Grantham Research Institute on Climate Change and the Environment

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Policy brief

Company lobbying and climate change: good governance for Paris-aligned outcomes

This policy brief was written by **Rory Sullivan, Robert Black, Richard Perkins and Clare Richards.**

Summary

- Companies based in the almost 200 countries around the world that have ratified, accepted or approved the Paris Agreement on climate change should consider themselves bound by and committed to the treaty's implementation.
- Lobbying by companies on climate change refers to efforts of companies and of their agents to directly or indirectly influence climate-significant policy decision-making by political or bureaucratic actors.
- Lobbying can have a significant positive or negative impact on the stringency and effectiveness of public climate policy – both policies that are directly concerned with climate change and policies that may impact on climate change, such as fiscal or energy policy.
- Lobbying by companies in support of climate change action can help accelerate the development and implementation of policies to meet the goals of the Paris Agreement.
- Lobbying by some companies and their trade associations and industry alliances has often attempted to impede the adoption, stringency and implementation of public climate policy.
- Companies should have effective governance and oversight processes to ensure that their lobbying, and that of their trade associations and industry alliances, does not undermine efforts to deliver the goals of the Paris Agreement by delaying, diluting or preventing effective climate policy that is aligned with the treaty.
- Lobbying activities must also become more transparent, enabling scrutiny and evaluation by other stakeholders, thereby enhancing the accountability of companies and of Parties to the Paris Agreement.
- Governments should consider instating mechanisms for ensuring the transparency of lobbying on climate change by companies.

> "Some companies have chosen to lobby to maintain the current regulatory status quo, to delay change and to call for limited action on climate change."

Climate change and corporate lobbying: the context

Despite a range of initiatives by governments, companies and civil actors, it is widely recognised that global collective action on climate change is currently inconsistent with full implementation of the Paris Agreement. It is also recognised that a substantial ratcheting up of policy ambition and commitments is needed, and that this would entail major changes in many economic sectors, creating opportunities in some and significant downside risks in others (e.g. in the oil and gas sector).

In the face of such significant impacts, some companies have lobbied governments for regulations and policies that help the private sector to contribute to domestic and international climate change goals. However, some companies, particularly in high-carbon sectors, have chosen to lobby to maintain the current regulatory status quo, to delay change and to call for limited action that would be insufficient to meet the goals of the Paris Agreement. It is against this backdrop that companies' lobbying activities should be assessed.

The lobbying activities of companies have taken on an added significance since the Paris Agreement emerged from the United Nations climate change summit in December 2015. Since the Agreement came into force on 4 November 2016, 192 countries have deposited with the United Nations their instruments of ratification, acceptance, approval or accession. These countries are now bound by the Agreement and many are starting to embed its goals into domestic policies and legislation.

This policy brief describes the nature and characteristics of climate lobbying by companies and its influence on climate change policy. From this analysis, it offers recommendations to private and public actors on how to govern climate lobbying by companies so that this lobbying does not undermine implementation of the Paris Agreement.

Box 1. Examples of direct and indirect lobbying

Direct ('inside') lobbying	• Meetings with bureaucratic and legislative actors, including governing and opposition parties. • Engaging with policymakers at conferences, both domestic and international. • Participation in stakeholder consultations (e.g. via formal submissions). • Funding and/or strategic dissemination of studies to policymakers. • Inviting political actors to production sites or special events (e.g. where business actors can meet political decision-makers).
Indirect ('outside') lobbying	• Corporate social responsibility (CSR)/sustainability and business/governance reports that express climate commitments and project a positive image. • Use of mass media (e.g. advertorials, TV adverts), press releases and websites. • Mobilising the public by organising citizen protests and rallies and/or creation of citizen groups as vehicle for corporate communications. • Funding think tanks, climate-sceptic groups and studies (directly or indirectly). • Staging high-profile protests (e.g. outside parliament) to galvanise public support.

