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POST-MAP-ASK

Towards a More Democratic, Modern Lobbying Process

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Acknowledgments

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INTRODUCTION

American democracy faces a fundamental challenge. The legislative process is increasingly overwhelmed by lobbyists, particularly those representing large corporations and business associations. At every stage of the process, businesses maintain vast teams of lobbyists (both registered and unregistered) to dominate the information environment. These lobbyists overwhelm congressional offices and their increasingly stretched-too-thin policy staff. As a result, narrow business interests tend to wield disproportionate influence in Washington.

While business power is not a new issue, the amount of political activity on behalf of large corporations today is truly unprecedented, especially in comparison to the shrinking resources Congress allocates for its own policy staff. The $2.6 billion in reported annual corporate lobbying spending is now more than the $2 billion combined budget for the entire Senate ($860 million) and the entire House ($1.18 billion).[1]

And worse, the types of organized interests who we might expect to provide a countervailing force to business — labor unions, groups representing diffuse public interests like consumers or taxpayers — spend $1 for every $34 businesses spend on lobbying. Of the 100 organizations that spend the most on lobbying annually, consistently 95 represent business. The resource gap between business and countervailing forces has been steadily widening. In 1998 (as far back as we have good data), it was $1 to $22. Ever since business had a political awakening in the early 1970s, it has been gaining ground. Countervailing forces like unions and diffuse interest groups have simply not kept pace.[2]

While resources are not destiny,[3] they do matter.[4] They determine which perspectives make it to key decision-makers, and which perspectives don't.[5] They shape which policy choices are possible, and which policy choices are impossible. After all, government officials are rational actors. When they see impressive resources on one side of an issue, they are more likely to join that side. This matters because four out of five times, the side with more government officials wins. In short, there is a bandwagon effect that often begins with business devoting considerable resources to an issue.[6]

In this policy paper, we first look at the ways in which the chaotic legislative lobbying process amplifies the resource imbalances, overwhelms congressional staffers, and influences public policy outcomes.

Then we make the case for a process that ensures more accountability, more transparency, and better representation for a more diverse group of citizens. We argue that we can use technology to help

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congressional staffers make better, more informed decisions, mitigating the effects of excessive corporate spending on lobbying.

We propose a new system for advocacy: POST, MAP, and ASK.

By Post, we mean that advocacy groups would post their policy positions and papers to website maintained by the Library of Congress.

By Map, we mean that the Library of Congress would then map out the positions, creating a tool for both congressional offices and the general public to easily see who stands where.

By Ask, we mean that relevant congressional committees would then ask for comments from groups that are missing.

By organizing and summarizing information in a way that is easy for staffers to cull through (as compared to the current chaos of e-mails and meetings and phone calls), this system would help congressional offices make more reasoned decisions about policy. Given limited staffing capacity that currently afflicts Congress,[7] this system could have a big impact by saving congressional staffers considerable time.

THE PROBLEM OF CHAOTIC LOBBYING AND INFORMATION OVERLOAD

Lobbyists spend much of their time going to Capitol Hill to meet with congressional staff, trying to get them to introduce legislation, co-sponsor legislation, oppose legislation, amend legislation, make public statements, and pester agencies, among other things.

Much of this work is steady and persistent asking—making a clear and compelling case for why whatever that lobbyist wants is both good policy and good politics. Advocacy organizations also attempt to mobilize constituents to contact their members of Congress, sending e-mails and letters and making phone calls. They attempt to influence press coverage and run advertising. They finance supportive research and produce and deliver studies. They build coalitions and attempt to fill the "intellectual environment" of decision-makers with ideas and information that support their cause.[8]

From the perspective of a policy staffer in Congress, these efforts produce information overload. There are endless competing demands on attention, and few tools to help staffers figure prioritize. Since turnover rates tend to be high in congressional offices, and staffers tend to be young and inexperienced,[9] it is very easy to get overwhelmed.

In a chaotic environment like this, the easiest thing to do is operate in reactive mode. This is exactly what most staffers do. They take the meetings and phone calls that come to them, responding to the lobbyists who show up asking for their time. After all, it is easy to fall into the habit of thinking that if somebody had a concern they would register it—since so many people do, in fact, register their concerns.

As a result, when it comes time to prepare the briefing binders and to make policy recommendations—whether to co-sponsor a bill, sign onto a Dear Colleague letter, or vote on an amendment or bill—the staffer has only her correspondences and conversations to rely on. Sure, she can (and often will) reach out to other colleagues on the same committee or in the same state delegation. But they too will generally rely on what came their way. Few staffers have time to organize communications by issue any more coherently than by searching their e-mail inbox.

This chaos advantages well-resourced lobbying groups in two ways.

The first is somewhat obvious. Given the competition for limited attention, those who

can speak loudest and most often are in a strong position. They can overwhelm congressional offices by constantly showing up.

The second is more subtle. More resources allow your side to know where everybody else stands, too: who's hearing from whom, and what are they saying? Mapping out the state of play on any issue is a considerable resource-intensive, intelligence-gathering effort. Effective lobbyists know exactly what their opponents are saying and how to find the weak spots in their arguments.

This intelligence gathering makes it easier to accomplish what we'll call *just-in-time lobbying*. By that, we mean lobbying efforts that come at the moments when staffers need them most—just as something is about to come up in a committee or for a floor vote, or just as a Dear Colleague letter is being sent around. It is difficult for staffers to keep track of a sprawling portfolio of complicated issues, many of which can come up quickly or suddenly. Beyond issues of core focus, staffers tend to operate

reactively. A good lobbyist is one who has laid the groundwork to come in at such a decision point and can serve as a catalyst for action by being the central node in a disparate network of offices.

This requires lobbyists who have already built relationships and laid out a set of now-familiar arguments. For corporations who can hire 100 lobbyists, effective *just-in-time lobbying* is easy. They have the resources to get their arguments out to key congressional offices as needed. For public interest groups without such resources, *just-in-time lobbying* is difficult. They simply don't have the resources.

Lobbyist Nick Allard argues one of the most important ways in which lobbyists help congressional staffers is "by sifting information and noise, putting information into a coherent framework, and by challenging or checking facts on impossibly short time deadlines."[10] We think this is exactly right. And this is of great concern to us, because it creates a dependence on the lobbyists who can be there early and often.

