

# Legal Times: Lobbying Revenues Plateau in Election Year

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Lobbying traffic on K Street hit a speed bump this year.

The growth spurt that propelled the 50 highest-grossing lobbying practices in the country through the billion-dollar ceiling for the first time last year plateaued in 2008. It was still a billion-dollar year, but overall, revenue growth was 2.3 percent, the lowest since the Influence 50 report was first published in 2005.

Lobbyists say the stagnant showing can be blamed on a combination of factors, including a typical slowdown in lobbying activity during a presidential election year and a tanking economy that has forced businesses to cut outside contractors, including lobbyists—a trend likely to influence the outlook for 2009.

"If you have to make a choice between payroll and paying a Washington lobbyist, you know where that's going to go," says Nicholas Allard, co-chairman of the public policy department at Patton Boggs, which reported a 2.2 percent decline in revenue last year.

Patton Boggs was one of 22 firms—almost half of the Influence 50 list—that said revenue was down in 2008. In 2007, just nine firms reported negative growth. But even as overall business flattened out, law firms continued to hoard the largest share of lobbying revenue, accounting for 66 percent of the total \$1.1 billion gross revenue in 2008. Their share of revenue has steadily climbed since 2005, when they accounted for 58 percent of gross revenue.

The Influence 50 survey takes a comprehensive measurement of all fees related to lobbying. It includes lobbying revenues reported to Congress under the Lobbying Disclosure Act and to the Justice Department under the Foreign Agents Registration Act, and it also asks firms to provide information about state and local-level lobbying. Finally, it asks firms to report other related work, such as representation of clients before federal agencies or grass roots organizing.

There are some new developments on the 2008 list. Covington & Burling climbed three spots into the top five, thanks to an impressive 36.6 percent revenue hike. (See "Climbing the List," Page 20.) And six firms fell off the chart altogether, including Arent Fox, which was No. 30 last year, but failed to make the list after lobbying revenue plummeted nearly 50 percent in 2008. Other firms that fell off the list include Loeffler Group and Hunton & Williams.

Craig Engle, a partner in Arent Fox's government relations practice, puts a positive spin on the downswing, explaining that work dropped off because client matters were successfully completed. "We finished a lot of work for clients who were pretty happy," he says.

But so far, Arent Fox has registered one new lobbying client in 2009. Engle says business is picking up, though, because his firm is working on several new matters that don't fall under lobbying disclosure laws. That work should boost Arent's income in the "other related work" category next year. The firm saw revenue there fall more than 62 percent in 2008.

## CUTTING BACK

Other firms with declining revenue say they had trouble finding new clients in 2008. BGR Group principal Loren Monroe says the recently bipartisan BGR "had a good year in terms of achieving client results," but adds, "sometimes that can mean you work yourself out of a job." BGR reported a nearly 17 percent revenue drop.

Monroe says longtime client Lorillard Tobacco, which had relied on BGR since 1999 and consistently paid six-figure fees, dropped the firm because "they significantly cut back their lobbying expenditures." Typically, Monroe says BGR would find new clients to make up for the lost work. Given the economic conditions of the past year, though, he found that potential clients were "just freezing any hiring."

The financial crisis affected another BGR client of almost a decade, FM Policy Focus, which lobbied for stronger regulation of Fannie Mae and Freddie Mac. Once Congress created a regulator for the two mortgage giants last July, that client dissolved.

Wexler & Walker, which saw revenues decline by more than 11 percent in 2008, was also feeling the economic pain. Automotive giant General Motors, which accepted a government bailout last year in an attempt to avert bankruptcy, terminated its contract with the firm in the second quarter of 2008. Dale Snape, Wexler's CEO and general manager, says, "They needed to husband their resources." GM paid out \$120,000 to Wexler in 2007.

Still, some clients are cutting back, but not cutting lobbying altogether.

GM did retain Covington & Burling in November, specifically to help it navigate its government-mandated financial restructuring. And while Lorillard may have cut out BGR, the company continued to be Dickstein Shapiro's biggest client, supplying \$2.9 million for the law firm in 2008.

