přenášejí „naučené“ chování do

méně regulovaného prostředí Evropské unie. Výzkum má za cíl naznačit úroveň, jakou společnosti informují veřejnost o svých lobbistických aktivitách.

Keywords

lobbying, regulations, transparency, European Union, United States of America, business, behaviour

Klíčová slova

lobbing, regulace, transparentnost, Evropská unie, Spojené státy americké, byznys, chování

Title

US lobbyists in the EU: significance of home country regulation for lobbying behaviour in a less regulated environment

Název práce

Američtí lobbisté v EU: význam regulace v lobbistickém chování v méně regulovaném prostředí

Acknowledgement

I would like to express my gratitude to the supervisor of my thesis, to my colleagues who provided me with their advice and to my family and friends who supported me through my studies. All of the above mentioned deserve acknowledgement for their patience and energy.

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Introduction

The issue of lobbying is extremely important for its influence in the decision-making process. The role of lobbying cannot be denied but is often distorted by general perception. Lobbying as a term is a neutral act of interest representation. If it's exercised in a transparent manner within a clear framework, then it is legitimate form of a political or social conduct. The problem arises, when the lobbying is hidden. When it is not possible to track its roots and we cannot understand what the cause of the adopted decision is.

Transparency is a grand topic by itself – the public and political debate is whether and to what level to make decision-making processes and money flows transparent. It covers large amounts of subtopics – conflict of interests, money laundering, tax havens, public procurements, access to information, and among others – lobbying.

Transparency means operating in such manner that is clear what actions are happening and for what purpose. And for lobbying it is no different. It should be known who lobbies the authorities, for what purpose, when and where they are exposed to the lobbying, what are the expenses for the lobbying activities and what is the outcome of those activities.

Lobbying is field where transparency is being incorporated with some resistance. The mainstream of lobbying goes from the private business to the policy makers and legislator. This means, we lack the direct argument of transparency - impact and influence on the public budget. Yet the far-reaching effects of the lobbying can of course influence public finances sometimes more than some more clear problematics, such as public procurements or conflict of interest. It is not easy to pressure the private sector to publish some data on lobbying, as they see those activities as inside information that they should protect due to competitive fight in the private sector.

That's why it is important that some governments are pushing companies to publish at least some data (in some cases basic data, in some cases more thorough data) on their lobbying activities.

The EU saw an upswing of the lobbying activities in the 1990s, when some regulatory competences moved from the member states to the EU level, also when qualified majority voting was implemented for Single Market issues.¹ The EU introduced the European Transparency Initiative

¹ COEN, D. *Lobbying in the European Union*. Briefing paper, European Parliament's Committee on constitutional affairs. 2017. [2019-5-28] p. 1-18. Accessible from: www.eurosfaire.prd.fr/7pc/doc/1211469722_lobbying_eu.pdf

in 2005. Part of this initiative was also regulation of lobbying. This has resulted in establishing Transparency Register for the European Parliament and European Commission in 2011. However, the registration is not mandatory, it is compulsory only for physical entrance to the European Parliament building. But one of the main problems remains. That is, most of the EU member states do not have their own lobbying regulation, so there is no tradition and the pressure come from the EU level, not from the member states themselves. In 2016, there was a proposal to make the register mandatory, the last attempt to revive this draft was in April 2018.

EU lobbying is somehow regulated, but the whole system is still very young. On the contrary, lobbying regulations in USA have longer tradition, formulated mainly by 1995 Lobbying Disclosure Act, further extended and adjusted by 2007 Honest Leadership and Open Government Act. But the first attempt to broadly regulate this came already in 1946 with The Federal Regulation of Lobbying Act.²

The largest amount of lobbying money outside of the EU comes from the United States with yearly sum around 120 million euros. The US also ranks 7th among all spenders. The first on the list is Belgium - which is caused by extreme concentration of consulting firms, associations and legal organisations with offices in Brussels. Deutsche Welle analysis shows that if only Brussel-based lobbying spenders are taken into account, the US comes first.³ For example, Transparency International EU found in a study of Silicon Valley companies, their direct lobbying efforts rose by 278 percent from 2014 to 2017.⁴

² HREBENAR, R.; MORGAN, B. Lobbying in America: A Reference Handbook. California, ABC-Clio, Inc. 2009. 288 p, p. 59 ISBN 978-1-59884-113-8.

³ ANTYPAS, I. How non-EU actors are lobbying Brussels [online]. Deutsche Welle. 2018. [cit 2019-5-29]. Accessible from: <https://www.dw.com/en/how-non-eu-actors-are-lobbying-brussels/a-46182626>

⁴ KERGUENO, Raphaël. The Über-Lobbyists: how Silicon Valley is changing Brussels lobbying [online]. Transparency International EU, 2017. [2019-5-28]. Accessible from: <https://transparency.eu/uber-lobbyists/>

1. Research target

The aim of this thesis is to compare the influence of lobbying regulation on the lobbyists depending on the country of origin (residence) and country of operation. In other words, whether lobbyists ‘transmit’ ingrained behaviour from more regulated systems to less regulated ones. Along with that, the thesis should cover how the lobbying process works in the EU and in the United States of America and how both regulate it, and what does the transparency stands for – stating criteria and set of best and worst practices. Further in the analysis, the thesis should compare how the lobbyists deal with the transparency rules and if they publish something they are not obliged to. Finally, I should examine whether American lobbyists are more open players within the EU regime than European lobbyists.

To formulate research questions: Do lobbyists ‘transmit’ ingrained behaviour from more regulated systems to less regulated ones and does different setting of the system change the behaviour of the lobbying parties or the lobbying itself? Is it possible to find data on this phenomenon - are companies open about their lobbying activities? Or do the lobbyists use less strict environment in the EU? Do traditions and habits of the regulations influence behaviour of the lobbyists?

Brussels has the second highest density of lobbyists in the world, right after Washington, D.C.⁵ The EU and the US are also two of the biggest markets in the world. It is therefore why this thesis shall analyse those two systems and their permeation. We could assume, that it would be global companies, either with base in the US or with a significant lobbying within the US regulations, who would carry with themselves the learned behaviour and include them into their global activities.

I start the thesis with establishing hypotheses which should answer the research questions to some possible extent.

Hypothesis 1: Companies do not tend to inform about their lobbying activities more than lawfully required.

⁵ MULCAHY, S. *Lobbying in Europe: Hidden influence, privileged access*. Berlin: Transparency International. 2015. p. 54. ISBN: 978-3-943497-80-9

Hypothesis 2: The lobbyist by the nature of their work and the business environment do not adopt behaviour from more heavily regulated system to a lesser one.

Hypothesis 3: The transnational corporations won't disrupt the equilibrium in a sense, that they won't publish any significant information about their lobbying activities, since they might lose competitive advantage against the rest of the global corporations, unless they are pushed by other influences.

2. Theoretical background

Research on the lobbying and interest groups is very broad and without domination of one theory. As lobbying is a diverse activity, with various manifestations, levels of targeting and aims, it is difficult to find one comprehensive definition.

To begin the path to understand lobbying, we can turn to Eising and his observations on theory, research and methodology: “there is neither a united research interest nor a unified theoretical perspective on interest groups, nor an established methodological canon – and neither of them is likely to come about because of the multifaceted nature of interest groups” (Eising 2016, 3).

This thesis will build on the theoretical framework of International Political Economy, theory that emerged in 1970s'. As this theory suggests that economic subject are main actors of the international system and main factors influencing international affairs are economic ones. Global transnational companies - who are the main subjects of this thesis - are one of the main players acting as economic subjects. IPE studies influence of those subjects - apart from the transnational companies, there are also international organisations, non-governmental organisations, associations, and states - on the international system. According to IPE, market and the state are interconnected and are impacting each other.⁶

IPE provides interdisciplinary connection between research of International Relations and Economy - as I later mention, lobbying is inevitably merge of politics and business. And since this thesis is focused on transnational corporations, or global companies who lobby in at least two of the biggest markets, IPE serves as a solid theoretical framework to work with.

Not abandoning the IPE framework, I would also add a rational choice approach - I will assume, that transnational corporations are rational actors. They want to maximize their profits and gains. This approach was described also by Laboutková, Müller and Vymětal (2017), as they applied rational choice theory and game theory principles to lobbying in a sense that lobbyists' goal is to gain support for their issue, thus they need to gather majority of the votes for this issue. Lobbyists by nature of the decision-making procedure aim on those who are not convinced already.⁷

⁶ COHEN, B.J. International Political Economy. The Library of Essays in International Relations Series Editor: David A. Deese. USA: Ashgate Publishing, 2005. p 11-18. ISBN 9780754624660

⁷ LABOUTKOVÁ, Š.; MÜLLER, K.B.; VYMĚTAL, P. Lobbing v moderních demokraciích. Praha: Grada, 2010. P. 32-34. ISBN: 978-80-247-3165-0

Rational Choice Theory is one of the main current approaches of theoretical thinking in International Relations.⁸ It is defined as “individual goal-seeking under constraints”, modelling social and economic behaviour of actors, and “the theory is most often used as a positive theory of how actors behave in practice, but it can also be used as a normative theory to evaluate how actors behave or to indicate how they should behave”.⁹ Rational Choice Theory in general argues that most of the affairs can be explained by rational choices of individuals, as they seek to maximize gains and minimize losses.¹⁰

As Wiener and Schrier point out in their textbook of International Relations (2009), “one of the most important contributions of Rational Choice analysis has been the application of Game Theory and Cooperation Theory to the IPE”. Game theory in this scenario “examines the collective impact of strategic behaviour.”¹¹

Game Theory assumes rationality of the players - players choose their strategies and goals based on the stable environment. Every game has its own equilibrium - Nash equilibrium, presented for the first time by John F. Nash in his famous paper from 1951, following work of John von Neumann and Oskar Morgenstern in their 1944 book *The Theory of Games and Economic Behaviour*. Game Theory is trying to find this equilibrium where players choose strategies assuming, that their strategy choice won't differ, unless some other player would change their strategy.¹²

It might be an interesting construct to apply game of coordination, where players are avoiding antagonisms, on the contrary, they seek a harmony of interests, which means that players need to choose the same strategy to maximize the gains.¹³ For that, they also need to communicate, which is suitable to our case, since for lobbyists communication is one of the key elements. Lobbyists are also frequently united in some associations, where they can coordinate actions and procedures.

Applying this framework to this thesis would assume, that transnational corporations are one of the main players in the international relations according to IPE. They are also rational actors.

⁸ DRULÁK, P. *Teorie mezinárodních vztahů*. Praha: Portál. 2003. p.94. ISBN: 80-7178-725-6

⁹ SNIDAL, Duncan. Rational Choice and International Relations [online]. Handbook of International Relations, Chapter 4, London: SAGE Publications, 2013. <http://dx.doi.org/10.4135/9781446247587.n4> [2019-12-12] Accessible from: https://sk.sagepub.com/reference/hdbk_interntrrelations/n4.xml

¹⁰ Ibid.

¹¹ WIENER, J.; SCHRIRE, R.A. *International Relations: Volume II*. Oxford, UK: Eolss Publishers Co, Ltd. 2009. p. 19. ISBN 978-1-84826-063-4

¹² DRULÁK, P. *Teorie mezinárodních vztahů*. Praha: Portál. 2003. p.94-97. ISBN: 80-7178-725-6

¹³ Ibid. P. 97

Nonetheless, it is not possible to apply the Game Theory in a scope of this thesis, since it would require mathematical modelling of the data and set it into a framework. Therefore, I suggest the third hypothesis for this thesis, mentioned above.

2.1. Defining Lobbying

We have established that there is no unifying definition. Thus, we should take a closer look on definitions that are mostly used and what we can observe in the common discourse. To begin, Cambridge Dictionary currently defines lobbying as “the activity of trying to persuade someone in authority, usually an elected member of a government, to support laws or rules that give your organization or industry an advantage”¹⁴. Business Dictionary (2019) provides even more business-oriented definition “The act of attempting to influence business and government leaders to create legislation or conduct an activity that will help a particular organization.”¹⁵

We can find a very broad definition provided by Transparency International: “Lobbying is any direct or indirect communication with public officials, political decision-makers or representatives for the purposes of influencing public decision-making and carried out by or on behalf of any organised group”. Also, the publication on lobbying by Transparency International speaks about neutrality of lobbying and naturalness of its presence in society - and democracy. “It allows for various interest groups to present their views on public decision that may come to affect them.”

Thomas, Hrebenar and Boyer (2001) define a lobbyist as: “A person designated by an interest group to facilitate influencing public policy in that group’s favour by performing one or more of the following for the group: 1) directly contacting public officials; 2) monitoring political and governmental activity; 3) advising on political strategies and tactics; and 4) developing and orchestrating the group’s political efforts.” This seems as quite technical definition, but surely provides a good basis for describing a lobbyist in the sense of ‘profession’.¹⁶

We should also point out the two definitions provided by the two analysed environments - US system and EU system. These definitions could be a starting point for analyses of the different

¹⁴ Cambridge Dictionary. Meaning of lobbying in English. [online] Cambridge University Press 2019. [2019-5-27] Accessible from: <https://dictionary.cambridge.org/dictionary/english/lobbying>

¹⁵ Business Dictionary. Lobbying: definition. [online] WebFinance Inc. 2019 [2019-5-27] Accessible from: <http://www.businessdictionary.com/definition/lobbying.html>

¹⁶ Thomas, C.S.; Hrebenar, R.J.; Boyer, M.L. American Interest Groups Operating in the European Union: A Study in Transnational Lobbying. American Political Science Association, Annual Meeting, presented paper, 2001.

approach towards lobbying. For the purpose of this thesis and its methodological clarity, we will analyse only the federal level in the US and the EU level in the European Union. We shall not include descriptions and definitions from the US federal states and EU member states.

What is interesting in the sense of the discourse is presence of other terms connected to lobbying, such as interest representation or public affairs. PA is a term used as a specific field of specialization of a company, it is a “branch of PR which targets the political sphere and a limited section of the public. PA ... is aimed mainly at administrative authorities and politicians and indeed also at non-governmental organisations”.¹⁷ It is quite common to find this description on companies’ websites, if you are looking through lobbyists. By Klemens Joos term Public affairs is defined as broader activity than lobbying. “Lobbying is directed solely at politicians and administrative authorities and thus has an even smaller target group, although it is sometimes unclear where PA stops and lobbying begins.”

Klemens created a pyramid of terms and we have already defined two middle levels: lobbying and public affairs. But there are two more levels on the top and the bottom.¹⁸ The bottom of the pyramid is public relations - companies usually do present their work to the broad public. The shift of the public opinion to company’s side can play a role (and sometimes very important) at the higher levels of the lobbying pyramid. At the opposite side of the pyramid - on the top - are Governmental relations. GR means more specific type of lobbying - long-term cultivating of the relations with legislators.

It is clear that every definition of lobbying is different - depending on the nature of the defining entity. For the purpose of this thesis there are two primarily relevant defining entities - the US federal system and the EU.

