

ADVOCACY

The new face of lobbying

By Balaji Chandramouli and Aman Malik Edition: July 15, 2007

This is one deal that ought to have spent the least amount of time in the government's court, since it only involved a transfer of ownership from one foreign company to another.

Instead, it took three long months of intense lobbying by CEOs of four top-rung companies, the active services of several independent lobbyists and support of some key, industry-friendly, government officials and scores of visits to the Department of Industrial Planning and Promotion by Matthew Kirk, Director of External Relationships, Vodafone, and a former UK diplomat, to push the deal through. {mosgoogle}

The deal: the \$10.9-billion acquisition of Hong Kong-based Hutchison Telecom's stake in Hutchison Essar by UK-based telecom major, Vodafone.

The CEOs in question-Ravi Ruia of the Essar Group, Max Group's Analjit Singh, Hutch Essar's Asim Ghosh and Arun Sarin of Vodafone-could have raised a toast to the deal much earlier but for a query from the government on whether or not Vodafone was breaching the foreign equity limit of 74 per cent, since Analjit Singh and Asim Ghosh's equity in Hutch Essar was guaranteed by Hutchison. Had the government not finally accepted the telecom major's contention that the nationality of the equity holder and not the guarantor counts, Vodafone's hard-fought, big-bang deal would have come unstuck. Says Max's Singh: "For me, lobbying is about filling information gaps in the system."

Well, things may not be that simple yet, but Singh has a point. The Vodafone deal demonstrates the evolving nature of lobbying in the country. "Lobbying has graduated from 'suitcase-style' lobbying to 'case law-style' lobbying," points out Dilip Cherian, a Partner at public relations firm, Perfect Relations, who was part of Vodafone's lobby group. His point: there's a growing realisation among companies that it's important to argue their case with the government on merit, and not by greasing the palms of politicians. **Agrees Ramesh L. Adige, Executive Director, Corporate Affairs, Ranbaxy Laboratories, who is the pharma major's chief liaison with the government: "Lobbying is fast becoming a professionally-managed and, therefore, an ethical and transparent activity."**

To bolster his point, Adige, who previously worked in the automotive industry with Fiat, cites the recent case of extension of policy that allows pharma companies tax relief to the extent of 150 per cent on R&D spends. The policy, which was to expire in March this year, got a five-year lease on life, despite Finance Minister P. Chidambaram's initial disinclination. "I logically argued my way up the system and convinced the finance minister," claims Adige. Result: Ranbaxy, which has an annual R&D budget of Rs 500 crore, saves close to Rs 100 crore a year in taxes over the next five years.

Not too long ago, effecting such a policy change may have simply meant a quid-pro-quo, where money is exchanged for a favour. However, deregulation over the years has meant that there are fewer government approvals required, less bureaucratic control over rules and regulation, and far more access to information. The Right to Information Act, for instance, allows anyone to access information from government departments, including the freedom to "inspect works, documents and records". With their decisions open to scrutiny, bureaucrats want to play by the rules more than ever. Says a veteran of the lobbying business: "Corruption continues to be rampant in the government, but that is not a substitute for a convincing case." Moreover, to have a convincing case is no longer a sufficient condition; it is a necessary one. In other words, you may still have to pay money to get your work done, but you can no longer hope to blatantly violate the law. However, if a company believes that a particular law or regulation is counter-productive, it can lobby-by building favourable opinion among key stakeholders-for a change in it.

The modern-day lobbyist

So, what role does the lobbyist play in today's business environment and who are the big backroom boys in this evolving business? While the Hutch-Vodafone deal was about skirting the Foreign Direct Investment (FDI) policy hurdle, in other sectors where regulation needs to evolve far more, the challenges are of a different order: nudging deregulation, pushing the policy envelope for business opportunities. A case in point: developing large special economic zones (SEZs), where land acquisition is a contentious issue. Everyone from Reliance Industries (for its Raigarh SEZ) to the Tatas (Singur) have had to face popular ire, and work with the concerned governments to get things done their way.

For Reliance Industries' key lobbyist in Delhi, Shankar Adawal, a former Nortel employee, the task of putting together the Rs 25,000 crore Haryana sez wasn't easy. He had to convince the Haryana government on the merits of the project and explain what it would mean for the state's economy. Evidently, the state government (via the Haryana State Industrial Development Corporation, HSIDC) was impressed enough to accept a 10 per cent stake in the project in return for 1,500 acres of prime HSIDC land near Gurgaon.

For Adawal, it wasn't the first encounter of such kind. About four years ago, when Reliance Infocomm (as it was called then) faced disconnection over violation of licence conditions as a fixed line operator, it was Adawal who worked the system to save Infocomm's Rs 15,000 crore investment in telephony. As it turned out, the government came out with a unified licence policy that allowed CDMA-based fixed line service to go mobile. Today, Infocomm, now called Reliance Communications, has a market cap of close to Rs 1,10,000 crore. When contacted, Adawal refused to comment.

