

# ECONOMIC SCIENCES

## LOBBYING AS A FORM OF SHADOW RENTAL RELATIONS

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### Abstract

The concept, the characteristic features of lobbying, the factors affecting it, the scale in foreign countries, legislative regulation in the United States, the EAEU member states, and also provides recommendations on using the experience of foreign countries in improving legislation in the field of lobbying interests in the post-Soviet states are investigated in the work.

**Keywords:** law, lobbyism, shadow economy, corruption, promotion.

### Introduction

The processes of globalization and internationalization are clearly traced through the interaction of business and government agencies in order to achieve positive results in effective social and political decisions. Its representatives strive for mutually beneficial conditions of partnership, in the modern realities of a democratic society. A high level of cooperation between the authorities and representatives of society is possible provided that certain "rules of the game" are observed which are enshrined in the relevant legal acts.

An important place in such legislation is occupied by the institution of lobbying interests, which is widely developed in countries with market economies, as evidenced by the large number of mentions in the media, scientific works and articles on this topic. The phenomenon of lobbying can be interpreted in different ways. In this regard, we will present several approaches to the essence of lobbying: instrumental (lobbying - forms and methods of influencing various decisions of power structures), institutional (lobbying as a political institution for effective interaction between society and representatives of state power), procedural (lobbyism associated with the procedure for making appropriate solutions) [1, p. 217].

### Main part

Lobbying of interests – the process of spreading ideas and views by influencing administrative and power structures to achieve the desired result.

It has some features that characterize the features of the process of promoting certain goals, regardless of the interpretation of lobbying:

- closed type of relationship (lack of publications in the media, Internet networks activities of lobbyists);
- division into person (individual, trade unions, associations and non-governmental organizations), object (government agencies, local administration, various levels of government), subject (why the subject lobbies his interests) lobbying;
- promotion of certain ideas to achieve specific goals;
- mediation between representatives of society and power structures, i.e. lobbying allows representatives of society to take indirect "participation" in decision-making at the local and / or state level is main function of the advocacy service representative.

Among the factors influencing the development of the process of promoting interests, the following groups can be distinguished:

- political (characteristic features of the modern political regime and political system, interaction between the authorities and society at the local and national levels, features of political decisions in the state, etc.);
- cultural (political culture and its characteristics);
- historical (the historically established practice of the relationship between society and power structures, political traditions in society);
- legal (characteristic features of the existing legislative framework for control, legal differentiation, development of lobbying activities);
- social (the existence of various associations, organizations and other structures that are ready to promote their interests to achieve a certain goal, the need for society in lobbying);
- institutional (the main features of the state apparatus, the quality of communication between society and state structures, the specifics of the work of political institutions);
- economic (benefit, primarily economic, from lobbying);
- psychological (society's view of the institution of lobbyism as one of the ways to influence authoritative structures);
- ideological (understanding the foundations of lobbying, its role and place in the modern society);
- behavioral (the existence of models of lobbying in society) [2, p. 114].

The subject of promotion of interests can be divided into types:

- resource – public organizations, ministries, foreign representatives and other entities make an attempt to receive funds distributed by the authorities;
- difficulty – the subjects to resolve the issues that have arisen involve the object of lobbying or an individual who can help in the problem;
- position – first of all, the subjects gaining a certain advantage over competitors (for example, lobbying a legislative act on the import customs rate) or taking a position in the market (for example, establishing monopoly power) [3, p. 21-22].

According to the classification by subjects, experts distinguish:

- lobbying on the part of public structures, organizations, associations (for example, political parties, movements, trade unions, the "green peace", unions of businessmen and entrepreneurs, etc.);
- lobbying of their interests on the part of departments, ministries, various state committees (for example, promotion of military service by the Ministry of Defense);
- regional lobbying, that is, the influence on state power structures from representatives of regions (for example, regions, states, lands) in order to obtain advantages in any issue;
- foreign lobbying – articulation by foreign representatives, national communities of their ideas to make the necessary decision;
- an economic grouping of lobbyists, consisting of various corporations, industry complexes, financial and industrial groups.