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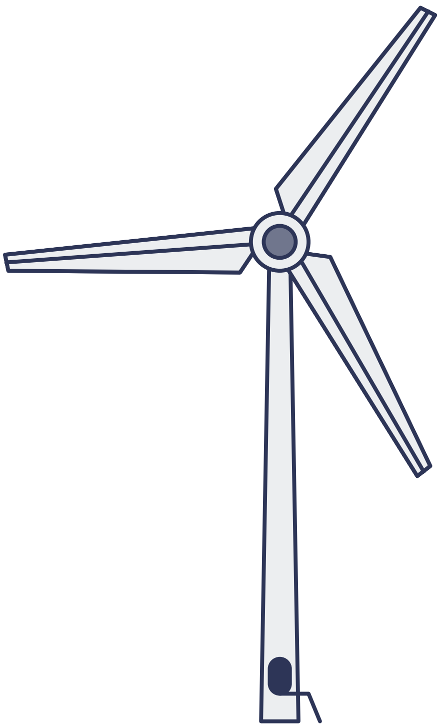

Adopting a broad definition of climate lobbying

The academic and practitioner literature identifies two general categories of lobbying:

- ***Direct lobbying,*** involving direct contact between the lobbying party and public policy decision-makers; and
- ***Indirect lobbying,*** where the lobbying party seeks to influence public policy by shaping and mobilising support from the public and other stakeholders.

There is agreement that direct contact with policymakers constitutes lobbying, but not all definitions, including those enshrined in public regulation, include indirect influence.

We argue that a broad definition should be adopted, given that companies, and their agents and affiliates, lobby directly and indirectly, with the aims of shaping understanding and perceptions of climate change science, policy and/or the opportunities and risks for companies. As policy decision-making on climate change is shaped by both public opinion and interest group representation, this wider conception of lobbying is necessary to capture important forms of influence by companies.

We therefore consider lobbying on climate change by companies as:

> *Activities carried out by companies or their agents to directly or indirectly influence climate-related policy decision-making by political or bureaucratic actors.*

This definition covers the entire policy life cycle. It encompasses all policies that – directly or indirectly, explicitly or implicitly – deal with climate change mitigation, adaptation, loss and damage or disaster risk management. It includes domestic lobbying as well as the lobbying of international organisations such as the secretariat of the United Nations Framework Convention on Climate Change.

Understanding lobbying in practice

Distinguishing between positive and negative lobbying

Lobbying on climate change by companies often conjures up the image of covert, anti-regulatory activities that subvert the public interest. Indeed, academic research suggests that ‘anti-regulatory’ lobbying by companies, their agents and their associations, alliances and coalitions can succeed in impeding the adoption, stringency and implementation of public climate policy (e.g. see Stokes, 2020). It can benefit those with the resources to lobby effectively, while those without the same resources or level of political influence may find themselves penalised.

Climate lobbying can have major negative economic impacts. One example is the success of the lobbying against the Waxman-Markey Bill (formally the American Clean Energy and Security Act), which failed to make it through the US Senate in 2010. The global social cost of the failure of this bill, which proposed a 17% cut in US emissions by 2020, an 80% cut by 2050 and the introduction of a national cap-and-trade emissions trading scheme (among other elements), was estimated at US$467bn (in 2018 US dollars) (Meng and Rode, 2019). Lobbying by companies has been estimated to have increased the likelihood of the bill not passing by

13%. Therefore – in this case alone – lobbying by companies could have cost society as a whole US$60bn (ibid.).

Even in the relatively narrowly defined frame of a company's own self-interest, opposing climate policy may have negative results. For example, anti-regulatory lobbying may undermine the company's reputation for sustainability or corporate responsibility, and may result in insufficient focus on how it might respond to the technology, market and policy/legal risks associated with climate change or on how it will deal with the physical impacts.

It is important to acknowledge that some lobbying by companies may support effective action on climate change. A well-documented example is pro-regulatory lobbying by some businesses which contributed to the adoption of the EU's emissions trading system (ETS) (Meckling, 2011).

Principles for responsible lobbying

The issues around lobbying include how it is undertaken, the ends it serves and, critically, the relationship between the means and the ends. Several practitioner frameworks for responsible lobbying have been developed, comprising various 'best practice' principles.[1] Box 2 presents the principles[1] that have been commonly identified.

Regarding the 'ends', an important question is whether lobbying is aligned with the goals of the Paris Agreement. This needs to look beyond the 'obvious' climate-related lobbying (e.g. for or against fossil fuel subsidies) to encompass the full range of outcomes and consequences of lobbying.

1. For example, Ceres (2020), Institutional Investors Group on Climate Change (2018), UN Global Compact et al. (2013), Principles for Responsible Investment (2018), and Transparency International (2015).

