By Re_Generation

Business Ethics

3.1 Corporate Lobbying

Description

Corporate lobbying, when left unchecked, can impede the functioning of democratic systems and lead to regulatory capture. In the United States, campaign finance laws have been rewritten to allow for the unlimited corporate funding of elections, with the result that enormous pools of 'dark money' have been used to influence election outcomes and advance an anti-labour, anti-environment agenda. Influential donors, such as Charles and David Koch of Koch Industries, have spent decades developing sophisticated networks of think tanks, lobbying coalitions, and fake grassroots advocacy groups in order to eliminate consumer or environmental protection laws and undermine democratic accountability. While the situation in Canada is not as dire, DemocracyWatch has summarized over 100 loopholes in Canadian law that allow for secret donations and conflicts of interests. Particularly troubling are the lobbying activities of the Canadian fossil fuel sector, an industry that is highly organized, well-connected, and often opposed to robust climate action. To learn more about how firms should be disclosing their political activities, continue reading this PDF guide.

Acknowledgements

Written by Gareth Gransaull, Associate Director of Re_Generation, with review by some of Canada and North America's most influential sustainability leaders.

About Re_Generation

Re_Generation is a Canadian youth movement that seeks to build a regenerative, sustainable, and just economy. We aim to reimagine our schools, repurpose our careers, and remodel our companies to be aligned with regenerative principles. In particular, we provide resources for individuals to launch impact-driven careers and advocate for change within their companies and schools. We also aim to advance public policies that promote regenerative and sustainable business practices.

Our successful 'Our Future, Our Business' Manifesto campaign received the support of 65 youth organizations, 130 high-level executives, and 100 civil society organizations recognizing the need for reform in business education on sustainability. After three years of existence as the Canadian Business Youth Council for Sustainable Development, we have changed our name to Re_Generation to become more inclusive of all youth, not just business youth.

We believe that the ideal society is a **regenerative** one. Regeneration to us means putting human and ecological **well-being** at the centre of every decision. It means restoring relationships, both within nature and within society, while helping all communities to thrive. Read more about our history and vision at our **About Us** page.

Issue Summary

Far too often, concerns about corporate political activity are isolated from discussions of sustainable development. Many corporations show a discrepancy between their public-facing rhetoric, which aim to convey the image of sustainability leadership, and the private political positions they adopt when attempting to influence policymakers. Groups such as the Business Roundtable, the largest corporate lobbying group in the United States, have faced **accusations of hypocrisy** for **voicing their opposition** to President Biden's 'Build Back Better' agenda, despite issuing statements ostensibly in **favour of the bill's goals**. Their logic is simple: they oppose the tax increases that would be **required to fund these proposals**.

Research shows that corporate lobbying is a lucrative endeavour with a high return on investment. One study demonstrated that for each dollar spent lobbying for tax cuts, firms receive **returns of more than $220.15**, while another demonstrated that firms with the highest lobbying intensities **significantly outperform their peers**. Additionally, without transparency or accountability frameworks in place, lobbying can have seriously adverse social and environmental consequences, even representing a threat to the integrity of democratic systems. In the United States, campaign finance laws have been rewritten to allow for the unlimited corporate funding of elections, with the result that enormous pools of '**dark money**' have been used to influence election outcomes and advance an anti-labour, anti-environment agenda. Influential donors, such as Charles and David Koch of Koch Industries, have **spent decades developing sophisticated networks** of **think tanks**, **lobbying coalitions**, and **fake grassroots advocacy groups** in order to **eliminate labour laws** and **environmental protections**, **lower taxes**, reduce **public spending on healthcare** and **education**, and **dismantle voting rights** in order to **benefit their bottom line**. Investigative journalist Jane Meyer has demonstrated how **corporate-backed groups are currently advocating for the voter suppression laws** and electoral reforms that may succeed in restoring Donald Trump to the presidency in 2024.

