

International Trends in Lobbying Regulation: Lessons Learned for Ireland

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THE POLICY INSTITUTE
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Regulating Lobbying: A Global Comparison

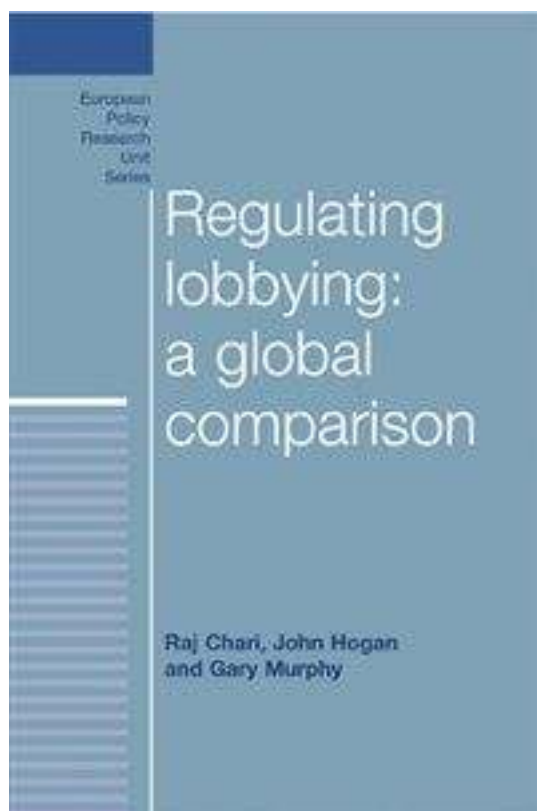
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Introduction and Objective

- In the Literature at present, there is a lack of in-depth, detailed, comparative analysis of worldwide lobbying regulations, which seeks to promote transparency in the policy making process
- The objective of our research since 2006 has been:
To Analyze and Explain Developments in Lobbying Regulation in Different Political Systems in North America, Europe, Asia, as well as Australia

Introduction and Objective

- The findings in this presentation is based on our recent MUP book and findings from our IRCHSS funded project:



Lobbying

- Lobbying activity - act of individuals/groups, with varying and specific interest, attempting to influence decisions at the political level
- Influencing by:
 - Direct communications with governmental officials,
 - Offering presentations,
 - Draft reports,
 - Telephone conversations etc.

Lobbying Regulation

- ‘Regulation of lobbyists’ – *the idea that political systems have established ‘rules’ which lobby groups must follow when trying to influence government officials.*
- Not a matter of voluntarily complying
- Regulations - codified, formal rules passed by government and written in law that is enforced and must be respected.
- Non-compliance results in penalization, fines or jail.

Examples of such rules:

- Register with the state before contact can be made with public officials,
- Indicate which public actors the lobbyist intends to influence,
- Provide state with individual/employer spending reports
- Have a publicly available list with lobbyists details available for citizens to scrutinize,
- Former legislators cannot immediately become lobbyists once they have left public office ('cooling off' period).

Theoretical justification is based on ensuring transparency and accountability - So, which countries have rules in place?

Country	Rules Governing Lobbyists as of 2010
Australia	As of 1 July 2008 there are national rules in place and a register. Originally formulated and implemented in the 1980s, lobbying rules were then abandoned in 1996.
Austria	No statutory rules
Belgium	No statutory rules
Bosnia and Herzegovina	No statutory rules
Canada	Federal Level: Rules and Register since the Lobbyists Registration Act of 1989, amended in 1995, 2003 and 2008. Provincial Level: Lobbying regulations exist in 5 provinces
Croatia	No statutory rules
Denmark	No statutory rules
Estonia	No statutory rules
EU: European Parliament	Regulated by Rule 9(2) of the Rules of Procedure, 1996.
EU: Commission	Before 2008, 'self-regulation' was the model adopted by the Commission. However, as of 23 June, 2008, the Commission opened a <i>voluntary</i> register of interest representations.
EU: Council	No statutory rules
France	Regulations Introduced in 2009
Germany	Regulation and registration through rules of procedure of the Bundestag in 1951; later amended in 1975 and 1980.

