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The Unlobbyists

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The changing nature of politics has reshaped lobbying, not necessarily for the worse. Top dogs in Washington's influence industry are losing ground to a new breed.

The strategic adviser with clean hands, who stands aloof from the grunt work of cornering members of the House and Senate in Capitol hallways and the hassle of remembering committee secretaries by name, is now ascendant. Never mind those nightly fund-raisers.

If you look at the numbers, it may seem that lobbying is in decline, but it isn't; it's just taking different forms. What was once straightforward lobbying has become, in effect, a full service PR-advertising-social media operation, very little of which is covered by federal regulation.

In a field buffeted by the economic meltdown of 2008, the current legislative standstill on Capitol Hill, the emergence of high-tech competitors and the passage of the [Honest Leadership and Open Government Act of 2007](#) (which subjects registered lobbyists to a stringent regulatory regime including the threat of criminal sanctions and prison time), this shift in the influence industry poses a broader question. Are the days of the glad-handing lobbyist, carrying an envelope of PAC checks and the proposed wording of a client's legislative amendment, numbered?

Carter Eskew, a founding partner of [the Glover Park Group](#), which lobbies and provides a host of other services to clients, raised this question in a conversation with me.

Looking to future sources of new revenue, Eskew has concluded that " 'relationship lobbying' is dead, or at least not where the growth will be." The traditional lobbyist, he argues, is no longer the éminence grise of days past but instead has been reduced to serving as a conduit for campaign contributions from corporate and trade association PACs to candidates.

The action has shifted to what is known in the business as strategic advice: how to convince and mobilize voters and opinion elites in support of a client's agenda. According to Eskew, "Many years ago, members of Congress figured out what they really needed to worry about were their own constituent groups and their own voters."

So what does this new strategic adviser actually do? He or she can plan out a legislative campaign or a drive to affect the implementation of regulation, determine which officials and agencies must be dealt with, and propose potential coalition partners.

Interestingly, all this can be done without making direct contact with elected officials, congressional aides or top-ranked department and agency appointees and employees. This arms-length approach permits strategic advisers to avoid lobbying registration and reporting requirements.

Ed Gillespie, a former chairman of the Republican National Committee and a key adviser to George W. Bush, is the embodiment of the measured camouflage of top strategic operatives.

From 2000 to 2007, in partnership with Jack Quinn — a former chief of staff to Vice President Al Gore — Gillespie ran one of the most successful lobbying firms in Washington, Quinn-Gillespie. During that period, the firm's revenues [more than doubled](#), from \$7.6 million to \$18 million.

Gillespie left the firm in 2007, initially to become [counselor to President Bush](#). From that moment on, Gillespie disappeared from the ranks of registered lobbyists. In 2009 he formed [Ed Gillespie Strategies](#). The firm proudly declares:

“In 25 years in politics, government and business, Ed Gillespie has emerged as one of the premier communications strategists in America. He knows what it takes to effectively convey information and image in today's cluttered and constantly churning media environment.

“In two decades of public and private sector work, Ed Gillespie has successfully organized and managed coalitions focused on policies ranging from excise taxes to encryption reform to energy regulation. He has the management ability it takes to create the infrastructure, run the meetings, coordinate strong personalities, and circulate information and implement agreed upon strategy and tactics.”

None of these activities requires registration as a lobbyist or disclosure of fees.

In a [question-and-answer session](#) on Oct. 30 with students at the University of Chicago, Gillespie said about his firm: “What we do mostly is just public relations and strategic communications advice and guidance for a lot of different clients, trade associations and corporate America.”

Gillespie is by no means alone in his role as a strategic adviser not registered as a lobbyist. He and his colleagues are raking in large fees for performing similar services. Newt Gingrich, the former House speaker, was paid [\\$25,000 a month](#) for consulting and related services by Freddie Mac; Tom Daschle, the former Senate Democratic majority leader, is [a senior policy adviser](#) at [DLA Piper](#), “one of the largest business law firms in the world”; and Anita Dunn, former communications director in the Obama White House, is now [a managing director](#) at [SKDKnickerbocker](#), where she helps “NGOs, trade associations, Fortune 500 companies, and non-profit organizations to craft effective communications strategies.”

Many formerly registered lobbyists have decided to deregister in order to avoid falling under the new reporting requirements in 2007's Honest Leadership Act.

Both academics and policy experts say that [these reforms](#), adopted in the wake of [the Jack Abramoff scandal](#), drove much of the work of manipulating legislative and regulatory processes underground.

[A study by Dan Auble](#), a senior researcher at the Center for Responsive Politics, “Lobbyists 2012: Out of the Game or Under the Radar?” contends that lobbyists are purposely changing their modus operandi:

“Much of the decline in lobbying activity is not a decline at all, but rather the side effect of lobbyists and lobbying firms taking advantage of a feature of the law that allows them to continue influencing policy from ‘behind the scenes.’ By working as policy

advisors and in other ‘unlobbyist’ positions, former lobbyists can keep their current jobs but escape the consequences of being registered, leading people in and out of lobbying to suggest that those consequences act as a deterrent to transparency.”