While the situation in Canada is not as dire, DemocracyWatch has summarized **over 100 loopholes in Canadian law** that allow for "dishonesty, secret donations to some candidates and to political party trust funds, conflicts of interest by policy-makers, excessive government secrecy, secret, [and] unethical lobbying." 2020 marked the **largest ever increase** in the number of lobbying encounters between corporate agents and federal politicians in Canada. In its campaign to **end the influence of money in politics**, DemocracyWatch has compiled a **list of political donation systems** in Canada that show ample evidence of corruption within the Canadian government. Particularly troubling are the **lobbying activities of the Canadian fossil fuel sector**, an extractive industry that is **highly organized**, **well-connected**, and systematically **opposed to robust climate action**. Canadian oil and gas firms habitually position themselves as leaders in **'sustainable' or 'clean' energy**, even while participating in industry associations like the Canadian Association of Petroleum Producers that frequently adopt **anti-climate positions**.

At a global level, lobbying against climate action is a **pervasive and well-documented phenomenon**. Research by Naomi Oreskes has demonstrated how fossil fuel firms such as ExxonMobil spent decades **funding public disinformation campaigns to slander climate scientists** and proposed legislative reforms, even while **privately recognizing the scale** of the problem. Climate Action 100+, an investor coalition, has found that **only 10% of companies** they target have fully aligned their lobbying practices with the demands of the Paris Agreement, and from 2010 to 2016 firms fighting against climate legislation outspent environmental groups by a factor of ten to one. Fossil fuel lobbyists were the **largest delegation to appear at the COP26 conference** in 2021, making it no surprise that **large polluters are able to attain back-door access** at major climate talks. The organization InfluenceMap has performed extensive research on the **number of companies obstructing climate progress** through their lobbying activity, and **identified the strategies** that the fossil fuel industry employs to prevent action on the goals of the Paris Agreement.

The OECD has recognized the issue of corporate lobbying as a **fundamental threat to democracy**, and published a **set of principles** and an **implementation guide** for governments to use in countering it. Unfortunately, many sustainability standards-setting organizations have not recognized the importance of corporate political activity as it relates to sustainability and social issues. The Sustainability Accounting Standards Board (SASB) removed "Regulatory Capture and Political Influence" **from its list of issue categories** in 2018, as analysis of their Materiality Map indicated that regulatory capture was among the "least material" of the 30 issue areas the organization currently covers. This is problematic because it both fails to account for the insidious effects of lobbying activity, and also highlights the inherent barriers of relying excessively on a materiality focus when judging the salience of sustainability problems. However, new research by the Conference Board indicates that public pressure to increase the transparency of corporate political activity **has never been larger**, and two-thirds of government relations professionals are experiencing a higher degree of scrutiny regarding their work. As consumers and the general public move to demand that corporations align their political activities with their stated values, it is likely that campaigns to influence democracy and increase political dysfunction will become increasingly untenable.

Key Considerations:

Analysis by RobecoSam in their 2017 Corporate Sustainability Assessment demonstrated that the **state of disclosure on corporate political activity is extremely insufficient**. Very few companies broadly disclose their spending in this area beyond what is legally mandated, nor do they publicize trade association memberships (despite contributions to these associations being by far the largest spending area). Companies rarely disclose the actual content or policy positions on which they advocate, but the 2017 report found that positive engagement on pro-social or environmental views is far outweighed by negative engagement.

The UN Research Institute for Social Development has **developed a list of questions and principles** to guide the interpretation of corporate political activity, which include:

- Legitimacy: Are the means of influence proper uses of corporate power? What policies do companies have on topics like political donations, sponsorship and bribery?
- Transparency: Do companies disclose their positions on key public policy issues? Do they reveal their external memberships, donations, and methods of influence?
- Consistency: Do companies have systems in place to ensure that lobbying activities and positions are aligned with their environmental, social, and ethical principles, policies and commitments, and that they are consistent across borders and functions?
- Accountability: Do companies take responsibility for the impacts they have on public policy—through their lobbying, memberships, donations, and other activities?
- Opportunity: Do companies proactively attempt to influence public policy to support the societal transition towards sustainable development? Have they fully explored how more effective public policy on sustainability issues could be a source of competitive advantage?