Hungary	Regulation of Lobbying Activity since 2006.
Iceland	No statutory rules
Japan	No statutory rules
Latvia	No Statutory Rules.
Lithuania	Regulations since 2001
Luxembourg	No statutory rules
Ireland	No statutory rules; various bills by Labour and Fine Gael, however – largely ignored by government in power.
Israel	Regulations adopted in 2008
Italy	No statutory rules at national level. Nevertheless, regional schemes have been introduced in the Consiglio regionale della Toscana in 2002 and Regione in 2004.
Japan	No statutory rules
Malta	No statutory rules
Netherland	No statutory rules
New Zealand	No statutory rules
Norway	No statutory rules
Poland	Regulations since 2005.
Portugal	No statutory rules
Rep Korea	No statutory rules
Romania	No statutory rules

Serbia	No statutory rules
Slovakia	No statutory rules
Slovenia	No statutory rules
Spain	No statutory rules
Sweden	No statutory rules
Taiwan	Lobbying Act passed on 8/8/2007, came into force on 8/8/2008.
Turkey	No statutory rules
United Kingdom	No statutory rules in either Commons or House of Lords.
United States	Federal Level: The Lobbying Act 1946, amended in 1995 and 2007. State Level: All states have lobbying regulations.

To see legislation in each of these jurisdictions, please go to Regulating Lobbying interactive map on: www.regulatelobbying.com

Findings: Countries with Lobbying Legislation

- Liberal democracies with lobbying regs relatively rare
- Norm throughout the world - no lobbying rules.
- US (1946), Germany (1951), Canada (1989), EP (1996).
- US regs in all states, Canada in five provinces.
- Post 2000: Hungary, Poland, Lithuania, Taiwan, France and Israel enacted lobbying laws (more than double countries that adopted legislation in the 1900s!)
- Australia introduced rules in 1983, abandoned them 1996, reintroduced 2008
- Large democracies - Japan and India - no lobbying laws.
- No lobbying regs Latin America (talk in Brazil & Chile)
- Georgia passed the lobbying law (1998) – however ranked by the Freedom House as only a ‘partly free’

Measuring the Strength of Lobbying Legislation

- In pre-existing studies, there has been an attempt to measure the stringency of lobbying regulation.
- For example, Brinig et al.'s, (1993) rating of restrictiveness of state lobbying laws
 - Consider the frequency with which lobbyists required to register and report,
 - Scheme emphasises severity of penalties for violations of lobbying laws.
- But more 'complete' measure would examine different aspects of lobbying laws.

CPI Index

- One way to measure the strength of lobbying laws is based on the work of the Centre for Public Integrity
- In 2004, they analysed lobbying regulations in 51 jurisdictions in US
- Measured effectiveness of lobbying legislation in terms of transparency and accountability.
- Referred to as ‘Hired Guns’ method,
- Results in what we refer to as ‘CPI Scores.’
- What are the different dimensions to their measurement?

The Eight Key Areas

The Center for Public Integrity created a ranking system that assigns a score to effectiveness of the legislation in each jurisdiction of the US based on a survey containing a series of questions regarding state lobby disclosure. The questions addressed eight key areas of disclosure for state lobbyists and the organizations that put them to work