Those are just two examples where law firms are having a better year than lobbying firms. Lobbyists at law firms say the reason that law firms continue to dominate is because lobbying is increasingly about having the knowledge and manpower to navigate complex legal issues.

"The nature of the biz has been that legislative efforts have gotten far more substantive, and less fixated on personal relationships and door-opening," says L. Andrew Zausner, the leader of Dickstein's public policy practice. Dickstein posted a lobbying revenue spike of almost 34 percent in 2008.

Richard Gold, who heads Holland & Knight's public policy group, says large firms have access to resources that smaller shops simply don't. "As we move to more complex legislative and regulatory issues, you're seeing a need for bigger teams and greater substantive expertise than has been the case in the past," he says. "It's just the maturation of the Washington scene."

Another factor that's helping his firm, says Steven Ross, a senior partner in Akin Gump Strauss Hauer & Feld's public policy practice, is that other shops can be more partisan. "Our bipartisan approach is very attractive, because at the end of the day it's the way things get done in town." Akin Gump ranks first on the list this year, and posted 9.1 percent revenue growth.

## LOBBYING STIMULUS

The picture for 2009 is still in flux. Economic news has continued to worsen and companies around the country are cutting back on outside spending—K Street included. But the federal government has taken on an unprecedented role in bailing out the country's largest financial institutions and aggressively moving towards new regulation likely to affect health care, climate change, and the environment. That means business can't afford to ignore Washington.

Lobbyists say that as a sleepy election year drew to a close, they began to see an upswing in activity thanks to client interest in the economic recovery efforts coming out of the federal government. It's why many of them hope 2009 will be a busier year.

"It's been a very active first quarter," says Wexler's Snape, who says clients are asking for help navigating the implementation of the stimulus bill passed in February. "I think the stimulus will definitely be a stimulus for us." So far, the firm has filed seven new lobbying registrations in 2009, roughly the same number it filed in the first quarter of 2008. Of course, that doesn't include any clients seeking advice, regulatory help, and other services that aren't covered by lobbying disclosure laws.

Others say they, too, are reaping benefits from the bill. "Washington experts, Washington lawyers, are helping the [stimulus] money get from the federal government back into the economy where it belongs," Allard says. "It's not self-executing."

## Readers Guide to the Influence Revenue Report

Legal Times

Defining Lobbying: There are several legal definitions of lobbying. The Lobbying Disclosure Act of 1995 limits it to activities directed at Congress and certain members of the executive

branch. The Foreign Agents Registration Act of 1938 encompasses certain “political activities” and public relations efforts. The Internal Revenue Service Code of 1986 defines lobbying as anything that could be classified as “influencing legislation” at either the federal or state level. In putting together the Influence 50, we recognize that none of those laws or definitions captures the full scope of lobbying as it is practiced today. Accordingly, for purposes of the survey, we defined lobbying in its broadest sense: all activities intended to shape laws or regulations on behalf of a client. This includes, but is not limited to, lobbying of federal agencies and state, local, and foreign governments, as well as work done on related advertising, grass-roots, and public relations campaigns. It excludes legal work and advice on how to comply with existing laws and regulations.

**Deciding Who Makes It:** To focus the survey on the largest legislative practices, we included only the list of firms that reported at least \$2 million in LDA fees last year. In addition, our published rankings include only those firms whose total revenue exceeded \$7 million last year. For firms that are new this year to the Influence 50 list, the gross revenue for 2007 is not included.

**Calculating Revenue:** In preparing this year’s report, we surveyed more than 100 lobbying and law firms, limiting them to 2008 revenue generated by federal and state lobbying activities. International lobbying handled by foreign offices was not included in the survey numbers, nor was revenue generated by subsidiaries, affiliates, or parent companies. Most firms cooperated in our reporting of their revenue; some did not. But even among firms that cooperated, we reviewed the firms’ calculations and, in some cases, requested revisions or additional supporting documentation. Though we strove for accuracy, all figures in the survey should be viewed as informed estimates of the firms’ 2008 revenues, rounded to the nearest \$100,000 increment.

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