To improve granularity in data regarding lobbying transparency, corporations should commit to disaggregate their political spending according to the following indicators:

- Spending by recipient (i.e. lobbying organizations, political campaigns);
- Indirect expenditures (i.e. trade association memberships, non-profit organizations);
- Group-wide and subsidiary expenditures;
- Country-by-country expenditures;
- Expenditures by sub-state jurisdictions (i.e. local, state or provincial level);
- Total and disaggregated spending over the last four years;
- Spending by top five recipients;
- Three largest recipients per issue area;
- The normative or regulatory intent of all political interventions.

To disclose the existence of a 'revolving door' between the public and private sectors, corporations should also report on the number of job changes between the organization and the public sector, and the level of organization at which this mobility has occurred. Relevant indicators include:

- Number of staff seconded to and from the public sector;
- Number of new staff that worked in the public sector during the previous two years;
- Number of days that staff participated in expert group meetings organized by the public sector.

Tools

The Washington-based **Center for Political Accountability** has developed the **CPA-Zicklin Index** that uses 24 specific metrics to analyze a corporation's approach to political and electoral spending. To search for the lobbying disclosures of individual companies, check out the database available at **Track Your Company**, as well as **this ranking of firms** by sector according to their total political expenditures. The CPA has authored a report to help leaders understand how **money in politics has reshaped American democracy** over the last ten years, as well as a comprehensive report that identifies the corporations **most responsible for bankrolling voter suppression laws**. (Note that this resource is biased towards firms that are headquartered in the United States).

The Center for Political Accountability has developed a **model code of conduct** for corporate political spending, with the following 12 principles:

1. Political spending shall reflect the company's interests, as an entity, and not those of its individual officers, directors, and agents.
2. In general, the company will follow a preferred policy of making its political contributions to a candidate directly.
3. No contribution will be given in anticipation of, in recognition of, or in return for an official act or anything that has the appearance of a gratuity, bribe, trade or quid pro quo of any kind.
4. Employees will not be reimbursed directly or through compensation increases for personal political contributions or expenses.
5. The company will not pressure or coerce employees to make personal political expenditures.
6. All corporate political expenditures must receive prior written approval from the appropriate corporate officer.
7. The company will disclose publicly all direct contributions and expenditures with corporate funds on behalf of candidates, political parties and political organizations.
8. The company will disclose dues and other payments made to trade associations and contributions to other tax-exempt organizations that are or that it anticipates will be used for political expenditures. The disclosures shall describe the specific political activities undertaken.
9. The board shall require a report from trade associations or other third-party groups receiving compa-

ny money on how it is being used and the candidates whom the spending promotes.

- The board of directors or an independent committee of the board shall receive regular reports, establish and supervise policies and procedures, and assess the risks and impacts related to the company's political spending.
- The company shall review the positions of the candidates or organizations to which it contributes to determine whether those positions conflict with the company's core values and policies. This review should be considered by senior management and the full board of directors annually.
- The board of directors shall, independent of this review, consider the broader societal and economic harm and risks posed by the company's political spending.

A consortium of civil society organizations has also developed the **Responsible Lobbying Framework** based on recommendations and guidelines from various public sources, including Transparency International, UN PRI, and others.

The New America Foundation has developed its own **lobbying framework** that aims specifically to deal with the problem of incoherent data sources and information overload.

The International Corporate Governance Network has created a **framework guide on political lobbying and donations**, with specific recommendations regarding board oversight and shareholder approval.

The **Corporate Political Responsibility Taskforce**, based out of the Erb Institute at the University of Michigan, has also developed guidelines for corporate political engagement that aim to help executives develop an integrated view of their firm's political activity. Their website includes a list of **tools and frameworks** designed to promote greater transparency and accountability.

Specifically for investors and asset managers, the UK-based organization Preventable Surprises has created a **Corporate Lobbying Alignment Project** that aims to help activist investors prevent regulatory capture and improve political accountability practices through shareholder engagement. For specific information related to regulatory capture in individual sectors, check out their frameworks on **transportation**, **healthcare**, **fossil fuels**, **utilities**, **chemicals**, the **border-industrial complex**, the **financial services sector**, and **financial services regulators**.