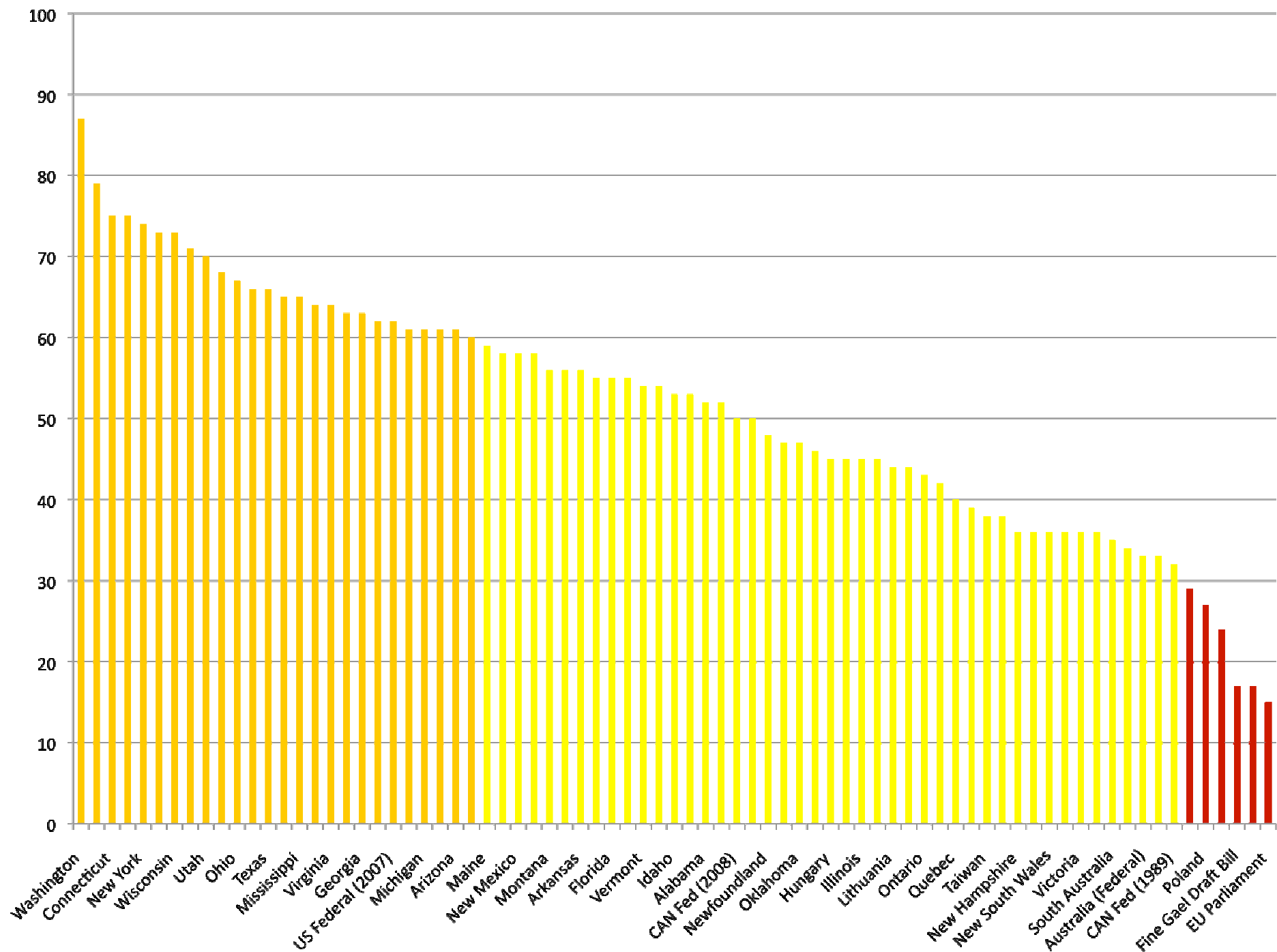
- Definition of Lobbyist
- Individual Registration
- Individual Spending Disclosure
- Employer Spending Disclosure
- Electronic Filing
- Public Access (to a registry of lobbyists)
- Enforcement
- Revolving Door Provisions (particular focus on ‘cooling off periods’)

- Total of 48 questions
- Each question assigned a numerical (i.e. point) value.
- The more points, the stronger the legislation in terms of promoting full disclosure, public access, and transparency.
- The maximum score possible 100
- According to the CPI, a score of 60 points + is a ‘pass’
- The lower the CPI score, the less robust the lobbying regulation.
- CPI’s index goes beyond previous work
 - Individual lobbyist registration, electronic filing, public access, and revolving door provisions.
- In setting out 48 separately scored items v Opheim’s 22, CPI’s framework is a broader, and deeper.