2.1.1. The US definition

By the Lobbying Disclosure Act the US legislative system defines lobbyist as followed: “(10) LOBBYIST.—The term “lobbyist” means any individual who is employed or retained by a client for financial or other compensation for services that include more than one lobbying contact, other than an individual whose lobbying activities constitute less than 20 percent of the time engaged in

¹⁷ JOOS, K. Lobbying in the new Europe: Successful representation of interests after the Treaty of Lisbon. Weinheim, John Wiley&Sons. 2011. p 18. ISBN-13: 978-3527505975

¹⁸ JOOS, K. *ibid.* p. 19

the services provided by such individual to that client over a 3-month period.”¹⁹ We can see that a lobbyist is described here very strictly as a professional.

Lobbying contact is specified as ‘any oral, written, or electronic communication to a covered official that is made on behalf of a client.’ and lobbying activity means this type of contact or ‘any efforts in support of such contacts, including preparation or planning activities, research, and other background work that is intended, at the time of its preparation, for use in contacts, and coordination with the lobbying activities of others.’²⁰

As National Institute for Lobbying & Ethics states, lobbying activity is protected by the First Amendment to the US Constitution: “Congress shall make no law....abridging the freedom of speech... or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.” The definition provided is very short, claiming that it’s “advocacy of a point of view, either by groups or individuals”.²¹

What could approximate the discourse shift in the US environment is a fact that American League of Lobbyists, US largest industry lobbying group, changed its name in 2013 to Association of Government Relations.²² It came as a reaction to several scandals and pressure from the Obama administration.²³ This change illustrates the problematic tone of the term lobbying and a need to hide the substance into a vague description. It shows how discourse is a powerful tool in recent years, since American League of Lobbyists was founded in 1979²⁴, keeping the name through

¹⁹ US Senate. Lobbying Disclosure Act [online]. Senate.gov, LDA, Section 3. [2019-6-10] Accessible from: https://www.senate.gov/legislative/Lobbying/Lobby_Disclosure_Act/3_Definitions.htm

²⁰ Office of the Clerk, US House of Representatives. Lobbying Disclosure Act Guidance [online]. Effective January 1, 2008. [2019-6-10] Accessible from: https://lobbyingdisclosure.house.gov/amended_lda_guide.html#section3

²¹ Lobbying Institute. What is Lobbying? [online] The National Institute for Lobbying & Ethics, 2017. [2019-6-9] Accessible from: <https://lobbyinginstitute.com/what-is-lobbying/>

²² LEVINTHAL, Dave. American League of Lobbyists changes name. [online] The Centre for Public Integrity, 2013. [2019-6-11] Accessible from: <https://publicintegrity.org/federal-politics/american-league-of-lobbyists-changes-name/>

²³ BOGARDUS, Kevin. 'Scarlet L' for K Street returns as Obama sharpens 2012 rhetoric on lobbyists. [online] The Hill, 2012. [2019-6-10] Accessible from: <https://thehill.com/business-a-lobbying/186975-scarlet-l-for-lobbyists-returns-as-obama-sharpens-rhetoric-for-2011>

²⁴ LEVINTHAL, Dave. American League of Lobbyists changes name. [online] The Centre for Public Integrity, 2013. [2019-6-11] Accessible from: <https://publicintegrity.org/federal-politics/american-league-of-lobbyists-changes-name/>

Carter, Reagan, G. H. W. Bush, Clinton, and G. W. Bush eras, which were not unspoiled with some lobbying scandals.²⁵

Supplement for the definition chapter could also be a categorization of the lobbyists - that is provided for instance by Thomas, Hrebenar and Nownes (2008). The authors set 5 categories for the US system, together with some data, for example about percentage of the categories:²⁶

- 1) Contract lobbyist - hired on contract for a fee specifically to lobby (in context of this thesis, contract lobbyists are primarily employees of the lobbying firms or freelance lobbyists), 15-25 % of the state capital lobbying community;
- 2) In-house lobbyist - employees of an association, organization or business, who, as part or all of their job, act as a lobbyist (in context of this thesis, employees of the top 100 companies), 40-50 % of the state capital lobbying community;
- 3) Government lobbyists and legislative liaisons - employees of the state, local and federal agencies, 25-40 % of the state capital lobbying community;
- 4) Citizen, cause or volunteer lobbyists - persons who, usually on an ad hoc and unpaid basis, represent citizen and community organizations or informal groups, 10-20 % of the state capital lobbying community;
- 5) Private individual, "hobbyist" or self-styled lobbyists - e acting on their own behalf and not designated by any organization as an official representative. They usually lobby for pet projects or direct personal benefits; or against some policy or proposal that they find particularly objectionable, less than 5 % of the community.

2.1.2. The EU definition

Definition taken out from European Commission's Green paper on European Transparency Initiative from 2008 stands: "all activities carried out with the objective of influencing the policy formulation and decision-making processes of the European institutions". The European Interest Representation is mainly defined by Article 11 of the TEU "(1) The institutions shall, by appropriate means, give citizens and representative associations the opportunity to make known

²⁵ RODRIGUEZ, Juan-Carlos. Reagan adviser Nofziger dies [online]. Hearst Newspapers, LLC. Associated Press, 2006. [2019-6-11] Accessible from: <https://www.chron.com/news/nation-world/article/Reagan-adviser-Nofziger-dies-1856588.php>

²⁶ THOMAS, S.C.; HREBENAR, R.J.; NOWNES, A.J. Interest Group Politics in the States: Four Decades of Developments—the 1960s to the Present [online]. The Book of the States, 2008. [2019-6-11] Accessible from: https://knowledgecenter.csg.org/kc/system/files/Thomas_Hrebenar_Nownes_2008.pdf

and publicly exchange their views in all areas of Union action,” and (2) The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society.”²⁷ In relation to the business, this article is implemented largely by the existence of the Transparency Register. For this thesis, the scope of business lobbying is the main topic, thus this will be the major interest of the research.

The 2014 ‘Interinstitutional Agreement between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation’ provides a definition where direct lobbying “means influencing by way of a direct contact or communication with the EU institutions or other action following up on such activities and ‘indirectly influencing’ means influencing through the use of intermediate vectors such as media, public opinion, conferences or social events, targeting the EU institutions.”²⁸

2.1.3. Lobbying history

It is believed, that origins of the lobbying dates back to the 1640s, when lobbies of the British Parliament started to be the place, where most of the essential bargains between Members of the Parliament and the ones, that wanted to influence them were made - primarily the citizens.²⁹ As for the American tradition, the word ‘lobbyist’ was used in the US print for the first time in the first half of the nineteenth century, but it took several decades to harmonise the meaning behind it.³⁰

In 1938, there was the first US lobbying related legislation in response to the rising threat of the Nazi Germany - Foreign Agents Registration Act. As American government feared influence of the Nazi propaganda, so they passed a bill requiring foreign entities to disclose political

²⁷ The European Union. Consolidated version of Treaty of the European Union [online]. Official Journal of the European Union, C 115/15, 2008. [2019-7-12] Accessible from: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2008:115:0013:0045:EN:PDF>

²⁸ The European Union. Agreement between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation [online]. Official Journal of the European Union, L 277/11, 2014. [2019-7-12] Accessible from: [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014Q0919\(01\)&from=en](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014Q0919(01)&from=en)

²⁹ SHEIDLOWER, Jesse. A Lobbyist by Any Other Name? [online] Weekend Edition Sunday, NPR, 2006. [2019-7-12] Accessible from:

<https://www.npr.org/templates/story/story.php?storyId=5167187?storyId=5167187&t=15764240240>

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³⁰ THOMAS, C. S. Research Guide to U.S. and International Interest Groups. Westport: Praeger, 2004. p.3-5. ISBN-13: 978-0313295430

relationships with US politicians.³¹ After the war, the US Congress passed The Federal Regulation of Lobbying Act in 1945,³² then repealed in 1995 by Lobbying Disclosure Act,³³ further extended and adjusted by 2007 Honest Leadership and Open Government Act.³⁴

In the EU, the lobbying tradition was formed by those Member states who have their own lobbying tradition. It was British, Dutch and American companies who were the first to focus their attention to the European institutions. On the other hand, French and German companies took longer, as they were primarily focused on the national level. In the case of the German companies, it is explained by the high reliance on the official channels through the national authorities to represent their interests.³⁵

Coen (1997) in his study shows, that between 1984 to 1994 two hundred companies chose to set up an office in the Brussels. According to Coen, that illustrates the focus that moved from the national level to the European institutions.³⁶ The study concludes that during the 1990s it became obvious that “not all interest groups have equal access to the negotiating table and that the Commission appears to be able to regulate the terms of representation via the advent of forums and quasi-industrial clubs”.

Through the changes in the voting on Single Market, companies realised that around 80 percent of the regulations and standards are coming from the Commission. Only after the Maastricht Treaty in 1992 when European Parliament acquired more power, also the lobbying focus began to split between the two institutions.³⁷

³¹ The United States Department of Justice. Foreign Agents Registration Act [online]. 1938. [2019-7-15] Accessed from: <https://www.justice.gov/nsd-fara>

³² HREBENAR, R.; MORGAN, B. Lobbying in America: A Reference Handbook. California, ABC-Clio, Inc. 2009. p. 59. ISBN 978-1-59884-113-8.

³³ The USA. 2-U.S. Code Chapter 26 - Disclosure of Lobbying Activities, Pub. L. 104-65, § 2, Dec. 19, 1995, 109 Stat. 691. [online]. Cornell Law School: Legal Information Institute. [2019-7-15]. Accessible from: <https://www.law.cornell.edu/uscode/text/2/chapter-26>

³⁴ The USA. H.R.2316 - Honest Leadership and Open Government Act of 2007 [online]. Congress.gov, 110th Congress (2007-2008). [2019-7-15]. Accessible from: <https://www.congress.gov/bill/110th-congress/house-bill/2316/text>

³⁵ European Parliament. Working Paper: Lobbying in the European Union - Current Rules and Practices [online]. Constitutional Affairs Series, AFCO 104 EN. 2003. [2019-7-15]. Accessible from: [https://www.europarl.europa.eu/RegData/etudes/etudes/join/2003/329438/DG-4-AFCO_ET\(2003\)329438_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2003/329438/DG-4-AFCO_ET(2003)329438_EN.pdf)

³⁶ COEN, D. The evolution of the large firm as a political actor in the European Union. *Journal of European Public Policy* 4(1): 91-108, 1997.

³⁷ European Parliament. Briefing Paper: Lobbying in the European Union [online]. Directorate-General Internal Policies, Policy Department C, Citizens' Rights and Constitutional Affairs. November 2007, PE 393.266. [2019-7-16] Accessible from: http://www.eurosfair.eurostat.fr/7pc/doc/1211469722_lobbying_eu.pdf

The main breakthrough in the common EU regulation occurred in 2011 with Inter Institutional Agreement on the Transparency Register between European Commission and European Parliament.³⁸

2.2. Lobbying & Transparency

The definition of transparency is self-explanatory - act in an open manner, publish information, be transparent. The concept of transparency can be applied in various settings, from politics to private business, from tax havens to public procurements, from conflict of interests to protection of whistleblowers - and most usually the topics overlap.

Worldwide NGO Transparency International defines transparency as “shedding light on shady deals, weak enforcement of rules and other illicit practices that undermine good governments, ethical businesses and society at large.”³⁹

Laboutková and Vymětal (2017) consider in transparent lobbying important “equality of access to enable decision makers to act and take decisions impartially, fairly and without discrimination. Thus, it is possible to reach a similar conclusion about the necessity of transparency for strengthening the legitimacy of decision-making through acting (including lobbying and interest representation) of citizens/civil society groups/interest groups in the political process.”⁴⁰

Transparency as a topic, as a demand, and also its insufficiency as well as the grand corruption cases are a common denominator in many political and societal changes, turmoil and chaos. Just in recent years, there are several cases to be mentioned - Panama Papers (the largest leak of offshore based companies documents), protests against Brazil president in 2015, Slovak protests in 2018 (corruption in the highest levels of politics, murder of a journalist), continuous corruption

³⁸ The EU. Agreement between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation [online]. Official Journal of the European Union, L 277/11, 2014. EUR-lex.Europa.eu. [2019-7-15] Accessible from: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.277.01.0011.01.ENG

³⁹ Transparency International. What is Corruption? [online] Transparency International, 2018. [2019-7-15] Accessible from: <https://www.transparency.org/what-is-corruption>

⁴⁰ LABOUTKOVÁ, Š., VYMĚTAL, P. Transparency in Economic and Political Decision-Making: The Identification of Sunshine Rules for Transparent Lobbying. Danube: Law and Economics Review, European Association Comenius - EACO. issue 3, pages 157-171.

cases of Israeli prime minister, demonstrations in Iraq or Lebanon in 2019.⁴¹ This illustrates how transparency can resonate in the society.

Many populist politicians and movements based their critique of the current system on corruption with aim to disrupt the ‘traditional parties and the system’. Through this exploitation of the topic, the anti-corruption rhetoric and the notion of the ‘rigged system’ is now part of the normal political discourse. Yet the nuances of the real transparency measures are not so easy to tackle.

And that is also true for the transparent lobbying. For the companies, details on lobbying activities means inside information that they should protect due to competitive fight in the private sector.

In a working paper by International Monetary Fund from 2009 called ‘A Fistful of Dollars: Lobbying and the Financial Crisis’ they analysed lobbying practices in US industries and its connection to the global financial crisis that broke out in 2008. The conclusion was following: “prevention of future crises might require weakening political influence of the financial industry or closer monitoring of lobbying activities to understand the incentives better.”⁴²

So, what are the ways how to enhance transparency in the lobbying? Transparency International together with Access Info Europe, Sunlight Foundation and Open Knowledge International developed International Standards for Lobbying Regulation. These standards provide several directions how to enhance transparent lobbying:⁴³

- 1) Mandatory register with reporting requirements, disclosing detailed information about lobbyists, budget and political contributions.
- 2) Publicly accessible information mentioned in the point n. 1.⁴⁴
- 3) Codes of conduct for public officials and cooling-off periods.
- 4) Code of conducts for lobbyists supported by broader corporate social responsibility (CSR) and governance strategy.⁴⁵

⁴¹ BBC News. Big protests in Brazil demand President Rousseff's impeachment [online]. BBC, 2015. [2019-7-20] Accessible from: <https://www.bbc.com/news/world-latin-america-31899507>

⁴² IGAN, D.; MISHRA, P.; TRESSEL, T. A Fistful of Dollars: Lobbying and the Financial Crisis [online]. IMF Working Paper, WP/09/287, 2009. [2019-7-20] Accessible from: <https://www.imf.org/external/pubs/ft/wp/2009/wp09287.pdf>

⁴³ Open Knowledge Foundation, Transparency International, Sunlight Foundation, Access Info Europe. International Standards for Lobbying Regulation [online]. Lobbyingtransparency.org:Standards. [2019-9-5] Accessible from: <http://lobbyingtransparency.net/standards/>

⁴⁴ Ibid, Standards: Transparency. [2019-9-5] Accessible from: <http://lobbyingtransparency.net/standards/transparency/>

⁴⁵ Ibid, Standards: Integrity. [2019-9-5] Accessible from: <http://lobbyingtransparency.net/standards/integrity/>

- 5) Public participation in decision-making that is equal.
- 6) Existence of expert and advisory groups.
- 7) Careful consideration of lobbying incentives.⁴⁶
- 8) Sufficient oversight and support for the operation of lobbying regulations, as well as effective sanctions for cases of violation.⁴⁷
- 9) Lobbying regulations should take into account the local context and be aligned with the broader regulatory and policy framework in place.⁴⁸

This set of rules combines regulatory and transparency measures coming from both state level and authorities, as well as from the business level and lobbying community itself.