Box 2. Climate change and commonly identified lobbying principles

	Companies should…
Accountability	…manage long-term climate risks and opportunities in ways that ensure they maintain responsibilities to owners, shareholders, employees and to wider society.
Consistency	…ensure direct and indirect (public and private) policy engagement is consistent with stated objectives and commitments, and act where messaging is misaligned.
Legitimacy	…become a trusted and productive voice with a focus on leading towards policy outcomes, and not lobby simply to disrupt.
Opportunity	…proactively progress the climate policy landscape for themselves and other stakeholders. It is not enough for a responsible company to be neutral.
Transparency	…publicly and clearly disclose their views on and the materiality of existent or non-existent climate policy. Disclosure should include motivations for climate lobbying, the activities undertaken and the outcomes on both direct and indirect engagements.

Source: Authors' summary. See note 1 above for sources of example frameworks.

"A well-documented example of 'post-decisional' lobbying arose in the case of the EU emissions trading system, where anti-regulatory lobbying efforts were successful in weakening and reducing its effectiveness."

For example, academic research suggests that some forms of apparently pro-regulatory lobbying may in fact be largely self-serving and strategic: companies may, for instance, call to substitute more demanding climate policy action with less stringent alternatives in order to reduce perceived compliance costs (Ferns and Amaeshi, 2019; Grumbach, 2017).

Numerous and varying practices and tactics

Companies may seek to influence policy in a variety of ways (see Box 1). Most of the academic studies have focused on Europe, North America or Australasia. Less is known about how climate lobbying by companies takes place outside these regions (a notable exception is Trencher et al., 2020). These gaps suggest that we need to be sensitive to geographical variations in tactics and practices, and to be careful not to apply an overly rigid or narrow taxonomy of lobbying activities.

Influence of trade associations, and industry alliances and coalitions

Trade associations, and industry alliances and coalitions, are widely identified as key actors involved in climate lobbying by companies (see, for example, InfluenceMap 2017, 2021). These organisations can increase the weight policymakers give to companies' views – particularly if they can demonstrate sectoral unity. Some trade associations have been criticised for allowing individual high-carbon companies to publicly distance themselves from controversial lobbying positions that they support, for enabling larger high-carbon companies to exert undue influence, and for a lack of transparency over how policy positions are reached (ibid.).

Trade associations may also lobby in support of climate-related policy (e.g. see Gullberg, 2013). It is also interesting that a number of major energy companies have – often in response to investor pressure – recently published reviews of the climate lobbying activities of their trade associations, and that these reviews have led to them withdrawing from or suspending their membership of some of these groups (see, for example, Anglo American, 2021; Shell, 2021).

Lobbying during implementation of climate legislation

Companies lobby both prior to and after the formal adoption of climate laws. Such lobbying may be especially significant in the case of overarching climate laws and other legal instruments where many of the policy details are worked out later on. A well-documented example of such 'post-decisional' lobbying arose in the aforementioned case of the EU ETS, where anti-regulatory lobbying efforts were successful in weakening and reducing its effectiveness (Martin et al., 2010).

Consistency in responsible lobbying

Consistency emerges as a critical principle in the academic literature and practitioner guidance. Its importance stems from the observation that there may be a significant disparity between firms' external communication and marketing around corporate social responsibility (CSR) and their approach to political activity – including in climate-related areas (Favotto and Kollman, 2019). Consistency implies close alignment between a firm's stated climate position, its own lobbying activities and those of third-party affiliates (e.g. trade associations). Inconsistency can come from a lack of overarching governance structures to ensure messaging from differing departments and lobbying activity is aligned.

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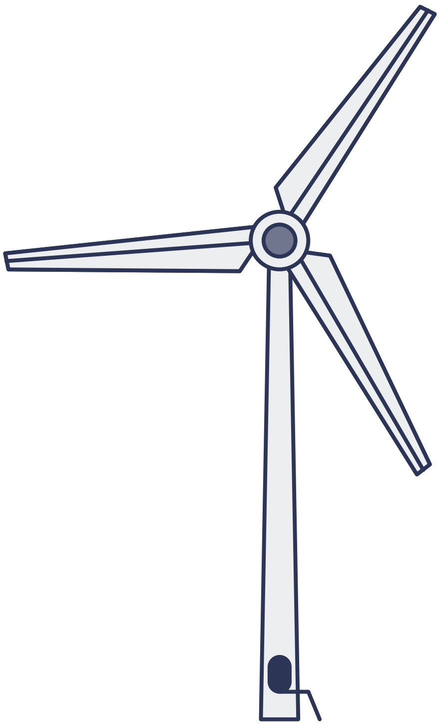

Implications and recommendations for policy

We make five recommendations to private and public actors seeking to govern climate lobbying by companies.