TOWARD A BETTER POLICY PROCESS

Let us summarize the problem we've identified so far. Lobbying resources are imbalanced, with business interests considerably outnumbering diffuse interest groups. The chaotic nature of the legislative lobbying process reinforces these imbalances. Some resource imbalance is inevitable and comes out of very basic aspects of political organization and economic structure.

But the chaos of the process is not inevitable. In fact, we can and should do what we can to minimize it.

In an ideal world, we'd have a political process in which experienced and thoughtful decision-makers had the time and knowledge to evaluate strong arguments on both sides, and those sides also had the ability to keep each other honest. While we recognize that this ideal is unachievable, we do believe that we should still move towards it. As an ideal, it is far better than the chaotic battlefield by which modern legislative lobbying currently operates. To that end, we propose a simple system.

Our recommendations are based in part on what we already have in the U.S. with the Administrative Procedures Act (APA) and in part on the system in the European Union.

Enacted in 1946, the APA requires administrative agencies to solicit public comment for rulemaking, and then to make those comments publicly available for all to see. The process of notice-and-comment rulemaking generally gives all interested parties 60 days to make their concerns known to agency rule-makers. Agencies are then required to respond to these comments.

While this process is far from perfect, it does embody two important principles that we believe should be applied more broadly: transparency and structured public participation. This ought to be applied to Congress as well.

We also take inspiration from the Public Consultation process in the European Union. This process involves the European Commission first sharing a draft of a legislative proposal broadly. It then invites interest groups to upload their responses to that draft. The uploaded position papers are publically available for all policymakers and the public to see and download. This process allows a professional association or citizen groups, far away from the capital of Brussels, to also have input into the policymaking process and introduce new ideas.

It also allows policymakers and their staff to have a better and more systematic sense of what the majority of organized interests think, what particular concerns are most salient, and what positions are outliers.

Drawing on what we believe to be the best aspects from these two systems and incorporating modern technological advancements, we propose a simple system by which:

1. Interest groups lobbying on specific pieces of legislation would **POST** their position papers;

2. Congress could **MAP** those position papers on a range of policy dimensions; and

3. Congress could **ASK** underrepresented voices to share their input.

The system would operate through a web interface, which would provide a single portal for staffers, lobbyists, journalists, and citizens to browse and access policy positions.

THE CASE FOR POST-MAP-ASK AS A VOLUNTARY SYSTEM

Before we lay out the details of how each of these steps would work, we want to wrestle with the question of whether this ought to be a mandatory system or a voluntary system.

The case for a mandatory system is simple: without force of law, what reason do lobbying organizations have for participating? The only way we can expect for them to participate is to force them to do it under penalty of law.

The case against a mandatory system is twofold. First, it would require Congress passing a law, which is always a difficult thing to do, moreso in the current political moment. The second is that even if Congress were to pass a law mandating this system, such a

law would require a number of difficult decisions about who is covered and who isn't. It could also have the effect of mandating obligations that would discourage smaller entities from participating.

The case for making it voluntary is that by avoiding the morass of definitional and enforcement questions, we can instead focus on the benefits of such a system. Rather than worry about inflexible obligations of a statute, designers of a system can develop and adjust a system based on user feedback, working more like an agile startup than a clunky bureaucratic system.

Ultimately, the test of such a system is: *will people participate?* The system only works if lobbyists

upload their policy papers, and if staffers consult the site. For this reason, design is key. The system must be well-designed and useful for staffers. This will require a significant up-front investment, with considerable user testing.

Ultimately, lobbyists will use the system if staffers ask them to do so. And staffers will ask them to use the system if it makes their job easier, which a well-designed system will do.

We believe that most lobbyists will come to see this as useful. After all, the majority of lobbyists can confidently claim that they are simply making the best argument for what their clients want, and that they have nothing to hide or of which to be ashamed.

Ultimately, this system might look something like the *amicus curiae* brief system that the Supreme Court uses to solicit external opinions. Anybody with an opinion is free to share it with the Court. The Court has no obligation to use these opinions, but judges frequently draw on them in their ruling. Amicus briefs enjoy a high level of prestige, and are seen by many as a valuable way of participating in judicial decision-making.

This system should be entirely public. We will discuss privacy and confidentially concerns later, but in general, the accountability and transparency issues outweigh the privacy and confidentially concerns.

On implementation, the system would work best as an additional tab for "advocacy" on the Library of Congress's Congress.gov website. We will discuss this more in the implementation section.

Let us now turn to the mechanism of how this system would work.

POST-MAP-ASK

I. POST

For each bill, the Library of Congress would establish a portal whereby interested parties could upload advocacy material, which the Library of Congress would then host and catalog.

Obviously, there would need to be some filters. We propose that the system only include advocacy uploaded on behalf of incorporated organizations. Documents uploaded by registered lobbyists would be noted as such, and could be searched accordingly. We could envision staffers who want this as a filtering mechanism. We will discuss potential for general citizen participation later.

In general, our vision is that organizations would upload written policy briefs of reasonable length and provide links to additional supportive material for those who want more detail. The basic goal of this document cache, as we will argue shortly, is to provide a quick overview of the argumentation on all sides—giving staffers, advocates, journalists, and others the ability to get up to speed quickly on an issue and access the range of opinion.

Advocacy materials would be attached to specific bills. Bills with multiple sections and subsections could have advocacy organized by specific sections and subsections.

It makes little sense to specify the exact boundaries of what can and cannot be in a policy brief. Again, it's important to emphasize that the system depends on staffers' demand for the materials. Good lobbyists know what makes an effective policy brief and will compete with each other to develop effective formats. Our hope is that this competition will generally improve the quality of policy advocacy over time.

II. MAP

One might at this point worry that such a system will produce even more information overload. But this overload is already happening. We cannot stop it. We can only hope to manage it and make it more transparent. Our proposed mapping system does just that.

Advanced computer-assisted text analysis can now provide simple plots of where interest groups fall on across multiple dimensions. They can also show how groups' positions relate to existing proposals. And perhaps most importantly, they can show which positions are missing.