⁴⁶ Ibid, Standards: Participation Access. [2019-9-5] Accessible from:
<http://lobbyingtransparency.net/standards/participation-access/>

⁴⁷ Ibid, Standards: Oversight, Management, Sanctions. [2019-9-5] Accessible from:
<http://lobbyingtransparency.net/standards/oversight-management-sanctions/>

⁴⁸ Ibid, Standards: Regulatory Framework Design. [2019-9-5] Accessible from:
<http://lobbyingtransparency.net/standards/regulatory-framework/>

3. Research & Methodology

3.1. Research & Challenges

As research of the interest groups is quite extensive and offers large number of variables, it also has some challenges. As Eising (2016) points out the main challenges: “(1) the identification of the relevant interest group population; (2) the analysis of access patterns and venue shopping in legislative politics; (3) the identification of the interest groups’ positions, arguments, and frames; and (4) the measurement of interest group success and influence.”⁴⁹

According to Beyers et al. (2008), the three cardinal factors in defining interest groups are organization, political interests and informality.⁵⁰

Research of lobbying has also very practical challenges. Both sides of the lobbying process - the lobbyists and those who are lobbied - have different approach to revealing the information about the lobbying. This differs of course depending on the obligations they have in the given legislative system, but obligations are not everything. For example, Members of Parliament are usually not eager to make their calendars public - not the ones containing all the meetings with interest representatives.⁵¹ But as Bowen (2004) stresses in his article on EU lobbying, it would be misleading to view lobbying as one way phenomenon. The institutions need contact with interest representatives, as they are source of area-oriented information, providing expertise from business, academia and NGO sector and legislative inspiration.⁵²

We can differentiate also between formal and informal contacts. Formal contacts are those we can find in some official documentation, register or calendar. Informal lobbying most often takes place in receptions, parliament bars, corporate boxes at stadiums or cultural events, golf clubs or airport lounges.⁵³ Such meetings, if they are not detected by accident or monitored on purpose by

⁴⁹ EISING, Rainer. studying interest groups: methodological challenges and tools. Bochum, Ruhr-University Bochum. European Consortium for Political Research. *European Political Science*, 16, 2017.

⁵⁰ Beyers, J., Eising, R. and Maloney, W. Researching interest group politics in Europe and elsewhere: Much we study, little we know? 2008, *West European Politics* 31(6): 1103–28.

⁵¹ Beyers, J.; Binderkrantz, A.; Pedersen, H. H. ‘What is access? A discussion of the definition and measurement of interest group access’, *European Political Science*, Vol. 16, No. 3, 2017, p. 306-321. doi: 10.1057/eps.2016.17.

⁵² BOUWEN, P. Exchanging access goods for access: A comparative study of business lobbying in the European Union institutions. 2004. *European Journal of Political Research*, 43(3), 337-369.

⁵³ MULCAHY, S. *Lobbying in Europe: Hidden influence, privileged access*. Berlin: Transparency International. 2015. p. 15. ISBN: 978-3-943497-80-9

journalists, are not detectable. And subsequently, those interactions are contacts are “by design kept off record”.⁵⁴ And regulations are not capable to fully affect those hidden practices.

When studying lobbying, the research should not rely on one source only. As some authors show, records on lobbyists participation in committees or submissions to consultations are not necessarily complete or precise. When a research focuses solely on data from the European Commission’s public consultations on a policy proposal, it can lose track of lobbyists ‘approaching the European Parliament or the national governments on the same issue or that approach the European Commission officials by email or phone calls.’ as Eising reminds researchers in *Studying interest groups: Methodological challenges and tools*.⁵⁵

3.2. Methodology & Data Collection

The thesis is aiming to study behaviour in different environments. The data available are not suitable for quantitative analysis; therefore, this thesis shall be compiled as a qualitative analysis. As a case study, this thesis should first compare in depth the current transparency regimes for lobbying in the EU and US. Subsequently, I will map the biggest lobbyist in the EU and the USA, and then compare their behaviour in the system, the amount of publicly available information. The biggest lobbyists should be sorted by the expenses. The list will contain businesses, corporations or law firms and consultants – categories I and II according to EU Transparency Register. This should be carried out first through the transparency registers, the official EU and US⁵⁶ databases. Second, with online databases such as Lobbyfacts.eu, which combines data from EU Transparency Register and European Commission’s data on lobby meetings, and Opensecrets.org, which using the lobbying disclosure reports filed with the Secretary of the Senate's Office of Public Records and collected from data provided by the Clerk of the House. Those sources process the data and analyse them statistically. Finally, the thesis shall obtain data from companies’ websites and official documents.

Finally, the registers allow filtering by various criteria, even by the residence/location of the main office. I will generate list of the biggest US lobbyist lobbying in the EU and I will analyse their

⁵⁴ Ibid, p. 15

⁵⁵ EISING, Rainer. *studying interest groups: methodological challenges and tools*. Bochum, Ruhr-University Bochum. European Consortium for Political Research. *European Political Science*, 16, 2017.

⁵⁶ The United States Senate. *Lobbying Disclosure Electronic Filing System* [online]. Senate.gov. [2019-9-20] Accessible from: <https://soprweb.senate.gov/>

transparency habits. The aim of this thesis is to find, whether the system and the tradition is shaping their behaviour and level of transparency even when they are not forced by the EU system. I will also detect some proposed solutions for the EU lobbying regime and how they could affect the functioning of the decision-making process and behaviour of the affected actors within the system.

The lobbyists' dataset will be processed through a database and will serve as a primary source. With a clearly framed list the thesis will proceed with qualitative analysis of the statistics and any specifics that could occur in the research. The comparison will be implemented on the basis of clearly defined characteristics and criteria. The final part of the thesis should emerge from the empirical research – it is then to evaluate, if the tradition of regulation is shaping the behaviour of those who are regulated.

4. Questionable lobbying practices

4.1. Revolving doors

Revolving doors is a phenomenon closely associated with lobbying. It is a description of a personnel exchange process, when politicians, legislators and regulators, are leaving to “the other side” - they are becoming representatives of the business sphere in the same sector as they were active in the public sphere - and the other way around.⁵⁷ Revolving doors is tied together with George Stigler’s Regulatory Capture Theory (1971). This theory examines “uses of public resources and powers to improve the economic status of economic groups (such as industries and occupations) are analysed to provide a scheme of the demand for regulation.”⁵⁸

There is a linked problem to this phenomenon - conflict of interests. If you go from private sector to the public, there are concerns that you will represent your former employer’s interests. If you are going from the public sector to the private, the concerns are about the information you could deliver and concerns about if your performance in the public sector was not motivated by a will to obtain a job in the private sector.⁵⁹

A study by Transparency International shows, that 30 % of former MEPs who are now out of office are working for organisations on the EU Transparency register (this number contains private sector but also NGOs). Former European Commissioners have even larger share, more than 50 %.⁶⁰

There is a solution to this problem, or at least partial one. Cooling-off periods is a system, where between the two jobs in the same sector but on different sides, there should be a certain time period. This cooling-off period should lower the risk of conflict of interest. It’s a common technique in the private sector, the employee signs an agreement, that he will not go to a competitor, because of the strategies and confidential information he could bring. This a regulatory instrument that was transposed to the lobbying.⁶¹

⁵⁷ FREUND, D.; BENDEL, Y. Access All Areas: When EU politicians become lobbyists. Brussels, Transparency International EU, 2017. p. 4

⁵⁸ STIGLER, G.J. The Theory of Economic Regulation. The Bell Journal of Economics and Management Science, Vol. 2, No. 1 (Spring, 1971), pp. 3-21.

⁵⁹ FREUND, D.; BENDEL, Y. Access All Areas: When EU politicians become lobbyists. Brussels, Transparency International EU, 2017. p. 4

⁶⁰ Ibid, p. 6

⁶¹ Ibid, p. 4

4.2. Astroturfing

Astroturfing is a term coming from marketing, a method that is considered a type of guerrilla marketing. The advertiser is trying to create a false impression of positive reaction of consumers or fans on the given goods, service or political opinion. And the last commodity is the most prone to lobbying. An illustrative case: tobacco industry financed lobby group “had tried to fake signatures, thus overstating third-party support to their campaign against plain packaging regulation.” This was published afterwards by UK Department of Health, tobacco industry reacted with defence, but it was proven, that part of the signatures were falsified. The lobby group blamed one signature collector.

Astroturfing is a widely known term also in the US. “Through the practice of ‘astroturfing,’ corporations co-opt certain politicians and non-profit groups to create the appearance of grassroots support for the corporate position.”⁶²

This practice of creating a fake grassroot organization has been used - and been reported on. Among others, the case of ‘Crowds on Demand’ drew attention of media in recent years because they admitted point of business is paying demonstrators.⁶³ This company is not unique - journalists found similar business operations worldwide and according to UCLA professor Edward Walker, there are hundreds of similar firms in the US. Walker also estimates, that app. 40 % of the top 500 US companies are or were a client of such service.⁶⁴ And payed supporters are not the only service there is - “these include mass letter-writing or emailing, ghost-writing blog posts, locating data on likely sympathizers for your cause... even creating whole new 'front' or 'third party' organizations to serve as a mouthpiece for the campaign's funder," claims Walker.⁶⁵

⁶² PENG, Victoria. Astroturf Campaigns: Transparency in Telecom Merger Review [online]. University of Michigan Journal of Law Reform, Volume 49, Issue 2, 2016. University of Michigan Law School. 37 p. [2019-7-5] Accessible from: https://pdfs.semanticscholar.org/23de/d94f136d92155f1deafe35ff16b92ea0f950.pdf?_ga=2.20830648.1438571777.1577999063-143543745.1577999063

⁶³ SCHNEIDER, Dan. 1-800-HIRE-A-CROWD [online]. The Atlantic, 2015. [2019-9-20] Accessible from: <https://www.theatlantic.com/business/archive/2015/07/crowd-hiring-politics-campaign-2016/399002/>

⁶⁴ WALKER, E. Grassroots for Hire: Public Affairs Consultants In American Democracy. Cambridge University Press, 2014. 298 p. ISBN: 1107619017

⁶⁵ MONKS, Keiron. The lucrative business of crowds for hire [online]. CNN, 2018. [2019-9-20] Accessible from: <https://edition.cnn.com/2015/10/16/business/crowds-for-hire/index.html>

In a broad sense of lobbying, as we've suggested earlier, that almost every PR activity can be viewed as kind of lobbying. Astroturfing is of course illegal and unethical, but the selling point stays - if you look good and have support of the public, you have more negotiating power.

4.3. Gossip

Gossip is inevitably part of lobbying and plays a vital role in the informal level of the communication. A lobbyist must follow the background buzz around a bill or any other issue to get the bigger picture. The communication channels are personalized, and the informal structures can mean the crucial difference between lobbying success and failure.⁶⁶ But Graziano also highlights the role of personal integrity and trust among lobbyists. As described in the US system, with integrity, there comes interaction - Congresspeople are usually open to attempts to persuade them, but only by political means, not by bribing. So, the lobbyists in the US system are forced to have a clean reputation to remain access.

⁶⁶ GRAZIANO, L. Lobbying, pluralism, and democracy. Palgrave Macmillan UK, 2001. p 12-14. ISBN: 978-0-333-92056-5

5. Regulations of lobbying

In the first part of the thesis, we have provided an introduction - what lobbying is, how it's described by various actors, how we can study interest groups and what are the challenges to the research. The following part should provide the comparison of the two differently regulated systems - in the USA and the EU.

This comparative part should set the basis for the research topic of this thesis. Based on the disparities, we will set criteria by which we will then analyse, if the companies adjust their behaviour in differently regulated systems. First, we will summarize why is lobbying regulated in general, then we cover the EU system, the less regulated, second, the thesis will analyse the more regulated US system.

5.1. Why should lobbying be regulated?

Regulated means to be subjected to certain principles of transparency, so it is possible to track who influenced or initiated some legislation or decision. Transparent interest representation should be a natural element of democracy in the 21st century. Hidden influence undermines democratic process. However, it is not common around the world to regulate lobbying. Only 22 countries have some form of lobbying regulation - plus the EU to some extent. These are Australia, Austria, Brazil, Canada, Chile, France, Georgia, Germany, Hungary, Ireland, Israel, Lithuania, Macedonia, Mexico, Montenegro, the Netherlands, Peru, Poland, Slovenia, Taiwan, United Kingdom and the United States.⁶⁷

Regulation should not mean limitation, but definition as a legal activity, which helps strengthen reputation of lobbyists themselves, but also of the lobbied government and officials - so rather than repression, it should be perceived as way of good governance. The 'game' always has some rules - this rulebook defines, what type of activities does the game allows, what does the game entails, who are the players, and who is the guardian of the rules and what type of punishment can be used. And not to forget about a mechanism in case that the guardian is not fair towards the players or is trying to rig the game. This game parallel is easy and applicable to a wide range of activities but

⁶⁷ WATSON, Libby. Influence Abroad: The state of global lobbying disclosure [online]. Sunlight Foundation, 2016. [2019-8-5] Accessible from: <https://sunlightfoundation.com/2016/11/30/influence-abroad-the-state-of-global-lobbying-disclosure/>

fits the lobbying ‘game’ perfectly. It does not aim to limit the number of players, but to set a common ground for those who are willing to play fair.⁶⁸

According to Chari, Murphy and Hogan (2007) there are six categories describing possible regulations. Depending on the level of following these regulations, system is either lowly regulated, medium regulated or highly regulated.⁶⁹

- 1) registration regulations,
- 2) spending disclosure,
- 3) electronic filings,
- 4) public access,
- 5) enforcement,
- 6) revolving door problem.

In this typology which compared EP, Germany, Canada and the USA, the lowly regulated systems are European Parliament and Germany, the medium regulated are Canada and some of the states of the USA including the federal level; and the highly regulated are other states of the USA. These are data from 2007, thus do not reflect the most recent developments. Centre for Public Integrity made updated comparison in 2015 between all 50 US states, the highest ranking in regulating lobbying was Alaska with 98 points out of 100,⁷⁰ Washington ranked around the middle with 62 points, the last was Nevada with 38 points.⁷¹

5.2. Professional Lobbying Standards

Some self-regulation comes also from the PR practitioners themselves. According to an analysis by Transparency International ‘Responsible lobbying in Europe’, the PR industry promotes ethical standards for more than 50 years. National and transnational public relations and lobbying associations have been influenced by the so called ‘grand codes’. First was Code of Venice in

⁶⁸ LABOUTKOVÁ, Š.; MÜLLER, K.B.; VYMĚTAL, P. Lobbing v moderních demokraciích. Praha: Grada, 2010. 256 p. ISBN: 978-80-247-3165-0

⁶⁹ CHARI, R; MURPHY, G.; HOGAN, J. 2007. Regulating Lobbyists: a Comparative Analysis of the USA, Canada, Germany and the European Union. The Political Quarterly, Vol. 78, No. 3, pp. 422-438.