Legislative regulation of the activities of lobbying structures allows using the methods of promoting their ideas permitted by the relevant acts: speaking in government bodies on a certain topic, conducting social surveys, preparing regulatory documents, holding conferences, round tables, personal meetings with officials, etc. [4, p. 189].

There is also shadow lobbying, in addition to legal methods, which is ways to reach a goal in violation of the law. For example, personal meetings with government officials are allowed, in the USA, Canada, China, but under certain conditions (reporting on the conversation, on the money spent by the representative of the lobbying organization, gifts, if they were made, etc.). It should be noted that failure to comply with one condition may lead to a corruption offense.

Lobbying of interests, as mentioned earlier, can be carried out both at the legislative level and outside the law. Examples of legislative lobbying activities include:

- discussion of a problematic issue in the media, PR agencies, news agencies, social networks, public events, conferences, rallies under the necessary angle for the lobbyist;
- conducting social research in the form of surveys and, quite often, individuals resort to a scuffle of results in order to provide the necessary information;
- conducting scientific research, where the result will be predictable, including with the participation of well-known scientists and large enterprises;
- known in the USA method of grass roots lobbying, which is putting pressure on the lobbying object by organizationally sending correspondence, messages on social networks, holding public actions, etc.;
- psychological pressure. For example, in the twentieth century, the National Arms Association in the United States sent 3 million telegrams to Congress in 22 hours to lobby for their interest and ran an active campaign to conduct phone calls. The result of this work was positive for the "National Association of Weapons".

As for the lobbying activity prohibited by law, or, as already mentioned in the work, shadow lobbying, the following examples can be given:

- the technology of unexpected lobbying of interests, which is implemented on two orderly points: first, a heated discussion of the issue takes place between the object and the subject, accompanied by material reward, and then, quite unexpectedly, a bill appears with, most often, a short discussion period, which in most cases is adopted;
- introducing another (parallel) bill for discussion, which can either propose a different scenario, convenient for lobbyists, or submit another bill that will compete with competitors in order to prevent the promotion of their law;
- holding closed voting, the results of which may differ from the results of open ones;
- "congestion effect" means the overload of individuals who make decisions, which can be at the hands of lobbyists, since not all draft laws are thoroughly and sufficiently discussed, which will lead to the success of a lobbyist campaign;
- "the effect of a favorable time": the favorableness of the introduction of the bill will have a significant impact on the result of lobbying activities: either before the parliamentary elections, or before the holidays, or before the parliamentary elections. With a high degree of probability, the bill will be adopted.

Like any economic and political phenomenon, lobbying is characterized by positive and negative factors. Among the positive ones are:

- the method of self-organization of society, according to which public opinion allows people to unite in order to express their position regarding any decision of the authorities;
- the opportunity for small groups of individuals to promote their ideas to achieve specific goals;
- as a result of interactions, representatives of society and state authorities, information on the necessary issue is expanded;
- leads to closer cooperation between the executive and the government elected by the people (for example, parliament);
- a way of finding compromises between groups of people and state and / or local authorities.

The negative consequences of lobbying interests are manifested in the following:

- lobbyism can act as a tool with which foreign business will promote its interests, which are often accompanied by losses for the entire society;
- often lobbying can be carried out using forms of manifestation of the shadow economy (corruption), which will contribute to the enrichment of certain groups of people;
- in case of incorrect lobbying policy, social injustice can develop in society, which manifests itself in the various possibilities of certain groups of the population.

If the state has a legislatively regulated promotion of interests, lobbying will help increase public transparency of political processes in society, will help increase the number of participants in the country's politics, which, in turn, will have a positive effect on the development of society, minimizing corruption offenses due

to the controlled legislative acts and transparent lobbying of interests.