By analyzing the words and clusters of words in dozens to hundreds of documents, computer-assisted text analysis can help congressional decision-makers and outside observers sift through

the mountains of information, discern the main themes and concerns, and distill the key debates and preferences.[11]

In a previous project, one of us (Mahoney) used computer-assisted content analysis to study the argumentation of nearly 4,000 interest groups lobbying on 44 policy debates in the European Union.[12] The EU's transparent public consultation process allowed us to download and analyze 3,643 position papers put forward by interest groups and coalitions of interest groups. Schonhardt-Bailey used the same technique to study framing and argumentation in U.S. National Security speeches, as well as congressional floor debates.[13]

Through this research we knew: 1) What interest groups mobilized on each policy debate; 2) What those interest groups were arguing for; and 3) Which types of groups were not represented.

In addition, using the computer assisted content analysis software T-Lab, we were able to use text correspondence analysis to map the positions of those groups according to the two dominant dimensions on each issue. Using the very language and argumentation of the interest groups themselves, we were able to plot where they stood on the two main dimensions and could then see which groups clustered with them—that is, which groups were making similar arguments and using similar words.

For example, one of our cases was the 2007 proposal of the European Commission to reduce CO_2 emissions from automobiles. The proposal featured a range of strategies, including emissions controls required by auto manufacturers and advertising regulations to minimize the promotion of more inefficient vehicles like SUVs. The European Commission launched a public consultation in which stakeholders could submit position papers expressing their views on the proposed legislative framework. The consultation closed in July 2007 and the European Commission adopted its official legislative proposal in December 2007. By comparing the interest group position papers and

the final Commission proposal, we examined the framing strategies of 23 interest groups and their effectiveness during the policy formulation stage.

The two primary dimensions of the debate that emerged were: 1) For weaker to stronger CO_2 emission controls in engines (x axis in **Figure 1**) and; 2) For and against advertising regulations (y axis in **Figure 1**).

What clearly emerges in **Figure 1** is that the traditional auto manufacturers are clustered together, arguing in similar ways: for weaker CO_2 controls, not very concerned about the advertising regulation proposal. On the other side of that same dimension, we see all the environmental organizations clustered together, arguing in a similar way for stricter CO_2 controls. This analysis also reveals newer, alternative auto manufacturers (primarily electric car makers) arguing alongside the environmental groups for stricter CO_2 regulations. Finally, we see that advertising and free press groups also mobilized on this issue, since the advertising regulations would impact their operations. They wanted the advertising controls stripped from the legislation.

Table 1 reports the most typical words per cluster according to their Chi[2] value.[14] This revealed three document clusters: The first and smallest cluster (12% of the documents) includes texts using words such as "advertising," "press," and "media." The list of typical words of this frame (cluster) clearly indicates its focus on the impact of the legislative proposal on the press and advertising industry. The following excerpt from FAEP (European Federation of Magazine Publishers) whose contribution is grouped into this cluster underlines that this frame deals with the implications for the press and advertising business:[15]

"**Publishers** would strongly oppose any political measure that has the potential to create an imbalance in the **advertising** revenues of the **press** as this would have a severe impact on the independence and diversity of the **press.**"

Table 1 | Most prominent words distinguishing clusters of actors in the CO_2 emissions debate

Rank according to Chi² Value	Cluster 1: Press	Cluster 2: Industry	Cluster 3: Environment
1	advertising	target	LPG
2	press	political	energy
3	media	value	gas
4	promotional	function	fuel
5	print	approach	fuels
6	literature	automotive	biodiesel
7	publishers	models	oil
8	survey	segments	fuelled
9	believe	reduction	duty
10	restrictions	product	natural
11	marketing	complementary	light
12	information	system	methane
13	claim	technologies	biogas
14	freedom	N1	biomethane
15	penalties	rental	diesel
No of texts	**3**	**7**	**15**
% of texts	**12%**	**28%**	**60%**

The second cluster, which encompasses 28% of the documents, is marked by words such as "automotive," "segments," or "product." The key words show that this cluster comprises documents emphasizing the negative impact of the proposal on the automobile manufacturers. This frame is illustrated in the following text passage taken from the position paper of the VDA, which is the German automobile manufacturers association:

"A policy discriminating against premium vehicles would damage a key area for generating

value added and employment in the European **automotive** industry, and primarily in the German **automotive** industry."

The third and largest cluster (60% of the documents) is represented by typical words such as "LPG," "biodiesel," and "natural." Further analysis using the keyword-in-context function of the text analysis program *Yoshikoder*[16] reveals

that these terms are used to discuss the negative effects of global warming on the environment and to highlight the environmental superiority of alternative technologies such as hybrid or electric cars and biofuels. The following excerpt from the contribution of Transport & Environment, which is an environmental NGO, highlights the nature of this frame:

Figure 1 | Two-dimensional policy space of the CO_2 emissions debate
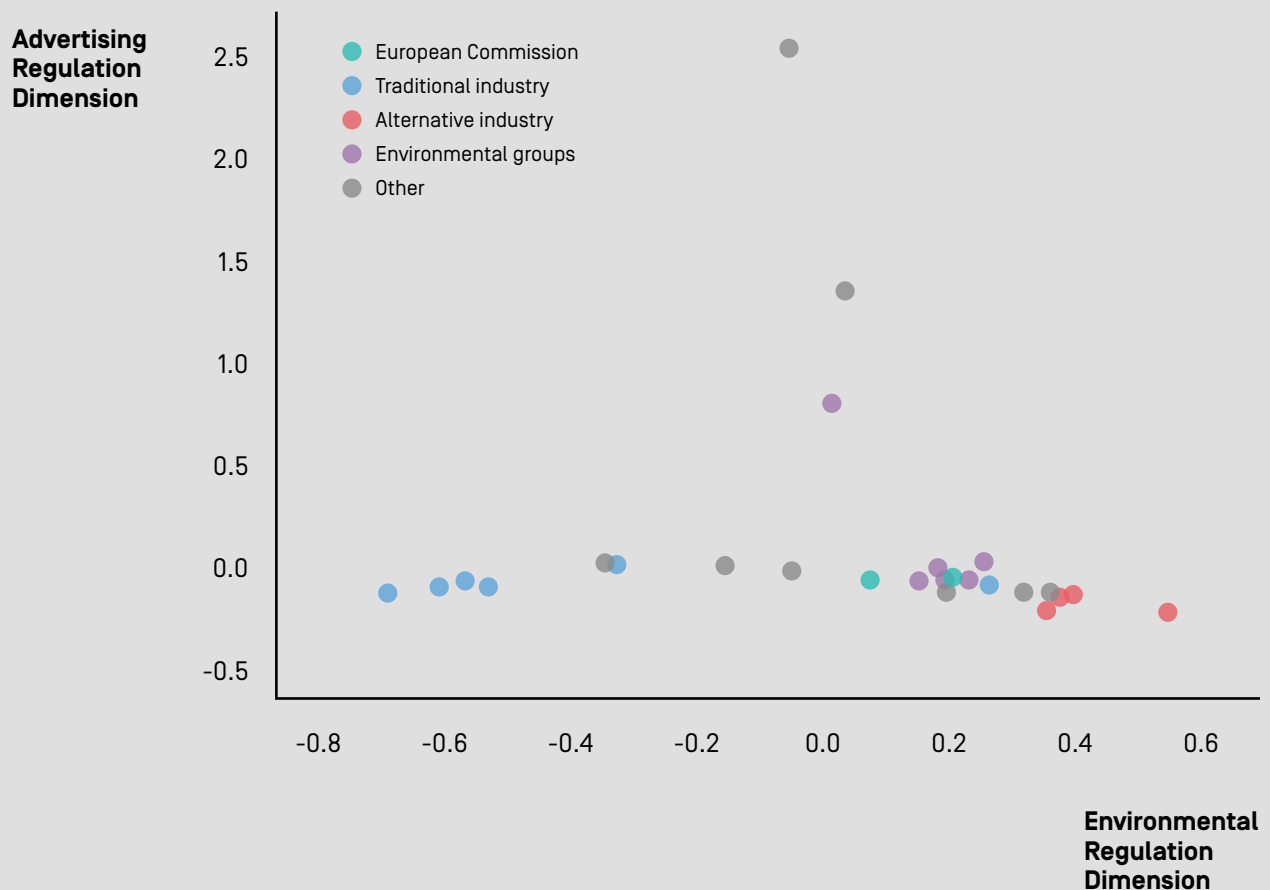
"Legislation on CO_2 from cars will oblige car makers to implement CO_2 saving technology on their vehicles. (...) They appear not to be willing to pay to avoid climate change, and do not even consider lifetime **fuel** savings, even if to do so would be in their own best interests. (...) CO_2 regulation will lead to a quicker and more widespread adoption of **fuel** saving technology across Europe's car fleet. (...) Strong regulation will slow climate change, strongly reduce our oil bill and bring high tech development to Europe."

Not only can we plot where interest groups fall on the most salient dimensions of debate, but we can also plot where various drafts of legislation fall.

In **Figure 1**, the European Commission's first proposed draft and the final proposal are both plotted. We can see the legislative draft move more in line with traditional auto manufactures over the course of the debate (from the first draft to the final proposal).

The CO_2 regulation case is useful because we have all the position papers and can therefore observe the power of the software to capture how groups are arguing together in clusters. However, this type of case, where traditional corporate interests are counterbalanced by citizen and alternative start-up industries, is an exception to the rule. In the majority of cases in both Europe and the U.S., corporate interests dominate and are often completely unchecked.

In policy debates where scholars have meticulously gathered data that is not publically available, we know that corporate interests far outweigh citizen interests. Across the 44 EU issues in our study, 57% were dominated by corporate interests (defined as over 50% of mobilized groups coded as corporations, business or trade associations). None of the issues were dominated by citizen interests (other types of interest including national, state and municipal actors, think tanks, hospitals, etc).

This balance exists in the U.S. as well. A study of U.S. lobbying on a random sample of 98 issues

reveals that 57% of the cases were dominated by corporate interests (defined as over 50% of interests lobbying). Only 15% of cases had a majority of citizen interests.[17]

Here is the simple reality: in the majority of cases corporate interests dominate. And in many cases they are the only voices. One example from the EU was the European Commission's proposal to regulate "Over the Counter Derivatives." A derivative is a contract between two parties linked to the future value or status of the underlying to which it refers (e.g. the development of interest rates or of a currency value, or the possible bankruptcy of a debtor). An over-the-counter (OTC) derivative is a derivative not traded on an exchange but instead privately negotiated between two counterparts.

These financial instruments were also hotly debated in the U.S., and after the 2001 Enron Scandal, Sen. Dianne Feinstein (D-Calif.) proposed to regulate them in the 107th Congress. The result: "Organizations like the International Swaps and Derivatives Association and the Bond Market Association initiated a campaign to convince legislators that their particular market did not need government regulation. Said one lobbyist '*we made the argument . . . that there is no need to regulate these particular instruments by any entities, because in fact what you would do is have regulations imposed on them that would then prove adverse to their efficient operation and they wouldn't be used.*' The end result, he added, is that traders in an affected market would rely '*on some other financial instrument that may not be as efficient.*' In the end the Feinstein bill never made it out of committee."[18]

Since there is no public posting system in the U.S., we do not have a systematic understanding of who was lobbying and what they were arguing. However, the Baumgartner team identified 23 major organized interests lobbying on this issue in the U.S. in 2002 through snowball sampling during elite interviewing. Again, 71% of them were corporate interests. Additionally, one of us (Drutman) examined agency implementation of financial rules mandated by the Dodd-Frank Wall Street Reform

and Consumer Protection Act and found that for every one meeting the implementing agencies had with representatives of consumer and pro-financial reform groups, they had 14 meetings with banks and their representatives.[19]

As of 2010, reporting of OTC derivatives was still not mandatory in the European Union. As a result, policymakers, regulators, and market participants all lacked a clear overview of what was going on in the market. In its draft proposal, the Commission

proposed that information on OTC derivative contracts should be reported to trade repositories and be accessible to supervisory authorities. The new European Securities and Markets Authority (ESMA) would be responsible for the surveillance of trade repositories and for granting or withdrawing their registration.