⁷⁰ BAIRD, Austin. Alaska gets C grade in 2015 state integrity investigation [online]. The centre for public integrity, 2015. [2019-9-20] Accessible from: <https://publicintegrity.org/politics/state-politics/state-integrity-investigation/alaska-gets-c-grade-in-2015-state-integrity-investigation/>

⁷¹ LINCOLN, E.; ZUBAK-SKEES, C.; QIU, Y. How does your state rank for integrity [online]. The centre for public integrity, 2015, updated 2018. [2019-9-20] Accessible from: <https://publicintegrity.org/accountability/how-does-your-state-rank-for-integrity/>

1961, adopted by the International Public Relations Association. Since 2009 this code forbids ‘any organisation to serve an announced cause but which actually serves an undisclosed interest nor make use of any such existing organisation’.⁷²

Second was Code of Athens from 1965, focusing on the importance of human rights. In 1978, the third grand code was adopted, the Code of Lisbon. This was by European Public Relations Confederation and stressed the importance of freedom of press and expression.

And finally, in 2006, International Public Relations Association adopted Code of Brussels⁷³ with specifications on public policy communication. Including phrases such as not to ‘propose nor undertake any action which would constitute an improper influence on public authorities.

5.3. Regulating lobbying in the EU

We’ve established how is lobbying defined in the EU. This part should describe to the detail, how lobbying is done in the European Union. In 2011, the EU introduced the first Transparency Register as a tool to regulate lobbying in the union.⁷⁴ Register is optional - a company is not obliged to register to lobby in the EU. But, if they do register, there are some advantages to it.

The 2014 ‘Interinstitutional Agreement specifies that ‘the scope of the register covers all activities, other than those referred to in paragraphs 10 to 12, carried out with the objective of directly or indirectly influencing the formulation or implementation of policy and the decision-making processes of the EU institutions, irrespective of where they are undertaken and of the channel or medium of communication used, for example via outsourcing, media, contracts with professional intermediaries, think tanks, platforms, forums, campaigns and grassroots initiatives.’⁷⁵

⁷² International Public Relations Association. Code of Venice [online]. IPRA, 1961, amended 2009. [2019-9-20] Accessible from: https://www.ipra.org/static/media/uploads/pdfs/ipra_code_of_venice.pdf

⁷³ International Public Relations Association. Code of Brussels [online]. IPRA, 2007, amended 2009. [2019-9-20] Accessible from: https://www.ipra.org/static/media/uploads/pdfs/ipra_code_of_brussels.pdf

⁷⁴ The EU. Agreement between the European Parliament and the European Commission on the establishment of a transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation [online]. EUR-LEX, 2014, 32011Q0722(01) - EN. Official Journal of the European Union, L 191/29. [2019-9-20] Accessible from: http://eur-lex.europa.eu/legal-content/cs/TXT/?uri=uriserv:OJ.L_.2011.191.01.0029.01.ENG

⁷⁵ The EU. Agreement between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation [online]. Official Journal of the European Union, L 277/11, 2014. EUR-lex.Europa.eu. [2019-7-15] Accessible from: [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014Q0919\(01\)&from=en](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014Q0919(01)&from=en)

Registered are obtaining long-term access to the European Parliament for their representatives. This access is granted after complying with security check. They also gain a possibility to appear at public hearings organized by parliamentary committees. The companies can subscribe to a newsletter from parliamentary committees. When asking for patronage of the President of the Parliament, companies are asked for registration confirmation. And a final advantage, which is more of a precaution - when co-organizing political groups events in the EP building, these companies can be asked for registration confirmation.⁷⁶

As for the European Commission, the gains of the registration are even more immediate. For meeting with a high EC official - European Commissioners, Cabinet Members and Directors-General - the registration is mandatory. Registered organisations get automatic notifications according to the area of stated interests. The nominations to expert groups can be conditioned by a registration. All Commission Officials should check whether organisation is registered after being asked for a meeting - meetings with unregistered organisations can be limited. And finally, only registered organisation can get patronage from the EC.⁷⁷

Together with some advantages, the registration means also following the Code of Conduct. According to this Code, a lobbyist should always state his name, registration number and clients or organisation he represents whenever in contact with the MEPs or EC officials. If there is a suspicion of breaking the Code of Conduct, the EU offers Alerts and Complaints form online. The complaints are then being investigated by Joint Transparency Register Secretariat. If proven serious non-compliance of the Code, repeated non-cooperation or inappropriate behaviour, the

⁷⁶ The EU. Who is expected to register? [online] Transparency Register, updated 2019. [2019-9-20]

Accessible from:

http://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?locale=en&reference=WHOS_IS_EXPECTED_TO_REGISTER

⁷⁷ The EU. Who is expected to register? [online] Transparency Register, updated 2019. [2019-9-20]

Accessible from:

http://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?locale=en&reference=WHOS_IS_EXPECTED_TO_REGISTER

registrant shall be removed from the registry for one or two years.⁷⁸ JTRS is an office responsible for running the Register, it is composed of both EP and EC officials from the Transparency Units.⁷⁹

The register itself is a database divided into six categories according to the lobbyist type.

- 1) Professional consultancies/law firms/self-employed consultants;
- 2) In-house lobbyists and trade/business/professional associations;
- 3) Non-governmental organisations;
- 4) Think tanks, research and academic institutions;
- 5) Organisations representing churches and religious communities;
- 6) Organisations representing local, regional and municipal authorities, other public or mixed entities, etc.

In June 2019 there were almost 12.000 registered entities. For the purpose of this thesis, we will focus on the first two categories, which means over 7000 companies. The categories are further divided.⁸⁰

Information published in the register are following: contact, person with legal responsibility, person in charge of EU relations, goals of the organisation and fields of interest, if they have Brussels office, EU policies and legislation followed, list of accredited lobbyists, memberships and affiliations and finally financial data (such as estimated yearly expenses).⁸¹

The discussion on further regulation is on the table - the negotiations on mandatory register which would include also European Council started in 2018.⁸² Last round of the negotiations took place

⁷⁸ The EU. Agreement between the European Parliament and the European Commission on the transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation [online]. Official Journal of the European Union, L 277/11, 2014. EUR-lex.Europa.eu. [2019-9-20] Accessible from: [https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014Q0919\(01\)&from=en](https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014Q0919(01)&from=en)

⁷⁹ The EU. Contact us [online] Transparency Register, updated 2019. [2019-9-22] Accessible from: http://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?locale=en&reference=CONT_ACT_US

⁸⁰ The EU. Transparency and the EU [online] Transparency Register, updated 2019. [2019-9-22] Accessible from: <http://ec.europa.eu/transparencyregister/public/homePage.do?redir=false&locale=en#en>

⁸¹ Ibid.

⁸² The EU. Negotiations 2018 [online] Transparency Register, updated 2019. [2019-9-23] Accessible from: http://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?locale=en&reference=REFORM_NEGO

in February 2019 and are pushed primarily by European Parliament.⁸³ On January 31st 2019⁸⁴ European Parliament adopted amendments to its Rules of Procedure that MEPs who act as rapporteurs, shadow rapporteurs or committee chairs, should be obliged to publish their scheduled meetings with interest representatives on Parliament's website.⁸⁵

It might be relevant to ask here, why there is not some general lobbying regulation in the EU and why the current regulations are not as strict. The author of this thesis sees several possible institutional causes.

First, unlike the US, the EU has much shorter duration. It took decades to just form the current institutional setting. We saw how the Maastricht Treaty changed the lobbyists' focus when the European Parliament gained powers. This variable environment was not favourable for a functioning regulation to take place.

Second, only nine of the Member states (of the current 28) – United Kingdom, Slovenia, Poland, Netherlands, Lithuania, Ireland, Germany, France and Austria - have some form of lobbying regulation. This regulation also differs – it is either mandatory applying for broad understanding of lobbyists, or soft regulation, as in the Netherlands, where the register is only applied to the Dutch House of Representatives.⁸⁶ That means there is a lack of shared tradition of the lobbying regulation which could be transferred to the EU level. On the other hand, only ten Member states provide general legal protection for whistleblowers - and yet, in 2019 the European Parliament was able to pass an EU-wide standards on the whistleblowers' protection.⁸⁷ This shows that such obstacle can be overcome, but requires some lobbying for the issue.

⁸³ The EU. Inter-institutional negotiations on the Transparency Register [online] European Parliament, Inter-institutional negotiations on the Transparency Register, 2019. [2019-9-23] Accessible from:

<http://www.europarl.europa.eu/tr-negotiations/en/home/welcome-page.html>

⁸⁴ European Parliament. Transparency: key MEPs to declare meetings with lobbyists [online]. European Parliament News, 2019. [2019-9-23] Accessible from:

<https://www.europarl.europa.eu/news/en/headlines/eu-affairs/20190124STO24226/transparency-key-meps-to-declare-meetings-with-lobbyists>

⁸⁵ European Parliament. REPORT on amendments to Parliament's Rules of Procedure affecting Chapters 1 and 4 of Title I; Chapter 3 of Title V; Chapters 4 and 5 of Title VII; Chapter 1 of Title VIII; Title XII; Title XIV and Annex II (2018/2170 (REG)) [online]. European Parliament, Plenary Sitting, A8-0462/2018. [2019-9-23] Accessible from:

https://www.europarl.europa.eu/doceo/document/A-8-2018-0462_EN.pdf

⁸⁶ European Parliamentary Research Service. Transparency of lobbying in Member States. [online] Transparency Unit, 2016. PE 579.314. [2019-9-23] Accessible from:

https://www.europarl.europa.eu/EPRS/Transparency_of_lobbying_in_Member_States.pdf

⁸⁷ European Parliament. Protecting whistle-blowers: new EU-wide rules approved [online]. European Parliament News, 2019. [2019-9-23] Accessible from: <https://www.europarl.europa.eu/news/en/press-room/20190410IPR37529/protecting-whistle-blowers-new-eu-wide-rules-approved>

Third, it might be the result of lobbyists' lobbying – it is possible, that lobbying professionals and Brussels public affairs officers of companies promote current status quo in the lobbying regulation, while lobbying for their causes. This point is more of a speculation, yet is not implausible. Companies do not have a reason to impose another regulation on themselves, they have access to the legislators, therefore it could be another unknown to the equation why there is still not effective regulation of lobbying in the EU.

And fourth, it is definitely a lack of political will to tackle this issue, as well as it might be a consequence of some lobbying - there are entities, who do not wish to be regulated and transparent about their intentions. As lobbying is still quite incomprehensible for a broad public, it is not in the middle of the public debate. As well as the complex structures of the EU contribute to the hidden influences and lack of public control. According to 2019 The Exeter EU Misperceptions Survey, there is quite a large percentage of the surveyed citizens who answered questions about institutional processes incorrectly. For example, one question asked: 'Can European Commission pass laws against a majority of Member States?'. In an online survey conducted by the University of Exeter on 6067 respondents from six member states, over 40 % of the respondents answered incorrectly, another 25 % claimed they don't know the answer.⁸⁸

If it is not understandable for citizens how the EU works, it is unreasonable to expect, that they will understand the influences behind the politics. Yet at the same time, it's an argument for the transparent lobbying, as it would provide a way how to better understand the motivations of some legislation and influences that form policies.

5.4. Regulating lobbying in the US

The history of lobbying regulations in the US goes back to 1948 when the first law was introduced. It is the longest regulated environment in the world. The lobbying is a profession in the US and the regulation aims for more transparent environment, but also to connect this to political campaigns financing. The evolution of the regulation was more gradual through time than in other countries, and sometimes was the system self-regulating. Lobbying in the US is perceived as

⁸⁸ STOECKEL, Florian. The Exeter EU Misperceptions Survey 2019 [online]. FlorianStoeckelWeebly.com, 2019. [2019-9-27] Accessible from: <http://florianstoeckel.weebly.com/eu-misperceptions-survey.html>

primarily focused on lobbying congressmen and congresswomen; thus the register is led by the Secretary of the Senate's Office.⁸⁹

5.4.1. Lobbying Disclosure Act

Regulatory conditions are much stricter in the US than in the EU. First, the registration is mandatory - during 45 days after first lobbying contact or employment with lobbying firm, the lobbyist is obliged to register with the Secretary of the Senate and the Clerk of the House of Representatives.⁹⁰ One important supplement to the definition of the lobbyist is it does not apply to an 'individual whose lobbying activities constitute less than 20 percent of the time engaged in the services provided by such individual to that client over a 3-month period'⁹¹ (including preparations and monitoring). That means that if the lobbyist splits his engagement among more clients (every client less than 20 percent of lobbyists work), he is not obliged to register.

The registration procedure and depth of information required is vast - registrants shall contain general contact information, description of business activities, the same information on registrant's client, and the same information on anyone who contributes by more than 5000 dollars in the quarterly period, is partially foreign-owned or wholly or mainly plans, supervises, controls, directs, finances, or subsidizes the activities of the client. The list continues with information on every employee of the registrant, statement of the areas of interest and, if possible, updated list of previously addressed lobbying issues.⁹²

Under LDA, the registrants are required to submit quarterly reports, which contain, apart from general information, estimated expenses and incomes, statement of the Houses of Congress and the Federal agencies about the contact and description of activities together with involved personnel. Semi-annual reports are even stricter - including every financial contribution connected to politically exposed person exceeding 200 dollars.⁹³

⁸⁹ LABOUTKOVÁ, Š.; MÜLLER, K.B.; VYMĚTAL, P. *Lobbing v moderních demokraciích*. Praha: Grada, 2010. 256 p. ISBN: 978-80-247-3165-0

⁹⁰ US Senate. Lobbying Disclosure Act [online]. Senate.gov, LDA, Section 3. [2019-6-10] Accessible from: https://www.senate.gov/legislative/Lobbying/Lobby_Disclosure_Act/3_Definitions.htm

⁹¹ Ibid.

⁹² Ibid.

⁹³ Ibid.

Penalties are both civil and criminal. Civil penalty for not complying with the Lobbying Disclosure Act or failing to remedy false data can be a maximum of 200 thousand dollars. Criminal penalty faces the violator with up to 5 years of prison and possible fine.⁹⁴

So, what can we learn from the reporting? The registrants shall include in their reports every relevant expenditure over - when the amount for 'relevant' is fifty dollars. Lobbying firm does not have to file for clients that do not spend at least 3 000 dollars in one quarter. There is also a second way to file a report - according to Internal Revenue Code (federal statutory tax law) methods must report state and grassroots lobbying costs, which are not included in LDA reports.⁹⁵

5.4.2. Foreign Agents Registration Act

US system also establishes an institute of foreign lobbying since 1938 by Foreign Agents Registration Act.⁹⁶ This act introduced terms as 'foreign principal' and 'foreign agent'. Principal is any foreign government, political party or any association, corporation, organization, or "combination of persons" based or mainly doing business abroad. Under the act fall also any individual outside the United States. Agent then is "an individual or entity that acts 'within the United States' at the order, request, direction, or control of a foreign principal" (either directly or indirectly through another person).⁹⁷ To register, the foreign agent needs to engage in political activities; provide certain public relations or politically related services; solicit, collect, disburse, or dispense money or other things of value; or represent interests before any agency or official of the U.S. Government.