Applying the CPI Scoring System to Other Jurisdictions With Lobbying Laws

- Given its robustness, CPI's framework should be applicable outside the US.
- CPI scores for US states - from CPI website, (apart from 2007 federal legislation, and 2007 Pennsylvania legislation)
- CPI scores from Canada, Europe, Australia and Asia calculated by research team.
- For Poland, Hungary, Lithuanian and Taiwan, English language versions of legislation analyzed with assistance of natives speakers to ensure there were no translational errors between the original and English versions of legislation.

Jurisdiction	Score	Jurisdiction	Score	Jurisdiction	Score	Jurisdiction	Score
Washington	87	US Federal (2007)	62	Alabama	52	New Hampshire	36
Kentucky	79	Missouri	61	West Virginia	52	US Federal (1995)	36
Connecticut	75	Michigan	61	CAN Fed (2008)	50	New South Wales	36
South Carolina	75	Nebraska	61	Pennsylvania	50	Tasmania	36
New York	74	Arizona	61	Newfoundland	48	Victoria	36
Massachusetts	73	Colorado	60	Iowa	47	Nova Scotia	36
Wisconsin	73	Maine	59	Oklahoma	47	South Australia	35
California	71	North Carolina	58	North Dakota	46	Wyoming	34
Utah	70	New Mexico	58	Hungary	45	Australia (Federal)	33
Maryland	68	Rhode Island	58	CAN Fed (2003)	45	Alberta	33
Ohio	67	Montana	56	Illinois	45	CAN Fed (1989)	32
Indiana	66	Delaware	56	Tennessee	45	Labour Party Bill	29
Texas	66	Arkansas	56	Lithuania	44	Poland	27
New Jersey	65	Louisiana	55	British Columbia	44	EU Commission	24
Mississippi	65	Florida	55	Ontario	43	Fine Gael Draft Bill	17
Alaska	64	Oregon	55	South Dakota	42	Germany	17
Virginia	64	Vermont	54	Quebec	40	EU Parliament	15
Kansas	63	Hawaii	54	Queensland	39		
Georgia	63	Idaho	53	Taiwan	38		
Minnesota	62	Nevada	53	Western Australia	38		



Summary of Overall Observations

- Over 50 per cent of US observations scored 60 +
- US federal legislation (1995) - below most states, US federal (2007) scored - above most
- Canadian observations 35 - 50.
- Canadian federal legislation (2008) strongest iteration
- Central and Eastern European states (except Poland) within 40s range, Taiwan and Australian within 30s range.
- Lowest scoring jurisdictions/institutions Germany, EU Parliament, EU Commission and Poland.

Three Different Regulatory Systems

- Classification scheme as a basis to help understand trends and differences.
- Ranges selected for qualitative and quantitative reasons:
 - Qualitatively – legislation within each point range possessed similar characteristics.
 - Quantitatively – ranges represent similar distributions on the point scale.
 - *Lowly regulated systems* - point range 28 (CPI between 1 and 29).
 - *Medium regulated systems* - range 29 (i.e. 30-59).
 - *Highly regulated systems* – theoretical range 40 (i.e. 60-100); the highest ranking jurisdiction (Washington state) has 87 points, range effectively 27 points.

- Some points of caution when considering these classification scheme (good social science!)
 - All legislation represents a point on a continuum.
 - Canadian and US fed legislation shows where systems may change over time.
 - We do not wish to imply that ‘high’ is ‘better,’ ‘low’ is the ‘worst’, or ‘medium’ is a ‘safe middle point.’
 - We want a classification scheme to help conceptualise the common traits and rigour of different regulatory environments
 - Ultimately helps us better understand how transparency is promoted in political system.