The Commission also proposed that standard OTC derivative contracts be cleared through central counterparties (CCPs). CCPs are entities that

Figure 2 | Two-dimensional policy space on the EU OTC Derivative Debate
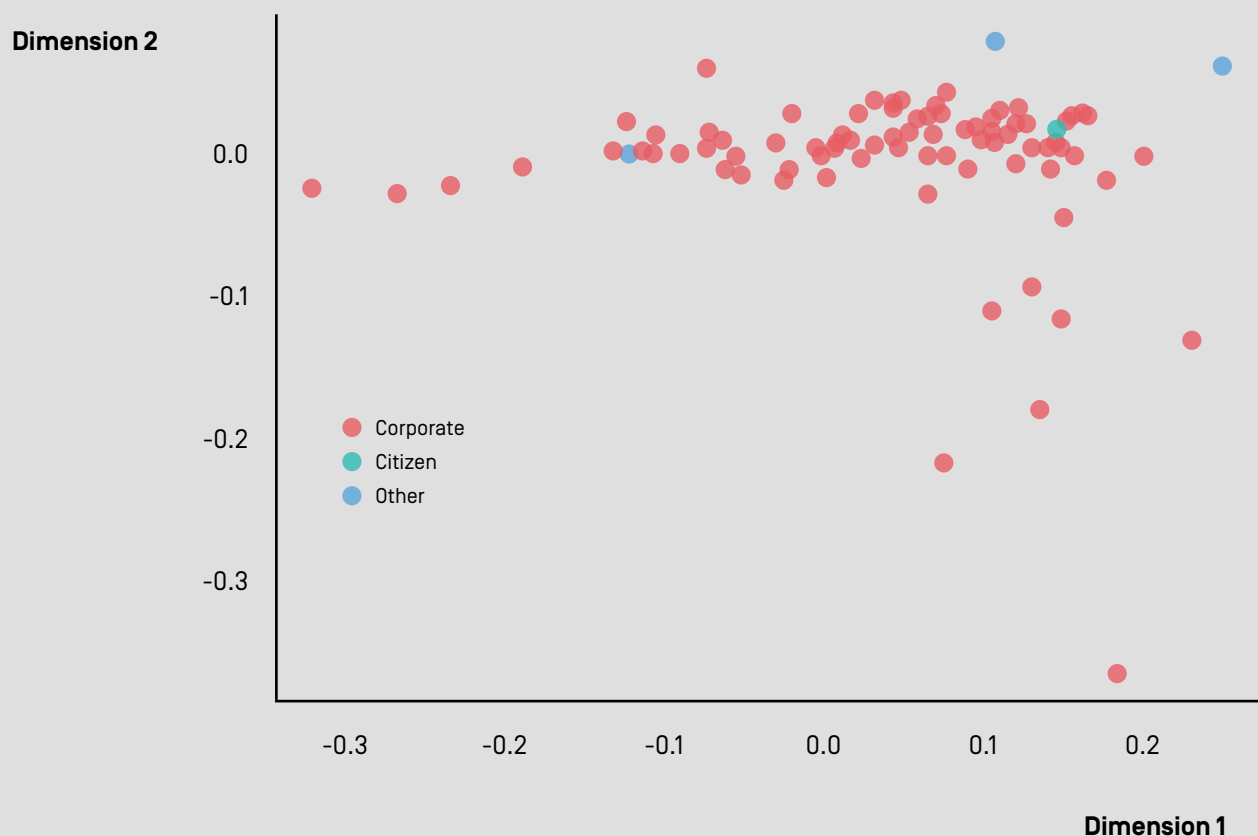
interpose themselves between the two counterparties to a transaction and thus become the "buyer to every seller," as well as the "seller to every buyer." This will prevent the situation where a collapse of one market participant causes the collapse of other market participants, thereby putting the entire financial system at risk. Besides the increased transparency, the proposal also intends to reduce counterparty credit risk by introducing stringent rules on prudential (e.g. how much capital they need to hold), organizational (e.g. role of risk committees), and conduct of business standards (e.g. disclosure of prices) for CCPs; mandatory CCP-clearing for contracts that have been standardized (i.e. they have met predefined eligibility criteria); and risk mitigation standards for contracts not cleared by a CCP (e.g. exchange of collateral).

These formed the two primary dimensions of debate. Dimension 1 (x axis in **Figure 2**) was for more (to the left) and less (to the right) regulation. Dimension 2 (y axis) was for requiring CCPs (to the top of the graph) and against requiring CCPs (to the bottom). The entities for more regulation to the left of the graph were composed of only the EU institutions. The massive bulk of interest groups to the right were all arguing for weaker regulation, like the Swedish Association of Corporate Treasures, which argued in their publicly posted position paper: "Less flexible and more standardized instruments in terms of for example, fixed amount, dates and rates will make hedge accounting treatment under IAS 39 more difficult and in certain cases impossible. This would increase earnings volatility for the companies that choose to hedge and many companies could opt to reduce or discontinue hedging altogether." As you can see, this is very similar to the arguments put forward by financial industry lobbyists a decade earlier in the U.S., as discovered in the elite interviews conducted by the Baumgartner, et al. team.

The EU institutions at the top of the y axis were arguing for mandatory CCP-clearing for derivatives, but there were also industry groups opposed to this proposal, including the World Bank Group, which noted in their publicly posted position paper:

"The CCP could become a main source of systemic risk...the public disclosure of trading and position information may have very negative effects: reduce liquidity, price discovery altered and manipulation of markets."

> **Right now in the U.S. on legislative issues, we have no systematic idea of who is lobbying on each issue, what they are saying, who they stand with, or what the lay of the land looks like on any given policy debate.**

The OTC Counterparty Repository (COM (2010) 484) proposal was written to establish common rules to increase security and efficiency of over-the-counter (OTC) derivatives. It came about as a response to a communication in March 2009 called "Driving European Recovery." It was part of a larger international effort to stabilize the financial system, particularly the OTC derivatives market. A consultation was held that received 111 responses, 100 of which were authorized for publication, and all of which represented the interests of the financial services industry. There was no organized representation of citizen voices other than the European Commission, which is to represent the interests of the entire EU citizenry, just like the U.S. Congress.

It should be clear that having this type of information—who was lobbying, what they were arguing, and whose voices were missing—would be a drastic improvement over what the public, press, and congressional staffers and members currently have available.

To reiterate, right now in the U.S. on legislative issues, we have no systematic idea of who is lobbying on each issue, what they are saying, who they stand with, or what the lay of the land looks like on any given policy debate.

Implementing our Posting and Mapping system would give members of Congress, congressional staff, the press, and concerned citizens a centralized place to learn who is attempting to shape American public policy, in what directions they are attempting to push it, and whose voices are not being heard.