But there are exemptions to the FARA registration - one of them is registration under the Lobbying Disclosure Act. "This exemption is not available to those representing foreign governments or foreign political parties, or to those engaged in activities where "the principal beneficiary" of the representation is a foreign government or foreign political party."⁹⁸

⁹⁴ Ibid

⁹⁵ The Center for Responsive Politics. Methodology [online]. OpenSecrets.org. [2019-7-18] Accessible from: <https://www.opensecrets.org/lobby/methodology.php>

⁹⁶ Caplin & Drysdale. An Informational Resource in a New Era of Foreign Agents Registration Act Enforcement [online]. Caplin & Drysdale 2019. [2019-10-5] Accessible from: <https://fara.us/>

⁹⁷ Ibid.

⁹⁸ Ibid.

5.4.3. Political Engagement

Apart from the already described differences between the European and the US system of regulating lobbying, one of the biggest discrepancies is political engagement. On the EU level, there is a lack of political funding regulations. The US system on the other hand is not perfect but offers a lot more information.

Corporate donations are submitted to Political Action Committees (PACs). PAC is organized under Section 527 of the U.S. Internal Revenue Code⁹⁹ and assembles political donations and contributions to political parties, candidates or politically involved organizations. PAC needs to register to the Federal Election Commission when receiving over 1000\$ ‘for the purpose of influencing any election for Federal office’.¹⁰⁰ On the US state levels it is adjusted by the state laws.

The PACs can be connected to a specific candidate, also there are so called non-connected versions of the PAC - hybrid, leadership and super PAC. Through the non-connected PACs, the committees don’t fall under the limits on the donations.¹⁰¹

As PACs are obligated to report on their incomes and expenditures, the Federal Election Commission publishes all the data. It is possible to find itemized individual contributions with the name, city and state, and occupation and employer.¹⁰²

There are two ways of how to go around the transparent system and allow the so called ‘dark money’ to influence politics. First, in 2010 the US Supreme Court ruled in the case Citizens United vs. Federal Election Committee,¹⁰³ that limiting donations from corporations is against the freedom

⁹⁹ The USA. 26 U.S. Code § 527. Political organizations [online]. Cornell Law School, Legal Information Institute. [2019-10-5] Accessible from: <https://www.law.cornell.edu/uscode/text/26/527>

¹⁰⁰ Federal Election Commission. Federal Election Campaign Laws [online]. Washington: FEC, 2019. [2019-10-5] Accessible from: <https://www.fec.gov/resources/cms-content/documents/feca.pdf>

¹⁰¹ Federal Election Commission. Guides: Political action committees (PACs) [online]. Washington: FEC, 2019. [2019-10-5] Accessible from: <https://www.fec.gov/help-candidates-and-committees/guides/?tab=political-action-committees>

¹⁰² Federal Election Commission. Receipts: Search - DONALD J. TRUMP FOR PRESIDENT, INC. (C00580100) [online]. Washington: FEC, 2019. [2019-10-5] Accessible from: https://www.fec.gov/data/receipts/?committee_id=C00580100&two_year_transaction_period=2020&two_year_transaction_period=2018&line_number=F3P-18&data_type=processed

¹⁰³ Supreme Court of the United States. Citizens United vs. Federal Election Committee [online]. Supreme Court of the United States, 2010. [2019-10-5] Accessible from: <https://www.supremecourt.gov/opinions/09pdf/08-205.pdf>

of speech. This now allows unlimited donations from both individuals and corporations through Super PACs.

Second, there are so called 501(c) groups - because of the section 501(c) of the US federal law.¹⁰⁴ Especially 501(c)(4) as civic group, 501(c)(5) as unions and 501(c)(6) trade association groups. The main difference between super PACs and 501(c) groups are that super PACs are obliged to disclose the contributors, the 501(c)s are not. But as many have pointed out, disclosed contributor doesn't mean not anonymous, as the donations are made through shell companies.¹⁰⁵ Shell companies have hidden ownership structure, thus real donor stays hidden in the tax havens.¹⁰⁶

This is a specific way of potential lobbying. A company can endorse a political entity for a specific purpose. There are several cases that suggest that a donation has been made in exchange for a political action (or inaction). According to the New York Times, by the end of 2019, prosecutors indicted George Nader, American-Lebanese businessman also named in the Mueller Report, for hiding more than \$3.5 million in political contributions.¹⁰⁷ UK's Conservative Party Co-treasurer resigned in 2012 after being caught on tape offering "access to the prime minister for a donation of £250,000 a year". Another UK case broke out in 2009, four Labour peers were suspended due to allegations that they were offering amendments to the legislation for political contributions.¹⁰⁸ Very blatant case comes from the Czech Republic – company donated money to the Party of Citizens' Rights – Zemanovci, which is a party connected (by name) with current Czech president Miloš Zeman and his Secretary. This company than organized seasonal markets on the Prague Castle.¹⁰⁹ Some authors argue that corporate donations corrupt democracy. For example, W. Smith in his article for the Guardian points out that many companies give money to both sides (in case

¹⁰⁴ The USA. 26 U.S. Code § 501. Exemption from tax on corporations, certain trusts, etc. [online]. Cornell Law School, Legal Information Institute. [2019-10-5] Accessible from: <https://www.law.cornell.edu/uscode/text/26/501>

¹⁰⁵ NEWLIN CARNEY, Eliza. When Super PACs Go Dark: LLCs Fuel Secret Spending [online]. The American Prospect, 2016. [2019-10-5] Accessible from: <https://prospect.org/power/super-pacs-go-dark-llcs-fuel-secret-spending/>

¹⁰⁶ Transparency International. Anti-corruption Glossary: Shell Company [online]. Transparency International, 2018. [2019-10-5] Accessible from: https://www.transparency.org/glossary/term/shell_company

¹⁰⁷ VICTOR, Daniel. Prominent Political Donors Charged in Campaign Finance Scheme [online]. The New York Times, 2019. [2019-12-15] Accessible from: <https://www.nytimes.com/2019/12/04/us/politics/george-nader-ahmad-khawaja.html>

¹⁰⁸ BBC News. History of Political Lobbying Scandals [online]. BBC, 2013. [2019-12-15] Accessible from: <https://www.bbc.com/news/uk-politics-22754297?fbclid=IwAR0nyglIwi2bIXQOgeWjjXT-OlqoMchuR1JEhPKSaxLt9xnUD-R4cLxQ4aE>

¹⁰⁹ SRNKA, Vojtěch. Letní jarmark na Hradě: další trhy pro sponzory Zemanovců [online]. Respekt, 2019. [2019-12-15] Accessible from: <https://www.respekt.cz/politika/letni-jarmark-na-hrade-dalsi-trhy-pro-sponzora-zemanovcu>

of the two-party system): “Donating equally to both sides is clearly not about helping one side win. It’s an implied threat: ‘if you don’t treat us well, we’ll give you less and they’ll be ahead.’”¹¹⁰

It is therefore one of the ways for companies how to publish data on their lobbying activities. The EU does not have general restrictions on foreign funding, only some of the member states are restricting foreign political contributions. Some member states adopted full ban (including i.e. Czech Republic, Ireland, Poland, Sweden or UK), some member states have partial restrictions (i.e. Austria, Estonia, Germany or Slovakia), and four countries do not restrict them at all (Belgium, Denmark, Italy, Netherlands).¹¹¹

Groups of the European Parliament don’t have rules on foreign donations and the information on party financing is rather scarce. Groups publish annual financial accounts. The reports are scanned documents, so there is no possibility to search the text effectively. The accounts are very sparingly, the income chapter has only six lines and none of them mentions political donations.¹¹²

Therefore, this thesis should not overlook political engagement of the US companies. It will analyse whether the companies publish information on their political donations (or the main representatives of the companies), and if so, whether some of the contributions go outside of US - specifically to the EU political groups, and political parties in member states.

5.4.4. Current numbers and potential reform

In 2019, there were over 10 thousand active registered lobbyists. Segmentation of the registrants is much more business oriented. It includes health, agriculture, electronics, transportation and eight other categories; and category named Other, which is composed of Education, Civil Servants/Public Officials, Non-profit Institutions, Clergy & Religious Organizations and others.

Even though the US system is much more regulated than the European, there is an ongoing debate on the amendment or a reform. According to two organisations, there are loopholes in the current

¹¹⁰ SMITH, Warwick. Political donations corrupt democracy in ways you might not realise [online]. The Guardian, 2014. [2019-10-10] Accessible from: <https://www.theguardian.com/commentisfree/2014/sep/11/political-donations-corrupt-democracy-in-ways-you-might-not-realise>

¹¹¹ European Parliament. Party financing and referendum campaigns in EU member states [online]. DG Internal Policies, Policy Department C, 2015. [2019-10-10] Accessible from: [https://www.europarl.europa.eu/RegData/etudes/STUD/2015/519217/IPOL_STU\(2015\)519217_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2015/519217/IPOL_STU(2015)519217_EN.pdf)

¹¹² Group of the progressive Alliance of Socialists and Democrats. Report by the Group of the progressive Alliance of Socialists and Democrats [online]. Financial Year 2017, Budget Item 400. [2019-10-10] Accessible from: <https://www.europarl.europa.eu/groups/pdf/2017/annual-accounts-sd.pdf>

legislation causing decline in total number of lobbyists every year - not because they are not lobbying, but because they are not registering.¹¹³ “The National Institute For Lobbying & Ethics is calling on Congress to eliminate the 20 percent threshold and replace it with a requirement to register after doing 10 hours of work in a three-month window. The proposal calls for a more detailed explanation of what entails “lobbying” and shortens the time lobbyists have to register.”¹¹⁴

¹¹³ GIBSON, Ginger. Loopholes in U.S. lobbying laws undercut reforms, two watchdog groups argue. [online] Thomson Reuters, 2017. [2019-7-15] Accessible from: <https://www.reuters.com/article/us-usa-trump-lobbying-idUSKBN15E2FW>

¹¹⁴ Ibid.

6. Criteria

In this part, the thesis should provide a set of criteria it will analyse. We've already described, how the regulation works in the EU and the US, so now it's time to specify, what could US lobbyist publish and how they could act in the EU environment, if we were to say they've 'learned' the practise and they carry the taught behaviour with them to another system.

First criterion is the most direct - as we already know, the US register is mandatory, the EU one is voluntary. So, we shall make sure, that the US companies are registered as EU lobbyists. This is the clear yes or no information.

Second, we will focus on the financial aspects, as it is one of the most important parts of the filing report. In the US, registrants are obliged to report quarterly, lobbying firms quarterly for every client separately. On the contrary, the EU register requires only rough yearly estimates of the expenses. We will seek more detailed financial information in official Annual Reports.

Third, the US register requires information on every client represented by the registrant. We will analyse if the registrants in the EU system provide such information and to what extent.

Fourth, the US register provides information on the lobbyists and their brief job description. The EU register is only seeking names of the people with the European Parliament accreditation. We will look into websites whether the companies provide detailed information on their staff.

7. Research

The methodological challenge of this thesis was the structural differentiation of the lobbyists. Most of the material available develops a cleavage between lobbying firm, client, and in-house lobbyists. Lobbying firm is a company specialized on lobbying, public affairs, governmental relations and other terms, that are used for lobbying activities. A client is a company hiring lobbying firm as an executor of the lobbying activities. In-house lobbyist is an employee of a company executing a lobbying activity.

It is quite common for large companies operating worldwide to have in-house lobbyists as well as lobbying firms representing their interests. For the purposes of this thesis, we will take data for a year 2017 - as those are the most actual data with closed accounts.

As this split of data could not be bypassed, the thesis is working with doubled dataset - first, we take top 100 spending lobbying firms in the US register for a year 2017, second, we take top 100 spending clients in the US register for a year 2017.

The data on top 100 spending lobbying firms and clients was obtained from Opensecrets.org.¹¹⁵ They provide top 20 firms on their website, but for the purposes of this thesis, I needed broader dataset. Therefore, I contacted them if they could share with me a top 100 list and they very willingly did.

7.1. Top 100 Lobbying Firms

In a case of lobbying firms, we have a name of the company, amount spent, ranking - those are the data received from the register.¹¹⁶ Every firm was checked if registered in the EU register.¹¹⁷ If the firm was not registered, we research company's website - do they have offices in the EU?

¹¹⁵ Center for Responsive Politics. Lobbying [online] OpenSecrets.org, Influence & Lobbying, Top Spenders and Top Firms, 2018. [2019-11-20] Accessible from: <https://www.opensecrets.org/federal-lobbying/>

¹¹⁶ Center for Responsive Politics. Top Lobbying Firms [online] OpenSecrets.org, Influence & Lobbying, Top Firms, 2018. [2019-11-20] Accessible from: <https://www.opensecrets.org/federal-lobbying/top-lobbying-firms>

¹¹⁷ Corporate Europe Observatory and LobbyControl. Search Database. [online] Lobbyfacts.eu, 2019. [2019-10-15] Accessible from: <https://lobbyfacts.eu/>

Table 1 – Top Lobbying firms registered in the EU Register or declaring Brussels office

Lobbying_Firm	Total	Rank	Year	EU activity
Squire Patton Boggs	24295000	3	2017	https://lobbyfacts.eu/representative/87ec47c9e9084c70b34c032dcfd055ec/squire-patton-boggs-llp
Covington & Burling	18013000	9	2017	https://lobbyfacts.eu/representative/0d728a63d31d4440b09eb457ae91036e/covington-burling-llp
Ernst & Young	15160000	13	2017	https://lobbyfacts.eu/representative/d77804ad330d4f1fa473ad77d3984011/ernst-young-special-business-services-cvba
Hogan Lovells	11450000	21	2017	https://lobbyfacts.eu/representative/175dfc53fa41436c9f503956a21673f5/hogan-lovells-international-llp
Ogilvy Government Relations	11370000	22	2017	https://lobbyfacts.eu/representative/cb855d62221a42dd887b37726236c0c1/ogilvy-group
Steptoe & Johnson	10200000	26	2017	https://lobbyfacts.eu/representative/507e44e7628240d581a5bd348162bdea/steptoe-johnson-llp
Alston & Bird	9680000	30	2017	https://www.alston.com/en/offices/brussels
McGuireWoods LLP	8456500	34	2017	https://lobbyfacts.eu/representative/79e816fd61e74f00a82d9c01dbcf53d3/mcguirewoods
DLA Piper	7620000	40	2017	https://lobbyfacts.eu/representative/ee659abc061c450b82389ed5d2303397/dla-piper-uk-llp-belgium
FTI Government Affairs	6960000	45	2017	https://lobbyfacts.eu/representative/9184e5e9c92c4cbbaaeded5b58d92e98/fti-consulting-belgium
Arnold & Porter Kaye Scholer	6460000	49	2017	https://www.arnoldporter.com/en/offices
WilmerHale LLP	6210000	52	2017	https://www.wilmerhale.com/en/contact-us
Dentons US	5945000	55	2017	https://lobbyfacts.eu/representative/f0a175622f7843259b30d35a21ec06d7/dentons-europe-llp
Kelley, Drye & Warren	5320000	61	2017	https://lobbyfacts.eu/representative/3384d51af7f544d9829bcde5da3078da/kelley-drye-warren-llp
Sidley Austin LLP	4390000	79	2017	https://www.sidley.com/en/locations/offices
McDermott, Will & Emery	4150000	90	2017	https://lobbyfacts.eu/representative/367c560c684946ba9a62fba4ba47642c/mcdermott-will-emery-belgium-llp

We can see in the table, that of the top 100 lobbying firms (see the full table in the Appendix 1), there are 12 firms, that are registered also in the EU register. Another 4 firms are not registered, but according to their websites, they have a Brussels office and their field of interest is the EU.