If we analyze foreign countries in relation to lobbying, they can be divided into four categories:

- 1) countries with developed legislation (UK, USA);
- 2) states in which any aspect of activity is regulated by legislation (France);
- 3) the process of developing legislation in this area is currently underway in some states (Italy, Russian Federation, Republic of Kazakhstan);
- 4) a group of countries where attempt was not made to legislatively regulate lobbying interests (Ukraine).

The study of the history of the development of lobbying, which was documented in Great Britain for the first time in 1913, suggests that the market for services to promote certain ideas, goals, objectives, has more than 4 thousand representatives, and the turnover of funds in this market exceeds 2 billion pounds (the third largest lobbying market (after the US and EU)).

The formation of a large market for lobbying services is impossible without effective work on the legislative regulation of the sphere of promotion services in legislative and other bodies. The Public Sphere Standards Committee (Nolan Committee) was created in 1994, whose work became the basis for the development of such principles of lobbying as honesty, openness, accountability, objectivity, which should be followed not only by lobbyist organizations, but also by members of the House of Commons, etc.

The reports of the Nolan Committee made possible to pursue a policy of self-regulation in the lobbying industry, which allowed the specialized organizations to create the APPC - the Association of Professional Political Consultants, which called for the creation of a public register of participants, the adoption of a code of conduct.

In 2014, the government recognized the self-regulation policy as ineffective and adopted the "Transparency of Lobbying, Non-Party Campaigns and Trade Union Management", where for the first time in its history a procedure for registering representatives of the lobbying industry was developed and implemented, and a year later, in 2015, a register with lobbying organizations.

It is worth noting that the practice of compulsory registration of lobbyist organizations is used in developed countries, for example, in Germany, it is necessary to register lobbyist unions in order to obtain a legal opportunity to participate in the work of state bodies [5, p. 203-204].

Among the shortcomings of the legislation adopted in the UK, one can note:

- the law was aimed at lobbyists providing advisory services, but not at internal lobbyists (government and parliament employees) who had a great influence on decision-making;
- consulting organizations are required to register, but employees of these enterprises are not required to go through the registration procedure;

– also persons for whom lobbying of interests is not their main occupation are not required to register.

The monitoring of lobbyist activities in France was closely related to incompatibility with ideas of general interest. At present, the authorities have come to the conclusion, based also on the experience of foreign countries (USA, UK), that lobbying has a positive impact on public decision-making in meeting the expectations of society.

In the initial stages, as in the UK, the promotion of interests was accompanied by a self-regulation process, according to the Charter of Professional Deontology of the French Association of Lobbying and Public Affairs Councils. In the 2000s, the parliament took measures to monitor lobbying activities in the form of registration in the relevant Bureau of the National Assembly (in the period from 2007 to 2012, 141 representatives were registered).

The main legislative acts in France aimed at legalizing and controlling activities to promote interests are the 2013 law on the transparency of public life and the 2016 law on transparency, the fight against corruption and the modernization of economic life.

Currently, the Code of Ethics, legislative acts, including those mentioned above, have approved a list of measures aimed at preventing the coalescence of lobbying and corruption:

- each deputy is obliged to declare his visit to a legal or natural person, subject to full or partial payment by the latter (any gifts exceeding the price of 150 euros must also be included in the declaration);
- it is necessary to follow the principle of publicity of information about the activities of representatives of interests;
- granting access to parliament to lobbyists using a special token for 1 day, refusal to provide access due to violation of the law, or a ban on visiting some premises;
- presentation of data on the organization in which the representative of interests works;
- a ban on knowingly providing false information to a representative of the authorities [6, p. 64–67].