III. ASK

The final part of our proposal aims towards improving the diversity of viewpoints included in policymaking conversations. Even if we move to a more transparent platform, it is quite possible that on many issues, only one side will have the resources and the wherewithal to participate. However, because we believe that the policy making process should give all sides of the argument an adequate hearing, we believe it is important to make sure that the underrepresented side gets to make its case.

One advantage of our proposed system is that it would become easy to map the perspectives that are already at the table, and to thus figure out who is not represented.

In the European Union, a large number of "Consultative Committees" exist. The European Commission invites interest groups to serve on these committees, ensuring that the committees include a balance of voices representing business, as well as citizen interest groups like consumer groups, environmental groups, unions, and women's

groups. These committees are consulted when legislation is being drafted to get early and balanced input.

We don't propose to establish a network of new committees. But we believe we could capture the spirit of the EU process.

Again, because this would be a voluntary system, we couldn't mandate that congressional committees make sure they get all viewpoints before passing legislation. Besides, it would be difficult to write into law what would satisfy such a requirement.

But we believe that two aspects of this system could push us towards more asking.

The first is that the mapping process would reveal the relative balance of advocacy. If particular sides or views are underrepresented in the comments, advocates on the underrepresented side would have a strong claim for a broader forum to present their case. Additionally, journalists and members of Congress would be alerted to the imbalance and could take action.

The second benefit is that the mapping process would highlight the larger-scale deficiencies in advocacy. This could help public-spirited foundations and other donors to better appreciate where advocacy gaps exist, and attempt to fill those gaps by asking more people to participate on underresourced issues.

ON THE ADVANTAGES OF A WELL-CONSTRUCTED LOBBYING INFORMATION SYSTEM

We believe this system would achieve the following results:

Increased Transparency and Accountabiility

This system makes the legislative process much more transparent. If it works well, we will have a better understanding of who advocated for what, and why. Under current lobbying disclosure laws, lobbyists disclose the issues on which they are working, but rarely the positions. Only sometimes do they mention actual legislation, often obfuscating with general terms like "trade issues" or "tax policy."

The improved transparency will produce more accountability. Lobbyists can tell staffers many things, and unless the busy staffer aggressively fact-checks what she is told, she does not know whether she is getting a fair assessment of an issue.

But the busy staffer does not have time to do this fact-checking. So she must rely on her own intuition and whatever other communications come her way, or on whomever she happens to know who can provide an independent assessment.

There are multiple sides to every argument. Almost all advocacy presentations, even if they are factual, pick and choose their facts and frames, leaving out certain items while emphasizing other items. To the extent that they involve forecasts and predictions, lobbyists may simply be passing along others' research. But as most researchers and forecasters know, it is very easy to shade certain results in order to achieve a particular result.

By requiring all position papers and fact sheets used in lobbying to become public, our hope is that they can be subjected to more scrutiny. Those with competing perspectives can challenge omitted facts or research methods. They can also use both traditional media and social media to call attention to errors.

We fully acknowledge that public policy analysis is complicated and many public policies involve difficult trade-offs between competing public policy values. We are not so naïve to fall prey to technocratic utopian visions of pure scientific administration and fully rational scientific debate. We recognize that there will be disputes over measurement and interpretation.

However, we also believe that advocacy as it is currently practiced involves much sloppy and unsubstantiated analysis, as well as considerable factual omission. Our hope is that by bringing all lobbying advocacy into the open and subjecting it to a kind of public review, it will weed out the most misleading policy papers and analyses.

Over time, we could envision a PolitiFact for lobbying advocacy emerging. Perhaps a rating system might even develop around individual lobbyists and organizations, and those who are found to be distorting or misrepresenting the truth will lose credibility.

A More Level Playing Field

Corporate interests have the advantage of possessing enough resources to hire a large number of people to go out and talk to a wide range of congressional staffers, giving them their side of the argument. If a congressional staffer hears only from one side, she may reasonably expect that if there were another side, she would have heard it. Thus she might conclude that there is no objection.

On many issues, there is in fact an objection, but the would-be objectors simply don't have the resources to even know a proposal is in the pipeline, or to reach out as widely or as frequently once they know of a proposal that concerns them. If lobbying is in part a game of who can send the most people to have the most meetings and make the most follow-up phone calls, this puts entities that can hire the most and most well-connected lobbyists at a distinct advantage over entities that only have the resources to reach offices in impersonal ways, such as leaving one-pagers with the office receptionist or through an e-mail blast.

Under our proposal, if a staffer wanted to know at a glance the arguments on all sides of an issue, she could simply turn to the website. Rather than relying on who comes to her or having to proactively seek out opposition groups, she will have the lay of the advocacy land at a glance.

This would also give public-interest organizations that don't have the resources to reach out to every office and staffer the opportunity to reach many staffers at once through a good policy paper.

Better Staffer Decisions

From the perspective of a staffer, this would make life considerably more efficient. Rather than having to frantically search through e-mail or cull through an overflowing stack of papers and folders, staffers could just go to the website to learn who is arguing what on a particular bill or policy, and who to contact should she have any questions.

Through the semantic mapping software we've discussed, she could easily get an overview of the perspectives, rather than having to read through all the papers individually, which could take days if not weeks.

Obviously, this can never fully replace the work that staffers should do in thinking through complex policy issues. But it should save them considerable time in organizing the resources they need, freeing them up to do more of their own independent analysis.

Since congressional offices suffer from a lack of resources, this website could be a very cost-effective way for congressional offices to save lots of time and do more with less. Using this website would make it easier for staffers to get smart in a few hours on issues that in the past might have required them days to survey the lay of the land.

A Better Understanding of the Gaps and Duplications in Policy Advocacy

A final benefit is that this process will help identify and clarify gaps in existing policy advocacy. The mapping process will show where advocacy holes exist and what issues are not receiving adequate representation. The mapping process can also highlight where multiple groups are duplicating

efforts, and where those efforts might be wasted in the generation of duplicative policy papers.

To the extent that foundations and other sustainers of general interest advocacy wish to make the most efficient use of their resources, this could provide strategic guidance for their efforts.

IMPLEMENTATION

This system would be implemented by the Library of Congress, which already provides online versions of bills as soon as they are introduced. This system could seamlessly be added to the Library of Congress's Congress.gov portal by adding one additional tab to the Current Legislation Tracking area.