As the publicly available data on lobbying firms were scarce, I contacted the 16 lobbying firms present in the US as well as in the EU with several questions:

1. Do you publish annual reports? If so, do these reports comprise also lobbying expenditures?
2. Do you have internal Code of conduct? If so, does it differ for the US and the EU?
3. Do you think that more regulated US lobbying system incites more transparent behaviour also in the EU environment? If so, what are the concrete examples of that practice?

The aim of the questions was, more or less, to get the same type of information I was gathering on the lobbying spenders. Third question was more about providing some deeper insight into the differences, but as the results below show, it did not fall on fertile ground.

The response was scarce - out of 16 contacted entities, only 2 responded.¹¹⁸ Both responses claimed, that they, as European branch or office, do not commit any lobbying activities, therefore they do not have to be registered or publish any of the information.¹¹⁹

7.2. Top 100 Clients

As for the clients, there is much more publicly available data. In the US, companies are not obliged to publish annual report as it is for the EU based companies. US companies are required to publish annual reports if they are tradable on the stock exchange or public companies in general.¹²⁰ Therefore, as most of the top spending clients are at the same time tradeable, they provide information for the investors, including annual reports.

The top 100 list of clients¹²¹ (see the full table in the Appendix 2) consist of some biggest companies from various industries - technologies, communication, transportation, pharmaceutical, tobacco, food, etc. There are companies with worldwide fame, such as tech giants Google, Facebook or Apple, Amazon, Boeing or Johnson & Johnson, but also some companies with less known profiles, such as for example Eli Lilly & Co, Anheuser-Busch or Qualcomm.

¹¹⁸ VILIMOVSKÁ, Lucia. Data on Lobbying Disclosure [e-mail]. Message to: pbogaert@cov.com. 9. 7. 2019 11:35. [2019-7-22] Personal Communication.

¹¹⁹ VILIMOVSKÁ, Lucia. Data on Lobbying Disclosure [e-mail]. Message to: Luc.Gyselen@arnoldporter.com. 9. 7. 2019 11:47. [2019-7-22] Personal Communication.

¹²⁰ US Securities and Exchange Commission. Annual Report. US Securities and Exchange Commission, 2014. [2019-11-20] Accessible from: <https://www.sec.gov/fast-answers/answers-annrephm.html>

¹²¹ Center for Responsive Politics. Top Lobbying Spenders [online] OpenSecrets.org, Influence & Lobbying, Top Spenders, 2018. [2019-11-20] Accessible from: <https://www.opensecrets.org/federal-lobbying/top-spenders>

The question could be, where are companies of similar rate, such as Samsung, Huawei and so on. Do they spend significantly less money on lobbying? Do they lobby significantly more in other parts of the world, so they did not appear at the top 100 companies spending on lobbying in the US? As much as this would be certainly interesting for researching lobbying, it is beyond a scope of this thesis. Such research would entail political-economical view, with geopolitical aspects and need of a deeper statistical data.

First, I took the list and cross-checked, whether they are registered in the EU transparency register. I crossed out non-governmental organizations, since the thesis is focused on business. After this first narrowing of the list, out of the top 100 biggest lobbying spenders, there is 46 companies and associations that are also registered in the EU register.

Therefore the 46 companies are the dataset I did the main research on. I included also large associations, as they are formed by representatives from the business and for example US Chamber of Commerce is the biggest lobbying spender of the top 100, ranking first with approximately five times higher budget than first ranking company (which is Alphabet Inc on the 8th place). The budget of US Chamber of Commerce in 2017 was 82.260.000\$. In the EU register, we can find American Chamber of Commerce to the European Union.

Before I get to the companies that were analysed, I shall also mention the companies that were not analysed. Some of the associations or alliances do not have international overlap, therefore they don't have reason to lobby in the EU. But there are still some companies that are perceived as global and - for example as BP (former British Petroleum company) - are also based in the EU, therefore there is no apparent reason for them not to be registered as EU lobbyists. But those exceptions would require further analysis.

But BP is not the only exception - in the EU register, there is also missing Lockheed Martin, a technological and aircraft conglomerate and ranking 16th in the top 100, or Northrop Grumman, large defence contractor, ranking 17th. These exceptions might be tied to a field of business, as defence companies are not known for their transparency measures, as was object of research of Transparency International in Defence Companies Anti-Corruption Index from 2015.¹²²

¹²² Transparency International UK. Defence Companies Anti-corruption Index [online]. London: Transparency International UK, 2015. [2019-10-10] Accessible from: <http://companies.defenceindex.org/>

Otherwise the larger portion of lobbying spenders in the top 100 list that are not included in the final dataset are some associations and NGOs. Sometimes it is questionable, whether they are not lobbying in the EU for a fact, but for the most it seems that they are not lobbying in the EU, or that the member companies are also members of some EU association rather than only US association. And these associations are focusing on their governments and regions. But also, as is already mentioned above, the US chamber of commerce is number one spender in the US (for the year 2017) and not spending low in the EU (estimated lobbying costs among 1,000,000€ - 1,249,999€, which is relatively low cost in comparison to almost 75 million € which US chamber of Commerce spent in the US in 2017, but largest spender in the EU spends ‘only’ 23 million € (Spanish Unión General de Trabajadores, Sector de las Comunicaciones), and the second (European Chemical Industry Council) and further ranking spenders spend less than 12 million €.¹²³

7.2.1. Annual Reports

After the enlisting of spenders eligible for the research of this thesis, I checked the criteria specified above. Out of 46 companies, 43 of them have published their annual report. Annual reports should contain yearly summary of subject’s activities and financial information.¹²⁴ When doing this research, I used web pages of the companies to look directly for all the documents. If I was not able to find it within the webpage just by looking under subpages such as “For Investors” or “Governance”, I tried to type name of the company and “annual report” or “code of conduct” into a search engine.

In case those two approaches did not work; I marked the document as ‘not available’. It does not mean necessarily that the documents are not buried somewhere on-line, but if a regular internet user is not capable to find them neither through website navigation nor through full-text search, it is not there to be found by the public. In this digital era, it should be a norm to have user accessible information on the company’s website, as it is one of the main channels of communication with a global society.

Out of 46 researched lobbying spenders, only three have not published annual report in time of the research. Those are Pharmaceutical Research & Manufacturers of America (ranking fourth in top

¹²³ Corporate Europe Observatory and LobbyControl. Statistics. [online] Lobbyfacts.eu, 2019. [2019-10-15] Accessible from: <https://lobbyfacts.eu/reports/lobby-costs/all>

¹²⁴ KENTON, Will. Annual Report Definition. [online] Investopedia, updated 2019. [2019-10-15] Accessible from: <https://www.investopedia.com/terms/a/annualreport.asp>

100) and Airlines for America (ranking 42nd in top 100). Both are associations and not private companies, thus that could be the explanation, since there are no direct investors who require information. The only private company without publicly accessible annual report is Koch Industry (ranking 34th).

In all of the available annual reports, I tried to look for mentions of lobbying activities. The primary assumption was to find, whether spenders reflect their lobbying activities in the reports by describing them rhetorically, whether they specify who is responsible for the lobbying or if there is financial sum of the lobbying expenses, even separated for different countries or markets. When looking up the topic, I searched for ‘lobbying’, ‘governmental affairs’, ‘public affairs’, ‘disclosure’, ‘LDA - lobbying disclosure act’ or ‘political’, but all of those phrases would need to be in context of lobbying activities. In 43 annual reports were only five, that were mentioning lobbying activities - Bayer AG (ranking 15th), Pfizer (ranking 30th), Novartis (ranking 39th) and AbbVie (ranking 76th). Interestingly, all four companies mentioned above are pharmaceutical giants - this could be a consequence of the long-term attention that is paid to the so-called ‘Big Pharma’ and its lobbying activities (such as 2010 Sunshine Act regulating pharma-physicians payments).¹²⁵ This possibly pushes large pharmaceutical companies to enhance transparency measures. The only non-pharma subject mentioning lobbying in their annual report is American Chamber of Commerce in the EU - although the mention is very vague, more of a PR measure: “What we want to be? The most valued lobbying force in the EU”.¹²⁶

Bayer AG is the only company from the list, that published some details about the distribution of their lobbying expenses from 2017: €1.31 million in Berlin, Germany; €3.3 million in Brussels, Belgium; €7 million in Washington, United States; €0.33 million in Moscow, Russia; €0.35 million in Brasília, Brazil; and €0.98 million in Beijing, China.¹²⁷ Even though Bayer is a Germany based¹²⁸ company, it is among the most spending lobbyists in the US. AbbVie on the other hand, is mentioning lobbying in its annual report, because in 2017, some of the stakeholders suggested that the company should enhance the transparency measures and lobbying reporting and therefore

¹²⁵ The USA. S.301 - Physician Payments Sunshine Act of 2009.[online] Congress.gov, 2009. [2019-10-12] Accessible from: <https://www.congress.gov/bill/111th-congress/senate-bill/301>

¹²⁶ American Chamber of Commerce in the EU. Annual Report 2017 [online]. American Chamber of Commerce in the EU, 2018. [2019-10-12] Accessible from: <http://www.amchameu.eu/sites/default/files/publications/files/amchameu-annual-report-2017.pdf>

¹²⁷ Bayer AG. Annual Report 2017 [online]. Bayer AG, Investors, Reports, 2018. [2019-10-12] p. 190. Accessible from: <https://www.investor.bayer.de/en/reports/annual-reports/overview/>

¹²⁸ Bayer AG. Contact [online]. Bayer AG, Contact, updated 2018. [2019-10-12]. Accessible from: <https://www.bayer.com/en/contact.aspx>

there is explanatory report to the motion. In this report, it is possible to find the argument for enhancing the reporting: “As stockholders, we encourage transparency and accountability in the use of corporate funds to influence legislation and regulation, both directly and indirectly. AbbVie spent \$20.57 million from 2013 - 2016 on federal lobbying (opensecrets.org). This figure does not include lobbying expenditures to influence legislation in states, where AbbVie also lobbies but disclosure is uneven or absent. For example, AbbVie spent \$1,506,820 on lobbying in California from 2013 - 2016. ... Investors are concerned that AbbVie does not publish total state and federal lobbying expenditures.”¹²⁹ Even though the Board in the end recommended voting against this proposal,¹³⁰ it is commendable, that such a company raised the lobbying reporting and its transparency enhancing as one of the main topics regarding internal compliance of the company. Yet, the debate was according to the report held only in regard to the US reporting and its federal and state levels, but there is still lack of focus on the non-US lobbying activities. As for Novartis, the annual report mentions lobbying in a context of political contributions and lobbying with referring to their public policy and advocacy section of the Novartis website¹³¹ - the website then contains a guide to responsible lobbying, still lacking any detailed information about lobbying expenses or human resources.¹³² The most vague mention of lobbying is present in the annual report of Pfizer under Membership of associations, providing a link to ‘Lobbying and political Contributions’, unfortunately, the website offers only mention of LDA and a link to official federal database.¹³³

7.2.2. Codes of conduct

As Ethics & Compliance Initiative defines: “A well-written code of conduct clarifies an organization’s mission, values and principles, linking them with standards of professional

¹²⁹ AbbVie Inc. 2017 Annual Report on Form 10-K [online]. Abbvie, 2018. [2019-10-12] p. 66-68. Accessible from: <https://investors.abbvie.com/static-files/8f8ea49f-4735-404c-be08-2f963441b74d>

¹³⁰ Ibid, p. 69

¹³¹ Novartis. Annual Report 2017 [online]. Novartis, 2018. [2019-10-12] p. 114. Accessible from: <https://www.novartis.com/sites/www.novartis.com/files/novartis-annual-report-2017-en.pdf>

¹³² Novartis. Public Policy & Advocacy [online]. Novartis, Our Company, Corporate Responsibility, 2019. [2019-10-12] Accessible from: <https://www.novartis.com/our-company/corporate-responsibility/reporting-disclosure/transparency-disclosure/public-policy-advocacy>

¹³³ Pfizer. Pfizer Pharma Political Contributions for Global Public Health [online]. Pfizer.com, Our Purpose, Contributions & Partnerships, 2019. [2019-10-12] Accessible from: <https://www.pfizer.com/purpose/contributions-partnerships/political-partnerships>

conduct.”¹³⁴ Code of Conduct or Code of Ethics are basic documents for companies’ Corporate Social Responsibility approach.¹³⁵

Out of 46 subjects I researched there were three who did not have or publish their code of conduct. American Chamber of Commerce in the EU (ranking 1st), National Retail Federation (ranking 20th) and Airlines for America (ranking 42nd) - again, all three being associations, which could just signify that the associations do not have general code of conducts, but their members have their own integral codes.

In all of the available codes of conduct (or ethics), I looked for mentions of lobbying activities and their regulations. The primary assumption was to find, whether spenders reflect their lobbying activities in the codes and if the codes tackle lobbying, set some internal regulations or other detailed information on the lobbying activities. When looking up the issue, I searched for ‘lobbying’, ‘governmental affairs’, ‘public affairs’, ‘disclosure’ or ‘political’.