Legislation regarding the promotion of their interests in the United States began in 1946 and obliged to provide reporting on all economic activity, transactions with funds, go through the registration procedure for entities. At the end of the XXth century (1995), reporting grew into a systematic procedure, and sanctions for non-compliance were tightened to imprisonment. The active work of lobbying enterprises, according to a study by the international consulting company McKinsey, allows an enterprise for the production of commodities or services to provide 30% of the profit, while for banking organizations this figure is close to 50% [7]. For this reason, organizations actively use the corresponding services: the expenses of large enterprises in the IT industry for the period from July 2019 to July 2020 exceeded USD 50 million, which is 5 times more than in 2010 (Fig. 1) [8].

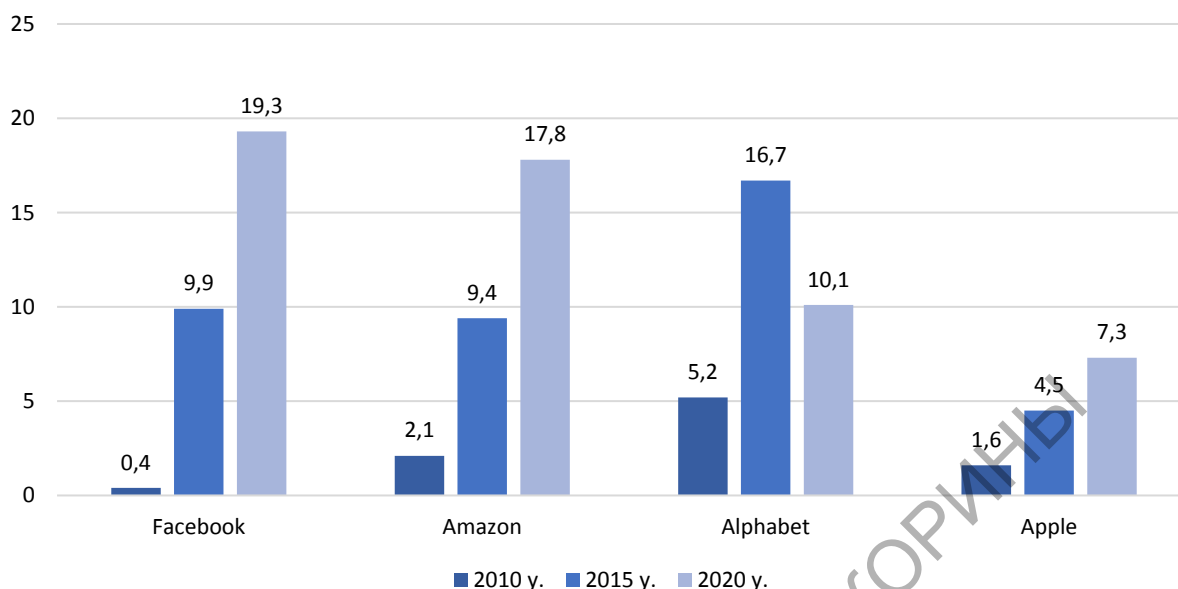


Figure 1 – Lobbying costs for IT industry representatives, mill. USD

In general, the expenses of organizations for lobbying interests in the United States at the end of 2019 amounted to 3.51 billion US dollars (for example, the scale of exports of services to the Republic of Belarus

in 2019 amounted to 9 billion US dollars). In other words, the costs of economic agents for promoting their ideas in government bodies for more than 10 years (Fig. 2) exceed the figure of 3 billion US dollars [9].