Policy positions and white papers would be linked to bills, and organized and summarized by perspective. Larger bills would be broken into smaller subsections.

Interactive Elements

Implementation could involve creative ways of annotating, debating, and rating. For example, we could imagine opening up each policy as a Google Doc, in which other lobbyists and incorporated groups would be able to directly comment, challenging facts or arguments directly. Perhaps staffers could ask questions directly, asking for supplementary details. We also imagine comment

threads arguing over particular points. Our proposal would be to take full advantage of the technological potential of the Internet as a way of aggregating ideas and information.

Citizen Participation

Citizen participation poses a challenge. On the one hand, we want to maximize citizen participation. On the other hand, we don't want to overwhelm congressional offices with a fire hose of inchoate demands.

One possibility to create a way for citizens to register their support for particular policy positions by voting them up or down, a system we could model after Reddit. We could also simply create a space for citizens to vote for or against a bill, or even vote for or against specific subsections.

One challenge of such a system (as with all direct communication systems) is that it is hard to know how representative public participation

is. One way to solve this might be to register citizen users and ask them to verify some basic demographic information. Then, as with polling, proper weightings could be added to generate a representative sample of the public to go alongside with the observed patterns of participation.

> **One possibility to create a way for citizens to register their support for particular policy positions by voting them up or down, a system we could model after Reddit.**

We could also allow a space where a select group of citizens could deliberate on legislation of specific proposals based on the materials provided, using deliberative models developed by organizations like America Speaks and the Jefferson Center.

Another model here is PopVox.com, which has developed a platform for citizens to give their opinions on legislation and then aggregate the results. PopVox.com also collects relevant position papers as much as they are able.

Space for Additional Analysis

In addition to the semantic analysis, CRS could add additional value by providing short written reports summarizing key arguments on all sides, with additional analysis based on the advocacy. We could think of these as meta-white papers.

Since the papers and materials should all be downloadable in bulk format, other organizations could also provide their own meta-analysis of the policy positions.

POSSIBLE OBJECTIONS

We see a couple possible objections, and it's important to address them directly.

You're not addressing the real issue, which is that lobbyists and special interests secure policy positions through campaign contributions.

It's true, this proposal does not address the campaign finance system and its many pathologies. Campaign contributions play a role in shaping the policy agenda and help those who make campaign contributions to gain access to members of Congress.

Certainly, money plays a role. But information plays a larger role. Many competing lobbyists and special interests purchase access through campaign contributions. But ultimately their ability to secure favored policy positions depends on making a persistent and convincing case. Moreover, by leveling the playing field and improving the tools that members and their staff have to make good policy decisions, we push back against the potentially unfair access that campaign contributors enjoy.

Moreover, attempts to reform the campaign finance system are currently stalled in Congress, and likely to stay that way for the near future. We could begin to develop this system immediately, and without waiting for legislation to pass.

However, even if we were to enact large-scale campaign finance reform, corporations would still hire copious lobbyists, and staffers would still spend time meeting with lobbyists because staffers still want to be able to ask direct questions. Lobbyists would continue to provide valuable policy expertise and information, which we argue is more important as it shapes the policies.

Lobbyists won't disclose the "real reasons" for their positions.

Certainly, it's possible that lobbyists may tell staffers one thing and list other reasons publicly. There may be many reasons to support any given policy, some of them better than others. All advocacy involves some mix of narrow, selfish gain and public benefit. Successful advocacy highlights the public benefit of policy, arguing that whatever gain a private interest gets is in the service of the public good.

For example, pharmaceutical companies repeatedly argue that, yes, they make profits from high drug prices, but the public benefits too—if not for these profits, they would not have the resources to invest in new drugs. The policy debate over drug pricing thus revolves around the legitimacy of those claims.

This is a well-known and widely-debated example. We would not expect pharmaceutical companies to

ever publicly argue that they want to charge more simply to make more money for their executives and shareholders. It is up to advocates on the other side to make those arguments, and it is up to the companies to defend against them. This is the nature of public policy debate: All sides present their most convincing argument for why what they want is in the public interest. The best we can hope for is that out of a vibrant public discussion, only the most convincing and well-supported claims are left standing. Whatever the "real reasons" might be, what should matter at the end of the day is whether or not the policy can be justified on public interest grounds.

> **Partisan voting patterns may at least partially be a function of the ways in which partisan leaders control the flows of information in the legislative process.**

Certainly, lobbyists are free to provide additional material to individual offices that they would not wish to disclose publicly. But since we believe that congressional offices will rely on this system to make decisions, there is a strong case for lobbyists to participate by including their materials. After all, if certain groups or interests do not participate, this may raise additional suspicion and scrutiny, which may undermine their advocacy efforts.

Congressional offices are too partisan and/or too overworked to make use of this.

Another objection that congressional offices are not all that interested in making good policy: They are run and staffed by partisan ideologues who are not interested in more information, and they already know what they think.

Certainly, in the current political environment, this is a risk. And indeed, much of the information shared may simply be of the "preaching to the choir" variety. However, our hope is that as this system develops, it has the capacity to become such

a profound resource that it potentially changes how offices process information, and it improves the overall deliberative capacity of Congress as an institution. At the very least, it is an improvement over what exists now, and at least offers the *possibility* of a more thoughtful debate.

As political scientist James Curry has documented, rank-and-file members of Congress typically have very little information about legislation, and they mostly rely on partisan bill summaries and talking points when they are given bills at the last minute (as they increasingly are). Curry's conclusion is that the more information lawmakers have about legislation, the more likely they are to come to their own conclusion, apart from partisan considerations.[20] This suggests that partisan voting patterns may at least partially be a function of the ways in which partisan leaders control the flows of information in the legislative process. Lawmakers want more information—they just have a hard time acquiring it. Our system could make it easier for lawmakers to get well-organized, balanced policy information, and it could possibly reduce some of the polarized voting patterns by giving offices some capacity to think more for themselves.

Obviously, there are limits to how much information offices can process—limits that are particularly acute given the mismatch between the limited staff capacity that most offices possess and the number and variety of issues members of Congress are expected to evaluate intelligently. For these reasons, Congress needs more staffing capacity. But that is a separate issue. When Congress expands capacity (and at some point it must, to cope with the challenges it faces), our system will make it easier for staff to do the jobs they need to do. And in the meantime, this system will provide a much-needed support for the limited capacity that does exist.