Of those 43 companies, 23 of the Codes of conduct contain mentions of lobbying, that means over 53,49 % of the examined subjects. Most subjects reference to the official database and U.S. Federal Lobbying Disclosure Act filings. Some goes further, for example United Technologies for other 10 US states’ registers.¹³⁶ Only few companies have specifically code of Conduct for Responsible Lobbying, among them is Bayer AG - it is not a vast document, however even creating separate set of regulations and navigations is important for the general benefit of pioneering the topic. Bayer is also one of the few who mentions the EU: “We also proactively participate in existing transparency initiatives such as those established by the European institutions or the U.S. Congress.”¹³⁷ This could be due to the fact that Bayer is a German company. Microsoft provides Public policy advocacy spending chart, which shows amounts spent on US federal level and US state level throughout fiscal years from 2009 to 2018.¹³⁸ These numbers are accessible through the

¹³⁴ Ethics and Compliance Initiative. Why Have a Code of Conduct [online]. Ethics.org, Resources, Code of Conduct, 2019. [2019-10-16] Accessible from: <https://www.ethics.org/resources/free-toolkit/code-of-conduct/>

¹³⁵ ERWIN, P. Corporate Codes of Conduct: The Effects of Code Content and Quality on Ethical Performance. *Journal of Business Ethics* 99, 535–548 (2011) doi:10.1007/s10551-010-0667-y [2019-10-12] Accessible from: <https://link.springer.com/article/10.1007/s10551-010-0667-y>

¹³⁶ United Technologies. Public Activities [online]. United technologies, Our Company, Corporate Governance, 2019. [2019-10-16] Accessible from: <https://www.utc.com/en/Our-Company/corporate-governance/public-activities>

¹³⁷ Bayer AG. Annual Report 2017 [online]. Bayer AG, Investors, Reports, 2018. [2019-10-12] p. 190. Accessible from: <https://www.investor.bayer.de/en/reports/annual-reports/overview/>

¹³⁸ Microsoft. Public Policy Advocacy Spending [online]. Microsoft, Corporate Responsibility, Reports Hub, 2019. [2019-10-16] Accessible from: <https://www.microsoft.com/en-us/corporate-responsibility/reports-hub>

LDA database, yet it is positive that the company is trying to make the information more easy to access and to put it in the perspective.

Nonetheless, there is not one subject, who's Code of Conduct would specify differences among different lobbying jurisdictions. Many of them have a mention about compliance with all respective legislation applicable in respective states. Yet most of them are specifically mentioning only US federal and state levels.

7.2.3. Other documents and mentions

Some companies do not mention lobbying in their codes of conduct or annual reports. However, it is possible to find lobbying incorporated in some other documents or separate sections of their websites. This applies to at least five companies in the list.

For instance, French pharmaceutical company¹³⁹ Sanofi (ranked 98th) have three-page document on lobbying accessible on their website. It provides:

- 1) information about EU Transparency Register with estimated expenses;
- 2) US lobbying disclosures, including lobbying expenditures, political contributions (both corporate and PACs) and membership charges;
- 3) and publication of European financial contributions to sector organizations.¹⁴⁰

Therefore, this document can be seen as practically only one, with this detailed information on not only US expenses, but also on the EU expenditures and memberships.

Other example is Merck & Co, where under Public Policy website segment it is possible to find a section on Responsible Lobbying. Merck & Co provides information about both EU and US lobbying registers and also key issues the company lobbied for in the US and the EU separately.¹⁴¹

¹³⁹ Sanofi. Contact [online]. Sanofi, Investors, 2019. [2019-10-20] Accessible from: <https://www.sanofi.com/en/investors/contact>

¹⁴⁰ Sanofi. Lobbying Factsheet [online]. Sanofi, 2018. [2019-10-20] Accessible from: https://www.sanofi.com/-/media/project/one-sanofi-web/websites/global/sanofi-com/home/common/docs/download-center/lobbying_2018.pdf/

¹⁴¹ Merck & Co. Corporate Responsibility Report [online]. Merck, MSD Responsibility, 2019. [2019-10-20] Accessible from: <https://www.msdrresponsibility.com/our-purpose/our-business/public-policy/>

7.2.4. Political Engagement and Contributions

I have already described the importance of transparent corporate political engagement above. The reality of releasing information on political contributions differs among the subjects - some of them state explicitly they do not contribute to candidates or parties or politically engage in other ways. For instance, Google (or Alphabet) states on its website that: “Google has chosen not to use corporate resources to make independent expenditures or fund electioneering communications in support of, or opposition to a federal, state or local candidate’s election. In the future, if Google makes any direct independent expenditures, we would disclose such expenditures on this website and public campaign disclosure reports.”¹⁴² Yet this applies only to the federal level, Google declares non-federal contributions.¹⁴³

Some companies do not publish information about political engagement, e.g. Facebook. Especially in this case, as it is one of the largest companies in the world and being under microscope due to the debate on political advertisement on this platform, disinformation and interference of foreign entities into sovereign election processes (e.g. the Russian meddling into US 2016 election investigated by Special Counsel Robert Mueller).¹⁴⁴ I decided to check whether Facebook is actually not making any political contributions, since I have not found any statement about internal restrictions on political engagement. Another small detail which pushed me to look into this is that Facebook’s annual report have disabled search - therefore it is made more complicated to look for some specific information, any researcher or general public need to search the whole almost hundred-page long document. The Verge made a piece in 2018 linking Facebook’s contributions to Facebook’s CEO Mark Zuckerberg’s testimony¹⁴⁵ - according to the data from Opensecrets.org, Facebook spent over \$9 million since 2006 on campaign contributions.¹⁴⁶ Which is not a high amount, but still should be incorporated into company’s publicly accessible information.

¹⁴² Google. U.S. Public Policy [online]. Google.com, Transparency, 2019. [2019-10-20] Accessible from: <https://www.google.com/publicpolicy/transparency/>

¹⁴³ Google. Non-federal political contributions [online]. Google.com, Transparency, 2019. [2019-10-20] Accessible from: https://services.google.com/fh/files/misc/nonfederal_political_contributions_for_google.pdf

¹⁴⁴ U.S. Department of Justice. Report On The Investigation Into Russian Interference In The 2016 Presidential Election [online]. Washington DC, Special Counsel Robert S. Mueller, III, 2019. [2019-10-20] Accessible from: <https://www.justice.gov/storage/report.pdf>

¹⁴⁵ JEONG, S.; LIAO, S. Here’s how much Facebook donated to every lawmaker questioning Mark Zuckerberg this week [online]. The Verge, 2018. [2019-11-20] Accessible from: <https://www.theverge.com/2018/4/11/17219930/facebook-campaign-contributions-mark-zuckerberg-congress-donations>

¹⁴⁶ Center for Responsive Politics. Facebook Inc. [online] OpenSecrets.org, Influence & Lobbying, Organisations, 2019. [2019-11-20] Accessible from: <https://www.opensecrets.org/orgs/totals.php?id=D000033563&cycle=2016>

According to the article, for example Sen. Orrin Hatch (R-UT) made a pro-Facebook comment during the 2018 hearing: “Some have professed themselves shocked, shocked that companies like Google and Facebook share user data with advertisers. Did any of these individuals stop to ask themselves why Google and Facebook don’t charge for access? Nothing in life is free.’ Hatch has taken \$15,200 from Facebook since 2014 — the sixth largest amount on the combined committees.”¹⁴⁷ Again, the amount is not overwhelming, it also does not mean he wouldn’t have made such a commentary if he would not receive any contributions, yet it would be definitely more transparent, if the contributions were to be found on the company’s website and not from other sources. Facebook also has a PAC that raised almost \$300 thousands only in 2019.¹⁴⁸

Overall, out of 46 subjects, 28 of them publish their political contributions - this makes the third category the most common to publicly inform about - 60,87 % of researched companies release details about their political engagement. Most usually, companies publish political contributions in a yearly review, with specific information in which state, to which candidate or PAC and information on the contributed sum of money. Some of them also contain information on partisan affiliation and the contributions are frequently sorted out as either PAC contributions or corporate contributions.

Some cases are not as informative - the information value differs significantly. For instance, Verizon offers 39-long document with all the contributions segmented into well-arranged tables.¹⁴⁹ On the other hand, Apple offers one-pager with alleged only two political contributions made since 2012 up to date.¹⁵⁰

Novartis is one of the few companies, which disclose political contributions outside of the US: “In 2018, Novartis made political contributions totalling approximately USD 1.85 million, of which approximately USD 626 000 were made in Switzerland, USD 1.14 million in the US (including

¹⁴⁷ JEONG, S.; LIAO, S. Here’s how much Facebook donated to every lawmaker questioning Mark Zuckerberg this week [online]. The Verge, 2018. [2019-11-20] Accessible from: <https://www.theverge.com/2018/4/11/17219930/facebook-campaign-contributions-mark-zuckerberg-congress-donations>

¹⁴⁸ Federal Election Committee. FACEBOOK INC. PAC [online]. FEC, Campaign Finance data, Committee profiles, ID: C00502906, 2019. [2019-11-20] Accessible from: <https://www.fec.gov/data/committee/C00502906/>

¹⁴⁹ Verizon. Political Engagement [online]. Verizon, 2019. [2019-12-1] Accessible from: <https://www.verizon.com/about/sites/default/files/2018-Year-End-Political-Engagement-Report.pdf>

¹⁵⁰ Apple Inc. Political Contributions - January 1, 2012 to date [online]. Apple Inc, 2019. [2019-12-1] Accessible from: https://s2.q4cdn.com/470004039/files/doc_downloads/advocacy/2014.04.03_Political_Contributions.pdf

approximately USD 269 000 through the Novartis Political Action Committee), USD 67 000 in Australia and USD 10 000 in Japan.”¹⁵¹

Even though the transparency rate in the political contributions disclosure, there is still noticeable lack of consistency. Either are companies publishing data for a specific time period, such as the last available yearly report, or they are missing specific list of donations, even though they publish total sums (the Novartis case).

Koch Industries were marked by Business Insider¹⁵² as one of the ten companies who donated the most in 2018. They used the SuperPACs and the 501(c)s, yet the company does not publish anything on their website, therefore we must get the data from other sources.¹⁵³

It is possible to conclude, that there is some tendency from the companies to tackle the issue of political engagement and political contributions more frequently and more deeply than issue of lobbying. Yet there is still significant percentage of companies that do not disclose the contributions, and within those who do, it is difficult to conclude whether those numbers are complete. Either if the companies are not skipping the ‘dark money’ routes or if they are leaving out data outside the US.

¹⁵¹ Novartis. Public Policy & Advocacy [online]. Novartis, Our Company, Corporate Responsibility, 2019. [2019-12-1] Accessible from: <https://www.novartis.com/our-company/corporate-responsibility/reporting-disclosure/transparency-disclosure/public-policy-advocacy>

¹⁵² MCCAMY, Laura. Companies donate millions to political causes to have a say in the government — here are 10 that have given the most in 2018 [online]. Business Insider, 2018. [2019-12-10] Accessible from: <https://www.businessinsider.com/companies-are-influencing-politics-by-donating-millions-to-politicians-2018-9#koch-industries-9>

¹⁵³ Center for responsive politics. Koch Industries [online]. OpenSecrets.org, 2018 cycle. [2019-12-10] Accessible from: <https://www.opensecrets.org/orgs/summary.php?id=D000000186&cycle=2018>

Table 2 – Top Lobbying Spenders registered in the EU Register, their total budget spent, ranking in the top 100 table

Legend to the columns:

Does the subject publish Annual Report? Yes (Y)/No (N)

Does the Annual Report mention lobbying? Yes/No

Does the subject publish Code of Conduct? Yes/No

Does the Code of Conduct mention lobbying? Yes/No

Does the subject publish Political Engagement and Contributions? Yes/No

Lobbying_Client	Total	Rank	Annual Report	Annual Report mentions Lobbying	Code of Conduct	Code of Conduct mentions lobbying	Publishes Political Engagement & Contributions
US Chamber of Commerce	82260000	1	Y	Y	N	N	N
Pharmaceutical Research & Manufacturers of America	25847500	4	N	N	Y	N	N
Alphabet Inc	18370000	8	Y	N	Y	N	Y
AT&T Inc	16780000	9	Y	N	Y	N	N
Boeing Co	16740000	10	Y	N	Y	N	N
DowDuPont	15877520	12	Y	N	Y	Y	N
Comcast Corp	15310000	14	Y	N	Y	N	N
Bayer AG	14910000	15	Y	Y	Y	Y	Y
Amazon.com	13000000	18	Y	N	Y	N	N
National Retail Federation	12890000	20	Y	N	N	N	Y
Oracle Corp	12385000	22	Y	N	Y	Y	N
Verizon Communications	12230000	23	Y	N	Y	Y	Y
Facebook Inc	11510000	25	Y	N	Y	Y	N
Exxon Mobil	11390000	27	Y	N	Y	N	N
Amgen Inc	10620000	29	Y	N	Y	Y	Y
Pfizer Inc	10470000	30	Y	Y	Y	Y	Y
FedEx Corp	10308000	31	Y	N	Y	Y	Y
United Technologies	9630000	33	Y	N	Y	Y	Y
Koch Industries	9500000	34	N	N	Y	Y	N
Chevron Corp	9290000	37	Y	N	Y	Y	Y
Novartis AG	8759510	39	Y	Y	Y	Y	Y
Microsoft Corp	8660000	40	Y	N	Y	Y	Y
General Motors	8640000	41	Y	N	Y	Y	Y
Airlines for America	8590000	42	N	N	N	N	N
Deutsche Telekom	8361000	45	Y	N	Y	N	N

Qualcomm Inc	8260000	47	Y	N	Y	Y	Y
Prudential Financial	8130000	48	Y	N	Y	N	Y
Anheuser-Busch InBev	7930000	52	Y	N	Y	N	Y
Royal Dutch Shell	7920000	53	Y	N	Y	N	Y
General Electric	7522000	54	Y	N	Y	N	N
Eli Lilly & Co	7395000	56	Y	N	Y	N	N
Apple Inc	7150000	57	Y	N	Y	N	Y
Johnson & Johnson	6910000	60	Y	N	Y	N	Y
Wal-Mart Stores	6880000	61	Y	N	Y	Y	N
Coca-Cola Co	6340000	69	Y	N	Y	N	Y
Merck & Co	6320000	70	Y	N	Y	N	Y
Philip Morris International	6260000	71	Y	N	Y	N	Y
Toyota Motor Corp	5809000	75	Y	N	Y	Y	N
AbbVie Inc	5690000	76	Y	Y	Y	Y	Y
Honeywell International	5590000	77	Y	N	Y	Y	Y
Teva Pharmaceutical Industries	5590000	77	Y	N	Y	Y	N
Cigna Corp	5460000	81	Y	N	Y	Y	Y
IBM Corp	5310000	83	Y	N	Y	Y	Y
Citigroup Inc	5213000	84	Y	N	Y	Y	Y
Hewlett Packard Enterprise	4980000	92	Y	N	Y	N	Y
Sanofi	4786000	98	Y	N	Y	N	Y

8. Conclusion

From the available data gathered in this research, it is possible to conclude, that lobbyists are influenced by the regulations and possibly by the industrial environment, as might be the case for the pharmaceutical industry. Yet it is not possible to conclude, that this behaviour inflicted by the regulations is transferable to other environments. The research shows that there is very little data accessible to the public. Companies and other subjects are not forced to publish any information on lobbying, the vast majority does not release any additional information. If lobbying is mentioned on the websites and official documents, it is most often very vague pledge to the mantra of 'responsible lobbying' with basic rules for its compliance. Companies also reference to the official LDA database, in few examples also to the EU Transparency register (mostly EU-based companies). In exceptional cases where companies publish some additional information, these were focused on the US - except from Sanofi, none of the researched companies have specified differences between US and the EU lobbying activities.

There is also very little information about the human resources regarding the lobbying. Even though US LDA fillings do include specific names, in the EU register companies declare only names of the persons with accreditation to the European Parliament and a total number of their lobbyists, but it is not possible to find names of those who don't have accreditations. If company provides some information about the personal cast, those are only the highest ranked positions in the business with various vague positions.