Recommendation 1:

Investors should create a clear and consistent definition of climate lobbying

A clear definition of what climate lobbying encapsulates would enable investors and other stakeholders to better hold lobbyists to account, signify clear actions for lobbying (e.g. joint interventions) and support governance frameworks for responsible lobbying. Any such definition should encompass both direct and indirect lobbying.

Recommendation 2:

Companies should publish annual political impact statements

Any company that carries out direct or indirect lobbying in relation to climate change should outline, annually, its lobbying activity, including that of its agents, its trade associations and the alliances and coalitions of which it is a member. Each such company should provide an assessment of how those activities have impacted the adoption and/or implementation of climate change policy and the extent to which these have helped meet the stated aims of the Paris Agreement. Where there is misalignment between lobbying activity and a company's public position on climate change, it should be attendant on the firm to explain the discrepancy. The company should also describe its lobbying governance and oversight processes, and explain how it ensures that its lobbying activities are consistent with the Paris Agreement.

Recommendation 3:

Investors should develop lobbying metrics

There is a need for more transparency around companies' political activity, both direct and indirect lobbying. To this end, metrics are required that allow lobbying activity to be objectively assessed by stakeholders including investors, and the effectiveness of companies' governance frameworks to be evaluated. In the EU, policymakers could consider adding such metrics to the proposals for a Corporate Sustainability Reporting Directive.

Recommendation 4:

Companies should consider supporting and normalising lobbying in support of effective climate policies

Conceptions of responsible climate lobbying should move beyond the principle of not lobbying in a way that is contrary to the public interest. Under an expanded view of corporate political responsibility, companies with the requisite capabilities ought to actively consider whether they can and should lobby in support of the adoption and timely implementation of effective climate policies that meet the aims of the Paris Agreement. Companies should also consider lobbying to ensure climate concerns are integrated into non-environmental policies.

Governments should consider mechanisms for ensuring the transparency of lobbying on climate change by companies, and if necessary, incorporate

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these into practices and regulations. For example, the European Commission has described the aim of its efforts on sustainable corporate governance as being to: “improve the EU regulatory framework on company law and corporate governance. It would enable companies to focus on long-term sustainable value creation rather than short-term benefits. It aims to better align the interests of companies, their shareholders, managers, stakeholders and society” (European Commission, 2021).

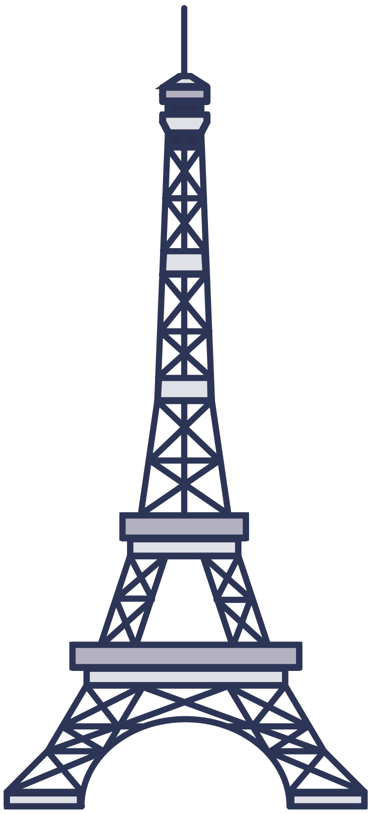
Recommendation 5:

Companies should support collective action in support of the goals of the Paris Agreement

The Paris Agreement has now been ratified, accepted or approved by almost 200 countries around the world. Companies based in these countries should consider themselves to be bound by the Paris Agreement and committed to its implementation. Meeting the goals of the Paris Agreement requires collective action. As part of their responsibilities, companies should ally themselves with other concerned stakeholders, to create supportive coalitions for effective climate action – acknowledging that there may be practical challenges, such as competition law constraints and the feasibility of collaborating with competitors, which may limit this ambition. Such coalitions should actively support effective domestic climate policy in line with the Paris Agreement.

Conclusions

Lobbying should be understood as important to developing an effective regulatory environment that is consistent with the goals of the Paris Agreement. It is incumbent on those companies that carry out direct and indirect climate lobbying, along with their agents, their trade associations, and their industry alliances and coalitions, to aim to further effective climate policy in line with the goals of the Paris Agreement. Lobbying activities must also become more transparent, enabling scrutiny and evaluation by other relevant stakeholders, thereby enhancing the accountability of companies.



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