While we can't claim this will alone change the culture of decision-making within Congress, we can make the case that it could help create the conditions for more thoughtful deliberation.

This raises security or privacy concerns.

It's possible that some lobbying materials could raise privacy or security concerns. Again, given that this will be a voluntary system, there is nothing to stop individual lobbying firms from distributing confidential information to individual offices. Lobbyists or groups do not have to disclose anything that they think raises privacy or security concerns.

Lobbyists just wouldn't participate.

An obvious worry is that lobbyists would move away from using policy papers, or find some way around the rules. Lobbyists might say that their ability to provide candid advice in memos would be undermined. They also might argue that this transparency would undermine their ability to tailor arguments for different congressional offices. Or they could argue that this transparency creates an added compliance cost to their work, a cost that will fall hardest on those with the fewest resources.

However, a system quite similar to this has been working in the policymaking community in Brussels for years. Hundreds upon hundreds of successful public consultations have been held, while advocacy organizations continued to have one on one meetings with policymakers and staffers, highlighting the elements of a proposal that are of particular interest to that audience. In addition, there is evidence that the presence of such a public consultation system, coupled with asking underrepresented groups to comment, results in more balanced outcomes.[21]

It is our sincere hope that the real power of this proposal will come from staffers demanding it. Staffers should value the convenience of knowing where different organizations stand on an issue, as well as the ability to access and map arguments. They should also be eager to know whether they can trust the arguments lobbyists are making. If lobbyists are unwilling to share their documents publicly, this should make a staffer skeptical—what is this lobbyist hiding?

CONCLUSION

For decades, more and more organized interests—especially business interests—have been coming to Washington, hiring more lobbyists, and pressing more demands on Congress. Yet, the fundamental challenge of a legislature, to resolve "the mischiefs of faction" (Madison's timeless phrase), has not changed, even as the difficulty of accomplishing this challenge has increased.

For decades, congressional offices have found themselves increasingly overwhelmed by the growing flood of demands. As Congress has failed to invest in its own policy capacity, the ability of offices to handle this ever-expanding flood has worsened, leaving congressional offices increasingly dependent on whichever lobbying interests have the resources to show up and provide help. And the lobbyists who show up are primarily corporate lobbyists. The system is also far too chaotic, and this chaos only serves to reinforce the business advantages.

It is time to modernize our lobbying and legislative information system. In the interests of accountability, transparency, and democratic fairness, we've proposed a straightforward system that takes advantage of modern technology, making it possible for Congress to be more responsive and fair to the broad range of interests who wish to be heard. It is now 2016, not 1789. It is time our legislative process reflected that.

Notes

[1] Lee Drutman, "How Corporate Lobbyists Conquered American Democracy," *The Atlantic*, April 20, 2015, **http://www.theatlantic.com/business/archive/2015/04/how-corporate-lobbyists-conquered-american-democracy/390822/**.

[2] Lee Drutman, *The Business of America Is Lobbying: How Corporations Became Politicized and Politics Became More Corporate* (New York, NY: Oxford University Press, 2015).

[3] Frank R. Baumgartner et al., *Lobbying and Policy Change: Who Wins, Who Loses, and Why* (University of Chicago Press, 2009).

[4] Frank R. Baumgartner et al., "Money, Priorities, and Stalemate: How Lobbying Affects Public Policy," *Election Law Journal: Rules, Politics, and Policy* 13, no. 1 (March 1, 2014): 194–209, doi:10.1089/elj.2014.0242.

[5] Christine Mahoney, *Brussels vs. the Beltway: Advocacy in the United States and the European Union. (*Washington, D.C.: Georgetown University Press. 2008).

[6] Christine Mahoney and Frank R. Baumgartner, "Partners in Advocacy: Lobbyists and Government Officials in Washington," *The Journal of Politics* 77, no. 1 (January 1, 2015): 202–15.

[7] Lee Drutman and Steven M. Teles, "A New Agenda for Political Reform," *The Washington Monthly*, May 2015, **http://www.washingtonmonthly.com/magazine/marchaprilmay_2015/features/a_new_agenda_for_political_ref054226.php?page=all**.

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[10] Nicholas W. Allard, "Lobbying Is an Honorable Profession: The Right to Petition and the Competition to Be Right," *Stanford Law and Policy Review* 19, no. 1 (2008).

[11] Heike Klüver, Christine Mahoney, and Marc Opper, "Framing in Context: How Interest Groups Employ Framing to Lobby the European Commission," *Journal of European Public Policy* 22, no. 4 (2015).

[12] Measuring Interest Group Framing Strategies in Public Policy Debates. Christine Mahoney and Heike Klüver. *Journal of Public Policy*. 22(4). (2014).

[13] Schonhardt-Bailey, C. (2005) 'Measuring ideas more effectively: An analysis of Bush and Kerry's national security speeches', *PS: Political Science & Politics* 38(4)**:** 701-711.

[14] A common goodness-of-fit measure that measure the actual distribution pattern to a hypothetical distribution that was completely random with no relationship at all.

[15] In the following excerpts, only the 15 terms with the highest Chi2 value are marked in bold. Further terms related to these clusters are not highlighted.

[16] Lowe, W. (2009) 'Yoshikoder, Software for multilingual content analysis, Version 0.6.3., **http://www.yoshikoder.org/**, last accessed on 4 May 2009'.

[17] Data from **http://lobby.la.psu.edu** see Baumgartner et al (2009) *Lobbying and Policy Change: Who wins, Who loses, and Why*. Chicago: Chicago University Press.

[18] Interview quote from: **http://lobby.la.psu.edu/_107th/115_Derivatives/frameset_derivatives.html**

[19] Lee Drutman, "What the Banks' Three-Year War on Dodd-Frank Looks like," July 22, 2013, **http://sunlightfoundation.com/feature/dodd-frank-3-year/**.

[20] James M. Curry, *Legislating in the Dark: Information and Power in the House of Representatives* (Chicago ; London: University Of Chicago Press, 2015).

[21] Christine Mahoney, *Brussels Versus the Beltway: Advocacy in the United States and the European Union* (Washington, DC: Georgetown University Press, 2008).