The conclusion is therefore clear - lobbyists do not yield to the commitment of transparency beyond the legislative requirements, they do not transmit the behaviour from more regulated environment to a lesser regulated one. This research indicates that unless there is broader pressure from the state, industry sector, public or customers, lobbyists do not have a reason to provide detailed information on their lobbying activities. The whole lobbying field is accessible only with difficulties - interconnection with politics, discursive inconsistency of the term and other designations, complicated structure of lobbyists as a profession combined with unclear reporting on self-employed lobbyists, in-house lobbyists, lobbyists from hired consultation and law firms, or last but not least associations, where companies are spending further on lobbying under umbrella organisations.

The connection between business and politics is significant - through lobbying, political contributions, revolving doors (personal circulation) and the influence of the global conglomerates

on the global economy and political stability is indisputable. The public pressure on transparency measures regarding money in politics is strengthening, yet the focus is mainly on transparent political campaigns, which is visible on the fact, that political contributions are the most commonly published information of what this thesis researched. This applies also for the regulations, that are directed on the campaign rules. The US debate got more complicated with the 2010 decision of *United Citizens v. FEC*. Yet it shouldn't be the only issue - if the public and research want to go deeper into the lobbying problematic, it will need further data. Therefore, there needs to be a debate on how this data should be published, by whom and to what extent.

This research set a hypothesis which was proven by the available data. Neither lobbying firms nor lobbying spenders do not publish any information suggesting that highly regulated environment in the US would affect their lobbying behaviour in the European Union. The only suggestion could be the registration itself, yet it does not prove the regulated behaviour, since the Transparency Register is not mandatory, but it is some basic precondition for functioning in the EU system. At the outset of the thesis, there was an assumption, that at least some of the companies would pioneer the issue of lobbying and transparency. Yet what the data offer is a realisation that approximately 39 % of the researched companies do not provide information on whether they make political contributions or not and if so, what these contributions were. Even poorer is score in researching annual reports and codes of conduct - even though a vast majority of subjects have both documents, only 46 % of the codes of conduct and merely 11 % of the annual reports mentions lobbying. And when we qualitatively research those mentions, it is strikingly obvious, that companies are not eager to put their lobbying activities to a better light and allow general public to get better informed on who they lobby, what they lobby for, through which channels and how extensively. However, this should not mean abandoning the research of lobbying. On contrary - research into lobbying practices, into discourse surrounding this issue, public perception of the lobbying and actual experiences of the lobbyist should be more extensive, since without deeper knowledge and broader debate there will be a lack of pressure on the business, on the governments and on the public.

At the beginning of this thesis, I defined three research questions:

Research Question 1: Do lobbyists 'transmit' ingrained behaviour from more regulated systems to less regulated ones and does different setting of the system change the behaviour of the lobbying parties or the lobbying itself?

As research shows, lobbyists do not transmit the behaviour and therefore the system setting does not influence an actor beyond its jurisdiction.

Research Question 2: Is it possible to find data on this phenomenon - are companies open about their lobbying activities?

As data prove, companies and lobbyists in general do not exhaustively inform about lobbying activities, again – not beyond the scope of mandatory published data.

Research Question 3: Do the lobbyists use less strict environment in the EU?

Apparently yes – paradoxical, primarily companies that are based in the EU do mention some information about EU lobbying, however it is not a general rule.

Further, based on the research question, I suggested three hypotheses:

Hypothesis 1: Companies do not tend to inform about their lobbying activities more than lawfully required.

This hypothesis was proven correct, vast majority of researched subjects, not only lobbying spenders, but also lobbying firms, do not inform more than lawfully required. I did not find any company, who would publish structured lobbying expenses, lobbying staff for different areas (both on issues and locations) or other detailed information.

Hypothesis 2: The lobbyist by the nature of their work and the business environment do not adopt behaviour from more heavily regulated system to a lesser one.

This hypothesis was also proven correct, as is visible from the data – no company adopted the US official filling as a general information basis for summarizing and publishing details on lobbying activities.

Hypothesis 3: The transnational corporations won't disrupt the equilibrium in a sense, that they won't publish any significant information about their lobbying activities, since they might lose competitive advantage against the rest of the global corporations, unless they are pushed by other influences.

Hypothesis 3 would need further application of a proper Game Theory model, but there is significant indication resulting from the data, that it might also be proven.

9. Summary

The main topic of this thesis was lobbying. Research on lobbying is relatively widespread, yet still offers many of secluded corners and issues that deserve further analyses, especially since the environment is variable. The first challenge was to define who are the lobbyists that should be under the scope of this research. As there are several designations of lobbying activities, it was also slightly problematic to set the criteria.

The thesis attempted to describe why lobbying should be regulated and how is affected the transparency enhancement debate by lobbying. Subsequently, the thesis described and compared the regulations of lobbying in the United States and the European Union, while also considering international standards imposed by international associations.

The empirical part of the thesis was based on the initial dataset provided by the American research center "Center for Responsive Politics". From this dataset, the research separated companies and associations that lobby in both the United States and the European Union and they inform about it in transparency registers. Further, the thesis analysed basic documents (such as annual reports and codes of conduct) and websites of those subjects, and then evaluated the findings based on criteria established in the beginning of the thesis.

The aim of the thesis was to analyse whether companies and associations lobbying in a more regulated environment of the United States of America are transferring their 'taught' behaviour to a less regulated environment of the European Union. The research aimed to indicate the level at which companies inform the public of their lobbying activities. The research demonstrated that generally lobbyists do not publish information that is not required by authorities.

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List of Appendices

Appendix no. 1: Top 100 Lobbying firms (table)

Appendix no. 2: Top 100 Lobbying Spenders (table)

Appendix no. 1: Top 100 Lobbying firms (table)

Lobbying_Firm	Total	Rank	Year
Akin, Gump et al	39080000	1	2017
Brownstein, Hyatt et al	28705000	2	2017
Squire Patton Boggs	24295000	3	2017
BGR Group	23670000	4	2017
Holland & Knight	22100000	5	2017
Cornerstone Government Affairs	19210000	6	2017
Podesta Group	18410000	7	2017
Capitol Counsel	18240000	8	2017
Covington & Burling	18013000	9	2017
K&L Gates	17690000	10	2017
Van Scoyoc Assoc	17015000	11	2017
Williams & Jensen	16630000	12	2017
Ernst & Young	15160000	13	2017
Capitol Tax Partners	14430000	14	2017
Mehlman, Castagnetti et al	14220000	15	2017
Peck Madigan Jones	13880000	16	2017
Cassidy & Assoc	13720000	17	2017
Fierce Government Relations	13190000	18	2017
American Continental Group	12550000	19	2017
Crossroads Strategies	11660000	20	2017
Hogan Lovells	11450000	21	2017
Ogilvy Government Relations	11370000	22	2017
Invariant LLC	10975000	23	2017
Alpine Group	10545000	24	2017
Forbes Tate Partners	10425000	25	2017
Steptoe & Johnson	10200000	26	2017
Prime Policy Group	10174000	27	2017
Harbinger Strategies	9850000	28	2017
Ballard Partners	9767000	29	2017

Alston & Bird	9680000	30	2017
Thorn Run Partners	9540000	31	2017
Duberstein Group	9444000	32	2017
Venable LLP	9120000	33	2017
McGuireWoods LLP	8456500	34	2017
CGCN Group	8335500	35	2017
Subject Matter	8260000	36	2017
Signal Group	8000000	37	2017
Greenberg Traurig LLP	7965000	38	2017
Tarplin, Downs & Young	7750000	39	2017
DLA Piper	7620000	40	2017
Nickles Group	7569496	41	2017
Mercury	7530000	42	2017
Monument Policy Group	7510000	43	2017
Baker & Hostetler	7030000	44	2017
FTI Government Affairs	6960000	45	2017
Glover Park Group	6550000	46	2017
Polaris Government Relations	6530000	47	2017
S-3 Group	6530000	47	2017
Arnold & Porter Kaye Scholer	6460000	49	2017
PricewaterhouseCoopers	6370000	50	2017
Alcalde & Fay	6360000	51	2017
WilmerHale LLP	6210000	52	2017
Washington Tax & Public Policy Group	5990000	53	2017
Navigators Global	5974000	54	2017
Dentons US	5945000	55	2017
Bockorny Group	5920000	56	2017
Smith-Free Group	5800000	57	2017
Ferguson Group	5620000	58	2017
Cavarocchi Ruscio Dennis Assoc	5520000	59	2017
Barnes & Thornburg	5490000	60	2017
Kelley, Drye & Warren	5320000	61	2017
Bracewell LLP	5241000	62	2017
Russell Group	5200000	63	2017
Polsinelli PC	5190000	64	2017
Farragut Partners	5115000	65	2017
Venn Strategies	5034500	66	2017
Baker, Donelson et al	5033000	67	2017
Avenue Solutions	5020000	68	2017
KDCR Partners	4977500	69	2017
Roberti Global	4940000	70	2017

Cypress Advocacy	4890000	71	2017
Capitol Hill Consulting Group	4805000	72	2017
Federal Policy Group	4740000	73	2017
McAllister & Quinn	4737239	74	2017
McManus Group	4630000	75	2017
Lewis-Burke Assoc	4550000	76	2017
Nelson, Mullins et al	4440000	77	2017
Clark Hill PLC	4410000	78	2017
Sidley Austin LLP	4390000	79	2017
Winning Strategies Washington	4390000	79	2017
Arent Fox LLP	4380000	81	2017
Franklin Square Group	4380000	81	2017
Carmen Group	4312000	83	2017
Porterfield, Fettig & Sears	4300000	84	2017
King & Spalding	4230000	85	2017
Gephardt Group	4180000	86	2017
HLP&R Advocacy	4180000	86	2017
Van Ness Feldman	4175000	88	2017
Lincoln Policy Group	4160000	89	2017
McDermott, Will & Emery	4150000	90	2017
Jones Walker LLP	4130000	91	2017
Hobart Hallaway & Quayle Ventures	4100000	92	2017
Livingston Group	4050000	93	2017
Raffaniello & Assoc	3850000	94	2017
Cormac Group	3760000	95	2017
Wexler & Walker Public Policy Assoc	3725000	96	2017
West Front Strategies	3710000	97	2017
Nueva Vista Group	3630000	98	2017
OB-C Group	3610000	99	2017
Roosevelt Group	3560000	100	2017
Wiley Rein LLP	3560000	100	2017

Appendix no. 2: Top 100 Lobbying Spenders (table)

Lobbying_Client	Total	Rank	Year
US Chamber of Commerce	82260000	1	2017
National Assn of Realtors	54570861	2	2017
Business Roundtable	27380000	3	2017
Pharmaceutical Research & Manufacturers of America	25847500	4	2017
Blue Cross/Blue Shield	24480306	5	2017
American Hospital Assn	22114214	6	2017
American Medical Assn	21535000	7	2017
Alphabet Inc	18370000	8	2017
AT&T Inc	16780000	9	2017
Boeing Co	16740000	10	2017
Open Society Policy Center	16110000	11	2017
DowDuPont	15877520	12	2017
National Assn of Broadcasters	15460000	13	2017
Comcast Corp	15310000	14	2017
Bayer AG	14910000	15	2017
Lockheed Martin	14464290	16	2017
Northrop Grumman	14460000	17	2017
Amazon.com	13000000	18	2017
Southern Co	12970000	19	2017
National Retail Federation	12890000	20	2017
NCTA The Internet & Television Assn	12790000	21	2017
Oracle Corp	12385000	22	2017
Verizon Communications	12230000	23	2017
American Bankers Assn	11892000	24	2017
Facebook Inc	11510000	25	2017
General Dynamics	11465969	26	2017
Exxon Mobil	11390000	27	2017
CTIA	10900000	28	2017
Amgen Inc	10620000	29	2017
Pfizer Inc	10470000	30	2017
FedEx Corp	10308000	31	2017
Altria Group	10300000	32	2017
United Technologies	9630000	33	2017
AARP	9500000	34	2017
Koch Industries	9500000	34	2017
Biotechnology Innovation Organization	9390000	36	2017
Chevron Corp	9290000	37	2017
Charter Communications	8880000	38	2017
Novartis AG	8759510	39	2017
Microsoft Corp	8660000	40	2017

General Motors	8640000	41	2017
Airlines for America	8590000	42	2017
National Amusements Inc	8568790	43	2017
American Petroleum Institute	8480000	44	2017
Deutsche Telekom	8361000	45	2017
Edison Electric Institute	8360000	46	2017
Qualcomm Inc	8260000	47	2017
Prudential Financial	8130000	48	2017
Alliance of Automobile Manufacturers	8100000	49	2017
National Assn of Manufacturers	8100000	49	2017
Securities Industry & Financial Mkt Assn	8090000	51	2017
Anheuser-Busch InBev	7930000	52	2017
Royal Dutch Shell	7920000	53	2017
General Electric	7522000	54	2017
American Chemistry Council	7440000	55	2017
Eli Lilly & Co	7395000	56	2017
Apple Inc	7150000	57	2017
United Parcel Service	6967924	58	2017
American Assn for Justice	6930000	59	2017
Johnson & Johnson	6910000	60	2017
Wal-Mart Stores	6880000	61	2017
American Airlines Group	6833000	62	2017
Entertainment Software Assn	6757559	63	2017
Duke Energy	6631595	64	2017
American Cancer Society	6560000	65	2017
America's Health Insurance Plans	6530000	66	2017
CVS Health	6412000	67	2017
American Electric Power	6411387	68	2017
Coca-Cola Co	6340000	69	2017
Merck & Co	6320000	70	2017
Philip Morris International	6260000	71	2017
Berkshire Hathaway	6119000	72	2017
BP	5980000	73	2017
Occidental Petroleum	5823652	74	2017
Toyota Motor Corp	5809000	75	2017
AbbVie Inc	5690000	76	2017
Honeywell International	5590000	77	2017
Teva Pharmaceutical Industries	5590000	77	2017
Distilled Spirits Council	5570000	79	2017
Property Casualty Insurers Assn of America	5480000	80	2017
Cigna Corp	5460000	81	2017

American Assn of Airport Executives	5324236	82	2017
IBM Corp	5310000	83	2017
Citigroup Inc	5213000	84	2017
Association of International CPAs	5180000	85	2017
National Rifle Assn	5122000	86	2017
National Assn of Real Estate Investment Trusts	5107000	87	2017
Raytheon Co	5090000	88	2017
Consumer Technology Assn	5050000	89	2017
Financial Services Roundtable	5040000	90	2017
Investment Co Institute	4982228	91	2017
Hewlett Packard Enterprise	4980000	92	2017
AFL-CIO	4965800	93	2017
Recording Industry Assn of America	4879484	94	2017
UnitedHealth Group	4860000	95	2017
Independent Community Bankers of America	4850000	96	2017
Huntington Ingalls Industries	4801253	97	2017
Sanofi	4786000	98	2017
General Atomics	4780000	99	2017
National Auto Dealers Assn	4769000	100	2017