Lowly Regulated Systems

- CPI scores 1 – 29,
- Germany, the EP, the EU Commission, and Poland, proposed Irish regulations

Characteristics:

- Individual registration exists, but little details given
- Does not recognize executive branch lobbyists.
- No rules on individual and employer spending disclosure.
- Weak system for on-line registration
- Lobbyists lists are available to the public, but not all details collected/given
- Generally, No Cooling-Off period.

Medium Regulated Systems

- CPI score 30 – 59
- All Canadian jurisdictions, several US states, Lithuania, Hungary, all Australian jurisdictions, and Taiwan.

Characteristics:

- Individual registration more detailed
- Recognizes executive branch lobbyists - exception Hungary
- Some regs on individual spending disclosures - exception Australia fed.
- On-line registration (Ontario very efficient)
- Public access to frequently updated lobbying register
- State agency conducts mandatory reviews/audits
- Cooling off period before former legislators can register as lobbyists - exception Hungary.

Highly Regulated Systems

- CPI score 60+
- America federal and states.

Characteristics:

- Rigorous rules on individual registration
- Recognizes executive branch lobbyists
- Strong regs on individual spending disclosure
- Strong regs on employer spending disclosure
- On-line registration
- Public access to frequently updated lobbying register
- State agency conducts mandatory reviews/audits – with statutory penalties for late/incomplete filing of registration form.
- Cooling off period before former legislators can register as lobbyists

	Lowly Regulated Systems	Medium Regulated Systems	Highly Regulated Systems
Registration regulations	Rules on individual registration, but few details required	Rules on individual registration, more details required	Rules on individual registration are extremely rigorous
Targets of Lobbyists Defined	Only members of the legislature and staff	Members of the legislature and staff; executive and staff; agency heads and public servants/officers	Members of the legislature and staff; executive and staff; agency heads and public servants/officers
Spending disclosure	No rules on individual spending disclosure, or employer spending disclosure	Some regulations on individual spending disclosure; none on employer spending disclosure	Tight regulations on individual spending disclosure, and employer spending disclosure
Electronic filing	Weak on-line registration and paperwork required	Robust system for on-line registration, no paperwork necessary	Robust system for on-line registration, no paperwork necessary
Public access	List of lobbyists available, but not detailed, or updated frequently	List of lobbyists available, detailed, and updated frequently	List of lobbyists and their spending disclosures available, detailed, and updated frequently
Enforcement	Little enforcement capabilities invested in state agency	In theory state agency possesses enforcement capabilities, though infrequently used	State agency can, and does, conduct mandatory reviews /audits
Revolving door provision	No cooling off period before former legislators can register as lobbyists	There is a cooling off period before former legislators can register as lobbyists	There is a cooling off period before former legislators can register as lobbyists

Understanding the regulatory environments: is there a relationship between corruption and lobbying regulation?

- Goal of lobbying regs - transparency and accountability in policy-making.
- Transparency International (TI) - Corrupt Perceptions Index.
- Measures perceived levels of public-sector corruption
- Composite index, drawing on different expert and business surveys
- Scale from zero (highly corrupt) to ten (completely clean).

TI's CPI (2010) and Different Regulatory Environments

Table: *Perceptions of Corruption and Types of Regulatory Systems*

Country	TI's Corrupt PI (2010)	Confidence range of TIs scoring	Overall Country Rank by TI	CPI values	Lobbying regulatory system
Can	8.9	8.4 - 9.2	6	33-38	Medium
Aus	8.7	7.5 – 9.2	8	32-50	Medium
Ger	7.9	7.2 - 8.9	15	17	Low
US	7.1	5.7 – 8.9	22	34-87	High/Medium
Tai	5.8	5.1 – 7.1	33	38	Medium
Pol	5.3	4.7 - 5.8	41	45	Medium
Lith	5.0	3.4 - 6.8	46	44	Medium
Hung	4.7	2.3 – 6.8	50	29	Low System

Conclusion: No cogent relationship between perceptions of corruption and regulatory regimes

Why does North America have more robust lobbying rules?