Auble (see Figures [1](#) and [2](#)) charts the decline in the number of Washington lobbyists from a 2007 high of 14,837 to 12,433 in 2012, and a drop in their disclosed compensation from a 2010 high of \$3.55 billion to \$3.31 billion in 2012.

“It remains a challenging environment,” [Lawrence F. O’Brien III](#), a registered Democratic lobbyist, told me in a phone call. “First, courtesy of the great recession, and now there is a perception of dysfunction, nonproduction, that there’s not a hell of a lot of action on the Hill that translates into truly serious legislation.”

That’s not all. At the end of 2010, House Republicans, under pressure from the Tea Party, [adopted rules prohibiting earmarks](#) — special provisions for individual members creating such local projects as roads, bridges, dams and federal buildings. Earmarks had been the bread and butter of firms that specialized in winning federal project grants for their clients.

For example, the lobbying firm Cassidy and Associates has paid [a heavy price](#) for the earmark ban (see [Figure 3](#)). Fees paid to Cassidy fell from \$22.3 million in 2009 to \$15.5 million in 2012.

Negative trends in reported fees mask some less visible but highly lucrative developments.

The legislative battles preceding the 2010 enactment of the Dodd-Frank finance industry reforms and the Affordable Care Act were the last two major moneymakers for publicly registered lobbyists.

In a [November report](#) for the Sunlight Foundation, [Tim LaPira](#), a political scientist at James Madison University, estimated that for every registered lobbyist there is at least one “shadow lobbyist” who is “getting paid to influence public policy” without making any public disclosure of fees or clients. LaPira found a ratio of 52.3 to 47.7 of shadow lobbyists to registered lobbyists.

LaPira makes the working assumption that the shadow lobbyist collects the same amount in fees as the publicly registered lobbyist — an annual average of \$270,000 per person. Using LaPira’s reasoning, [total spending](#) to influence legislative and regulatory outcomes in 2012 doubled from \$3.1 billion to \$6.7 billion.

Falling entirely outside the scope of regulation is what’s known as [grass-roots/AstroTurf](#) lobbying: mobilizing stockholders, suppliers, trade association members and members of any sympathetic constituency to write letters, call their Congressmen and send emails. This tactic has been around for decades, but every year it become more technically sophisticated.

For example, last March, Kate Ackley of Roll Call [reported](#) that [the DCI Group](#) — which “helps corporations navigate their most challenging political, legislative and regulatory problems anywhere in the world” — scheduled “hundreds of Hill meetings and generated more than 31,500 constituent calls to congressional offices” on behalf of the Retail Industry Leaders Association, along with orchestrating “1,606 individualized contacts in target [Capitol Hill] offices from small business owners,” according to a “case study” DCI used to persuade prospective clients hire the firm.

The DCI campaign helped win passage of legislation restricting the fees credit card companies could charge merchants.

“We didn’t come anywhere near the threshold for lobbying,” DCI Group spokesman Craig Stevens told Roll Call. “We are very diligent to honor the letter and spirit of all the rules and regulations that Congress has set forth.”

Ed Rogers, who worked on the presidential campaigns of Ronald Reagan and George H.W. Bush, is currently a registered lobbyist and chairman of [the BGR Group](#) (formerly Barbour Griffith & Rogers). BGR, in addition to straightforward lobbying, has a web-based practice and a public relations arm. Rogers noted in an interview that the Internet is changing the nature of lobbying. Now “it’s essential to manage the Google hole, what’s Google got about you, you have to inject content, enhance the good and dilute the bad.” The same assertive approach, Rogers argues, applies to YouTube videos and Wikipedia entries.

“Never let a negative go unanswered, if there is something bad on the web, you need to match it with something good. Stuff on the web has a much longer half-life than it used to be with newspapers, you have to tend to it,” Rogers told me.

In [a description](#) of the services it provides, Eskew’s Glover Park Group shows how far beyond traditional lobbying the influence business has gone:

“Old lines between public and private sector, journalist and civilian, outside agitator and inside power broker are blurring. GPG was built to help organizations navigate this shifting landscape. We combine substantive understanding of complex issues with disciplined execution of crisp influence campaigns that shape the way critical audiences view our clients and their goals.”

In this respect, the merging of lobbying into a much more encompassing collection of strategies and approaches is illustrated by the conglomeration of lobbying and other influence specialties under one corporate roof. The premier example of this can be found at [WPP](#), a worldwide advertising, marketing and public affairs company, with 350 subsidiaries.

The list of WPP’s Washington firms keeps getting longer and includes Blue State Digital, Benenson Strategy Group, Burson-Marsteller, Direct Impact, Hill+Knowlton Strategies, Dewey Square Group, Penn Schoen Berland, PBN Hill+Knowlton Strategies, Prime Policy Group, QGA Public Affairs, Palisades Media Ventures, the Glover Park Group and Wexler & Walker Public Policy Associates.

When lobbying is merged into a behemoth of this scope, it is no longer lobbying as your parents understood the concept. It is now an integral part of a much broader system of corporate leverage and control, a system that has left the federal regulation of this new breed of influence strategists far behind.