Another industry that's perennially at the receiving end of governmental wrath is tobacco. Like those elsewhere in the world, the Indian government sees tobacco as a 'bad' industry and, therefore, penalises it with ever-rising taxes. Yet, it's loath to shut it down because tobacco fetches as much as Rs 8,000 crore in central taxes, or 8 per cent of the total Excise tax collections. The challenge for cigarette manufacturers such as ITC is to ensure that the increase in taxes is low enough to allow profitable survival. K.S. Vaidyanathan, Senior Vice President, Corporate Affairs, ITC, is the man who defends the interests of India's largest tobacco company. Vaidyanathan, who is also a member of ITC's four-member Corporate Management Committee, is now lobbying hard to ensure that FDI in tobacco is placed on the negative list-the only way to ensure a blanket ban on FDI in the business. Currently, FDI is discretionary. Having fended off Philip Morris' (which already has a local partner in Godfrey Phillips India) attempt to set up a manufacturing unit in India in 2001 (the government turned down the application), Vaidyanathan, a 25-year ITC veteran, argues that since the tobacco industry is licence driven and the government has not issued a licence in the recent past despite market demand, "there is no case for FDI in this business."

Vaidyanathan's moment of glory was two years ago, when he lobbied with the government to revoke an Ordinance that sought to extract Rs 800 crore from ITC towards alleged evasion of Central Excise duties. On the back of a Supreme Court order, ITC ended up paying only Rs 300 crore. Says Vaidyanathan: "Since we are a professional-driven company, unlike other family-driven concerns, cash transactions to facilitate

policy shifts are simply not possible. For us, inter-personal skills, domain knowledge and complete understanding of the political and bureaucratic system are critical to effective lobbying."

Often times, like in the case of Vodafone, nothing less than intervention by the promoter suffices-especially, in the case of sectors such as petroleum and aviation that are in the throes of deregulation and hence the rewards are immense. Liquor-baron-turned-aviation-czar Vijay Mallya of Kingfisher fame, who recently acquired Air Deccan, a low-cost carrier, is well on his way to bringing down a policy wall that prohibits airlines that aren't at least five years old from flying overseas. Why? Kingfisher Airlines is just three years old, and Mallya is keen to fly foreign routes. The Union Cabinet is currently mulling such a proposal, and if the decision goes in favour of Mallya, then Kingfisher may start flying overseas next year.

Professional employees are, however, just one variety of lobbyists (See The Lobbyist Universe). Retired bureaucrats also make key allies in the battle to woo the system. Until recently, such lobbyists have preferred to work within companies-either as board members or advisors-but the changing policy environment has emboldened a few of them to set up shop on their own. Take for instance, Pradip Bajjal and C.M. Vasudev, former Chairman of TRAI and Expenditure Secretary, respectively. The two have floated Neoses, a consulting firm, that advises companies on how to deal with government departments. One of their clients is Huawei Technologies, whose application for clearance to supply equipment to BSNL has been hanging fire due to security concerns. Huawei is a Chinese company and is said to be owned by communists close to the Chinese establishment. Says Bajjal: "We understand the processes involved in government approvals, and are hence able to help foreign companies do business in India."

Beating xenophobia

Multinational companies have other shoulders to lean on when they run into trouble with Indian regulation. Take, for instance, the Investment Commission, set up at the behest of the Prime Minister to woo foreign investment. When the fertiliser ministry slapped a notice on Dow Chemicals, the owners of Union Carbide, seeking a financial deposit for the clean-up at Bhopal, the commission's chairman Ratan Tata intervened and offered to get the cleaning up done in Bhopal on behalf of Dow. For Dow, it was not the financial burden of the deposit, but the fact that paying the deposit would implicitly indict it for the Bhopal disaster that claimed 400 lives and left thousands others with chronic illnesses, that was a bigger consideration. Dow has big plans for India, starting with supply of technology for Reliance Petroleum's 27 million tonne refinery, which is being built at a cost of Rs 25,000 crore. Apparently, Tata's intervention, criticised by several Bhopal-based NGOs, has paid off for Dow, since its technical tie up with Reliance has been cleared.

Given that the lay of the policy land in India can be complex, MNCs have traditionally preferred to partner with Indian companies. In sectors where their entry is still restricted, the case for a tie-up is even stronger. Take retail, for example. After spending years trying to persuade the Indian government to allow its entry, giant Wal-Mart finally decided to partner with Bharti Enterprises. Under the deal, Bharti will operate the front-end (the stores), while Wal-Mart will manage the supply chain and sourcing. When those opposed to foreign retailers criticised the tie-up as a backdoor entry for Wal-Mart into Indian retail, it was Bharti Enterprises' promoter Sunil Bharti Mittal himself who personally wrote to several Members of Parliament to defend the joint venture.{mosgoogle}

But lobbying is not a uni-dimensional activity; it requires multiple approaches and pressure points. That's where politicians and the judiciary come in. Two years ago, Salman Khurshid, a Congress (I) Member of Parliament, who heads the party's activity in Uttar Pradesh, wrote to the then Petroleum Minister Mani Shankar Aiyar, seeking his intervention in a Rs 473-crore reimbursement that Reliance's 33 million tonne Jamnagar refinery was seeking from the government. Says Khurshid: "Yes, I wrote the letter. If you are in public sphere, public interest needs to be pursued. Often times, the affected persons are not heard in the right quarters." His bottom line: "This does not amount to lobbying as I also argued for oil sector workers against the privatisation move."