- **Importance of interest groups/civil society organizations,**
 - Long Established
 - Large role in policy process –environment, anti-tobacco etc.
 - Welcomed by government for expertise
 - Robust lobbying regs prevent perception that groups exercise undue influence.
 - Regs ensure public is aware of links between policy makes and specific interests.
 - Watchful press, and changing ethics laws, contributed to a professionalised lobbying industry.
- **Historical importance of the visibility of scandals**
 - Current lobbying regulations were produced in response to Watergate era scandals.
 - More recent scandals in various state led to ethics reforms in the early 1990s
 - Honest Leadership and Open Government Act adopted in wake of Abramoff scandal – highly regulated

Are these factors as significant in Europe? Not really...

- In Central and Eastern Europe, and Taiwan, interest groups have only recently gained influence in policy making
- In corporatist Germany interest groups outside the main associations have fewer possibilities to access policy-making process.
- Europe has *not* seen US type scandals.
- *‘Europe is not America: we have never seen cases like Abramoff here; we can have more trust in our lobbyists.’* - EU Official
 - This means scandalous events have not been uncovered/achieved the same publicity in the European media as in the US.

What of Ireland?

- Labour party legislation (1999, 2000, 2003, 2008)
- Registration of Lobbying Act scores 31 on CPI index
- Fine Gael Registration of Lobbyists Draft Bill “New Politics” scores 17
- Cooling off period does not apply to legislators – at odds with international regulatory norms
- Green Party 2007 general election manifesto pledged to establish a national register of lobbyists detailing the company, clients and interests being represented
- Programme for Govt 2007 committed itself to ‘consider legislation to regulate lobbyists’ – stronger language “we will introduce a register of lobbyists” used in the 2009 revised programme of govt

On Going Research based on IRCHSS Funding: Some Findings on Irish Attitudes Towards Lobbying Regulations

- In 2009, we sent out 500 surveys in Ireland; received 51 responses = 10%
- Response rate, while seemingly low, is relatively standard based on our experience. Why? → sensitive topic!
- Here we present a snapshot of some of the answers by politicians, administrators and lobbyists

On Going Research based on IRCHSS Funding: Some Findings on Irish Attitudes Towards Lobbying Regulations

Responses to Question: The main reason actors believed there was no legislation regulating lobbying activity in Ireland jurisdiction was...

	Politicians	Administrators	Lobbyists
Factors	(%)	(%)	(%)
Political actors are opposed to it	28.6	40	14.3
Lobby groups are opposed to it	0	0	0
‘Self-regulation’ is considered sufficient	0	40	28.6
There is no need to have legislation because lobbying activity is minimal	0	0	21.4
Other	71.4	20	35.7

NB : When Politicians answered ‘other’ what did they mean? ‘I don’t know why’ to ‘we are a small state and we all know each other,’ to ‘there hasn’t been enough calls for it, but there should be a register’

On Going Research based on IRCHSS Funding: Some Findings on Irish Attitudes Towards Lobbying Regulations

Should lobbyists be required to register when lobbying Government/Parliament/Senate

	Politicians	Administrators	Lobbyists
Factors	(%)	(%)	(%)
Strongly Agree	42.9	0	14.3
Agree	42.9	60	50
Neutral	14.2	20	35.7
Disagree	0	20	0
Strongly Disagree	0	0	0

On Going Research based on IRCHSS Funding: Some Findings on Irish Attitudes Towards Lobbying Regulations

Should details of all political party campaign contributions by a lobbyist be available to the public

	Politicians	Administrators	Lobbyists
Factors	(%)	(%)	(%)
Strongly Agree	28.6	0	35.7
Agree	57.1	100	50
Neutral	14.3	0	14.3
Disagree	0	0	0
Strongly Disagree	0	0	0

Summary

- International experience shows there are different ways to regulate lobbyists
- A majority of the actors in Ireland believe lobbyists should be required to register when lobbying – FG, Lab, Greens, PRII
- Open up debate including stakeholders of lobbyists and lobbied regarding *which model* of regulation Ireland should adopt

Thank You! For More Information see:

www.regulatelobbying.com