Their flagship **report** includes a series of principles for investors to adopt when taking action to improve political accountability:

1. Support or lead the filing of shareholder resolutions demanding systematic lobbying disclosure.
2. Publicly advocate for better disclosure and accountability on political spending.
3. Advocate with financial regulators and ESG data standard setters for consistent corporate disclosure standards on lobbying and influence conduct and spending.
4. Develop and publish a shared set of investor expectations, consistent with ESG objectives, on corporate lobbying and influence that address the full scope of corporate and trade association conduct.
5. Engage with portfolio companies on political spending issues across jurisdictions.
6. Revise ESG screening criteria to include information on all forms of lobbying conduct, political finance, and influence spending.
7. Incorporate lobbying questions into new and existing stewardship activities. Investors should focus on how company and trade association lobbying can either help or hinder the real world change that companies say they are committed to supporting.
8. Request board-level engagement on lobbying, both externally and internally for asset managers.

9. Engage in targeted dialogue with credit rating agencies regarding the incorporation of ESG risks into ratings methodologies.

Specifically regarding corporate political activity related to climate change legislation, the organization InfluenceMap has developed a **comprehensive methodology** for evaluating corporate political engagement on sustainable finance policy according to this set of **metrics and criteria**. Ceres, a prominent investor coalition, has also developed a **blueprint for responsible policy engagement**.

When it comes to advancing climate policy solutions, there is an opportunity for firms in all sectors to participate in lobbying for progressive pro-climate reforms. The **Global Standard on Responsible Climate Lobbying** has outlined an international framework for corporate political advocacy on climate issues. In addition to scrutinizing bad actors, InfluenceMap publishes a **list of the most prominent corporate leaders advocating for ambitious climate policy**. The organization **ClimateVoice** aims to help workforces motivate companies to adopt pro-climate stances throughout their advocacy efforts. The **1 in 5 for 1.5 Initiative** aims to compel large technology companies to allocate lobbying dollars towards climate solutions. Firms should join corporate political action coalitions, such as **Ceres**, **The Climate Group**, **We Mean Business**, or other networks in order to participate in responsible policy engagement on climate issues.

Case Studies:

Public backlash to corporate political spending has occasionally been successful in influencing major corporations to pull funding from dark money groups. Back in 2013, widespread outcry over firms' donations to the Koch-backed American Legislative Exchange Council led to a **significant decrease in funding**. Similar outrage to corporate supporters of Republican legislators who voted against the certification of President Biden's election sparked an **exodus of funds**–although it's important to realize that when public pressure subsided, many corporate donations often **covertly reappeared**.

There are some notable standouts, however. Microsoft in particular has been very open about its **commitment to reduce political giving**, and has held firm in its pledge not to support Republican legislators. IBM, another outlier, has **never given money to political candidates**, and sets a promising model for what the future of corporate political responsibility could look like.

Shareholder activists are **increasingly interested** in improving corporate political accountability, and there have been significant efforts in recent years to use shareholder resolutions to pressure firms into disclosing their expenditures. One example includes a successful campaign by shareholder activists to induce Chevron to **fully disclose its spending on climate-related lobbying**.

Organizations/Initiatives:

For further information about **corporate political activity and its social and environmental effects**, check out the organizations listed below, which include watchdogs, independent media centres, investor coalitions, and more.

International:

- CorpWatch
- OpenSecrets
- LittleSis
- Corporate Accountability
- Corporate Europe Observatory
- Transparency International
- FinanceWatch
- InfluenceMap (and FinanceMap)
- Alliance for Corporate Transparency
- Accountability Framework Initiative
- As You Sow
- Accountable.US
- Sum of Us

United States:

- OpenSecrets - US Federal Lobbying
- PRWatch
- SourceWatch
- ALECExposed
- Sunlight Foundation

Canada:

- DemocracyWatch
- Canadian Network on Corporate Accountability
- Corporate Mapping Project
- Council of Canadians
- Justice and Corporate Accountability Project
- Office of the Commissioner of Lobbying of Canada
- Ombudsperson for Responsible Enterprise