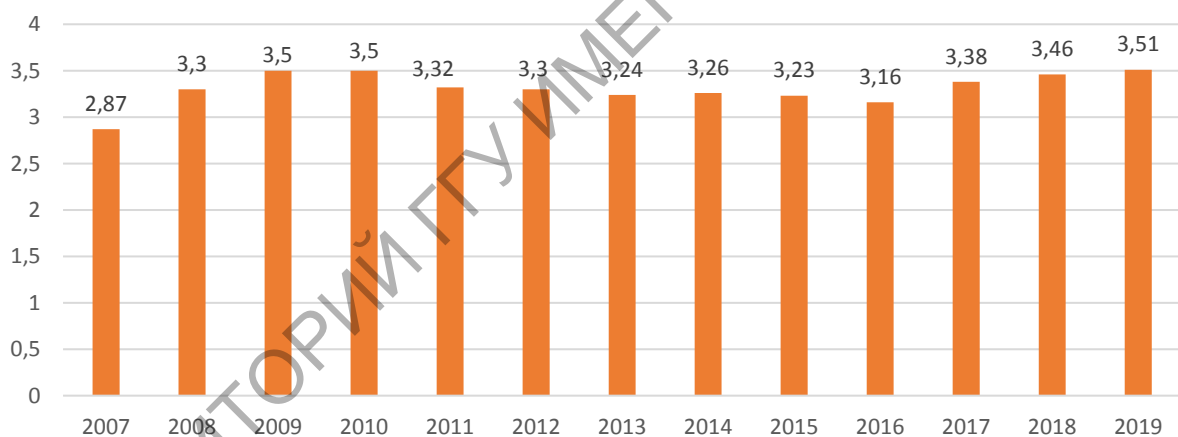


Figure 2 – Costs of lobbying, bln. USD

A serious gap in countering lobbying in the United States, in the opinion of many experts (A.B. Belousov, J. Maskell, J. Stewart, etc.), is the problem of the so-called "revolving (lobbyist) doors" - the change of an employee of the state apparatus from his place of work to work on the provision of services to promote interests and vice versa: 41% of lobbyists are former government specialists in the period from 1998 to 2008. A number of researchers have emphasized the proximity of "lobbying doors" and institutional corruption for the following reasons: whether control will be carried out in accordance with laws or in a "sparing" regime; will professionalism become the basis for successful work or will the established contacts take this place; Is it possible to finance representatives of non-governmental organizations to advance their goals at the legislative level?

For these reasons, the «Leadership and Open Government Act» was passed in the United States in 2007, which defines a "cooling off" period (from 1 to 2 years)

during which former government workers could not engage in lobbying and juridical services, and in 2009 this term was increased (from 2 years to the end of the term of office of the Presidential Administration) [10, p. 565-571].

#### Findings

Adapting the experience of foreign countries in countering lobbying and corruption (in particular the United States) is extremely important for countries with developing economies, including the post-Soviet states – the EAEU member states.

Imperfection of legislation, incorrect interpretation of lobbying interests leads to the identification of the concepts of lobbying and corruption. For example, in the legislation of the Republic of Belarus, obtaining benefits for oneself and / or third parties, providing benefits is corruption [11]. In some forms (for example, holding face-to-face meetings of representatives of the state apparatus and business), lobbying is regarded as

bribery in the Russian Federation, the Republic of Kazakhstan, the Republic of Armenia and the Republic of Kyrgyzstan.

It should be emphasized that attempts to pass a legislative act that would regulate the activities of lobbyists were made in the Russian Federation: in 1995, 1997, 2003; the National Anti-Corruption Plan for 2012-2013 provided for a discussion on the regulation of lobbyists, and in the plan for 2014-2015 the development of the regulatory framework was discussed. Currently, promotion services are not regulated by the relevant legislation in Russia.

It is necessary to intensify the process of improving anti-corruption legislation in terms of lobbying interests in order to differentiate lobbying and corruption, stimulate the authorities to prevent the facts of lobbying (to counter various pressure groups) in the EAEU countries. In this regard, it is advisable to take into account the experience of the United States:

- providing systematic reporting on the economic activities of lobbying persons;
- passing the obligatory registration of a lobbyist;
- introduction of a period during which employees of the state apparatus cannot engage in lobbying services;
- listing of permitted methods and technologies of lobbying.

Currently, a dialogue between the authorities and representatives of society is needed in order to achieve sustainable socio-economic development of society, to combat shadow relations, which are increasingly manifested in the EAEU countries. The development of a law on the regulation of lobbying will help prevent the development of bribery and increase mutual understanding between the government and society, which will lead to effective economic solutions.

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