Sometimes, taking the judicial route can help, too. Consider the fight over trials of genetically modified (GM) crops. When those opposed to GM trials felt that one of the co-chairs of the Genetic Enquiry Approval Committee, C.D. Mayee, was not a disinterested party, they approached the Supreme Court, which ordered a review of Mayee's appointment. Their argument: Mayee was also on the board of an organisation that is funded by Monsanto and Bayer, key players in the gm market, and hence there was a conflict of interest. Says Prashant Bhushan, Advocate, Supreme Court, and a well-known judicial activist: "In such cases, judicial activism is an efficient way of delivering results."

One sector where the traditional agent-lobbyist holds sway is the public sector, where procurements run into thousands of crores of rupees every year. Two years ago, Russian power major Technoprom Exports quoted the lowest price for a boiler for power major NTPC's 2,000 mw Barh project. The Rs 2,000-crore deal, however, ran into trouble when close to a year ago its India representative was raided by the Central Bureau of Investigation. The provocation: Information that \$20 million had allegedly changed hands. Early this year, NTPC sought clarification from the Russian supplier on whether or not it had appointed an agent for the deal.

Meanwhile, the government is going easy on the case; it has asked the power ministry to treat the corruption issue separately from the contracts issue, contradicting NTPC's bidding rules that debar any company that operates through an agent. Based on this 'advice', NTPC is in the process of awarding the contract to Technoprom.

The shape of lobbying to come will be defined not just by the pace of deregulation, but also the level of transparency with which it is attempted. One thing's for sure, though. Lobbying has become a much more sophisticated game that no company can afford to take lightly.

THE LOBBYIST UNIVERSE

Lobbying comes in all shapes and sizes. Here's a look at some of the popular genres.

OWNER-PROMOTERS

From Ratan Tata to Mukesh Ambani to N.R. Narayana Murthy to Azim Premji to Sunil Mittal, everyone has lobbied for, variously, better policies in telecom, oil & gas, education and retail.

Modus operandi: Meet key policy makers personally, drum up popular support via media.

Effectiveness: Very high, since they bring a lot of personal credibility and the heft of their business empires to weigh on the issues they champion.

CONSULTANTS

Typically, retired bureaucrats themselves such as Pradip Baijal, former TRAI Chairman, and C.M. Vasudev, former Expenditure Secretary in the Ministry of Finance.

Modus operandi: They work the "old boys" network, have better access than employee-lobbyists, and know the lay of the land better than most.

Effectiveness: High, since they know how the system works, and which levers to pull.

PR FIRMS

Increasingly being used to do more than just public relations, PR firms offer "back office" support. Perfect Relations, Genesis, and IPAN are some such firms.

Modus operandi: They work through informal channels and media.

Effectiveness: Medium to low, because they have limited access to both the bureaucracy and media.

PROFESSIONAL EMPLOYEES

Reliance Industries' Shankar Adawal, ITC's K.S. Vaidyanathan, Ranbaxy Laboratories' Ramesh Adige are some senior executives who have extensive domain knowledge and champion specific issues.

Modus operandi: Mostly interact with key bureaucrats or lobby via industry associations.

Effectiveness: High, since they know the innards of their industries and can make compelling, fact-based arguments.

POLITICOS

Usually, members of Parliament or those embedded in the organisational machinery. S. Gurumurthy (below left) and Salman Khurshid are two examples.

Modus operandi: They try to appeal to the party high commands or the concerned ministers directly.

Effectiveness: Medium. They are typically used in addition to other lobbyists.

AGENTS

Dime a dozen, these are largely fixers and do not have the domain knowledge or credibility of other lobbyists.

Modus operandi: They keep track of bids, file status, work through lower level bureaucracy, and grease palms.

Effectiveness: Medium to high. This is an 'evergreen' species.

WOONG THE REGULATOR

Deregulation over the years has meant that government ministries have transferred powers to sundry regulators. Not surprisingly, then, corporate bigwigs are beginning to take them seriously.

About four months ago, for example, Reliance Industries Chairman Mukesh Ambani paid a visit to the secretary of the yet-to-be operational petroleum regulatory board (its members are yet to be formally appointed).

Why such haste? Its secretary, Ajay Tyagi, a career bureaucrat, was working on a gas pipeline policy and Ambani, who is in the process of investing more than Rs 20,000 crore in this business to connect his gas fields in the Krishna-Godavari basin, wanted to be on the good books of the new regulator. Getting a business-friendly policy would be important to give Reliance its competitive edge. Already, the existing policy puts a steep entry barrier—only those who have an existing supply source can lay pipelines.

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