

Factors of Lobbying Success in the USA: Case of SOPA and PIPA (2011 - 2012)

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Abstract:

Technological progress of recent years has dramatically changed the political and information environment what has stimulated responsive shifts in political lobbying. This research investigates the aggregate of factors or aspects of lobbying that determine success of contemporary lobbying campaigns in the USA. This paper provides a case study, based on desk research of primary and secondary sources of information and implementation of methods of qualitative research. The analysis reveals that there are four main categories of factors which significantly influence lobbying success in the USA: characteristics of the political system, features of a lobbying issue, characteristics of a lobbying group, and performance of lobbyists at particular stages of lobbying. This paper examines the impact of these factors in confrontation of lobbying coalitions around SOPA and PIPA in the USA in 2011 – 2012. There is a wide consensus among scholars about the decisive role of digital technologies in the victory of the anti-copyright coalition. However, this research reveals that the above four categories of factors also pre-determined lobbying success of that coalition. Nevertheless, this paper confirms a predominant shift towards wide use of the Internet technologies in lobbying in the USA.

Key Words: lobbying, copyright, Internet technologies, SOPA, PIPA

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Introduction

Opportunities of different social groups to influence the political decision-making process remains one of the central questions in many modern democracies. Political lobbying is one natural solution of political representation of diverse interest groups. Washington D.C. has become one of the most prominent center of lobbying. In the USA lobbying has become an integral part of the every-day policy-making process. Involvement of various interest groups in lobbying balances to some extent the policy-making process and allows different groups to promote their interests within the political agenda. However, as Berry (1997) noticed, the technological development of the recent years has provoked significant changes in political lobbying. Scholars (Kim and McCluskey 2009, Kim and Min 2008) argue that development of the electronic means of communications has dramatically changed the political environment and information space. This has led to the invention of new lobbying tactics and changes in a hierarchy of importance among the conventional lobbying methods. Additional factors began to influence lobbying outcomes and many lobbying groups faced a challenge to adjust to the changed lobbying environment. This leads to shifts in the balance of influence between different lobbying groups and changes in established public policies.

This thesis studies a clear illustration of the change in degree of influence between different interest groups through a case of lobbying on copyright in the USA in 2012. The lobbying confrontation unfolded over the two bills – the PROTECT Intellectual Property Act (PIPA) and the Stop Online Piracy Act (SOPA). The coalition of the intellectual property rights holders traditionally dominated the political arena but in 2011-2012 these groups ran into a decisive opposition from the civil liberties and the Internet industry groups. Results of that lobbying confrontation had ramifications on global development of the Internet and became widely known in the world.

Herman (2012), Sell (2010, 2013), and Bridy (2012) tracked the course of the lobbying confrontation and declared this event to be a turning-point in the history of

the copyright regulations in the USA. Scholars unanimously concluded that the anti-copyright coalition won the confrontation due to an active usage of the Internet technologies and mobilization of masses via the Internet (Herman 2012, Sell 2013). The scholars also emphasized importance of extension of the anti-copyright coalition with the financially powerful Internet companies. Commentators in Washington Post (Wadhwa, 2012), Forbes (Downes, 2012), PCWorld (Gross, 2012), TPMIdeaLab (Franzen, 2012), MercuryNews (O'Brien) came to the same conclusion. However, the above authors have not conducted a complex analysis of key factors, which usually determine a lobbying success in the USA and also influenced the victory of the anti-copyright coalition. This paper analyzes the reasons for the lobbying victory of the anti-copyright coalition in order to distinguish the factors which significantly influence lobbying success in the USA today. This research answers the question what key factors of lobbying mostly determined the lobbying success of the anti-copyright coalition in the USA. The paper understands factors of successful lobbying as some aspects of lobbying environment in the USA and lobbying activities, which are absolutely necessary or significantly contribute to achieving goals of any lobbying campaign.

This research provides a case-study on lobbying confrontation around SOPA and PIPA. This case has been selected as it represents a clear conflict of two powerful lobbying blocks in the recent history of the USA. During the confrontation, one side actively utilized the mobilization potential of the Internet, whereas the other party relied on its conventional lobbying strategies. This contrast allows for the possibility of analyzing what factors of lobbying the interest groups need to consider to increase their chances for success in the contemporary political environment. Finally, the case of SOPA and PIPA is broadly advertised as an important point for development of the public policy on protection of the intellectual property rights in the USA.

This study is based on desk-research with application of methods of a qualitative research. The paper analyzes contemporary theoretical literature on political lobbying and legal acts on lobbying in the USA for the purpose of distinguishing factors of successful lobbying in the USA. It identifies four types of factors, such as:

characteristics of the political system of the USA, features of a lobbying group, characteristics of a lobbying issue and performance of interest groups on crucial stages of the lobbying process, which significantly affect the lobbying outcomes in the USA. The paper examines the case of lobbying confrontation, using such primary sources of information as summaries of legal acts, official statements of politicians, and claims and letters of the involved interest groups. This research was based on such secondary sources of information as journal articles, reports of the American research centers, prominent American newspapers and materials of online media. Finally, this research applied the factors of successful lobbying, which were distinguished in the theoretical section, to the case study. This paper analyzed and compared lobbying approaches of the two sides and found out what factors mostly contributed to the lobbying success of the anti-SOPA/PIPA coalition.

However, the research method has few limitations. First of all, during the examination of the case study a part of information was unavailable. The scope of this research has not allowed to conduct interviews with representatives of the lobbying groups. Therefore, this research lacked primary source data on inside lobbying tactics of both sides and analyzed these tactics on the base of the publicly available information. Also, the research lacked precise information on lobbying expenses of both sides, as the official lobbying disclosure reports do not demand specification of spending on every lobbying issue. Secondly, the case-study approach has narrowed down a scope of possible application of findings of this research. The thesis conducted a comprehensive analysis of the lobbying case and distinguished robust patterns of contemporary lobbying success in the USA. However, analysis of more lobbying cases is needed to support the trends presented in this research.

This paper consists of three chapters. First, it examines theoretical aspects of successful lobbying in the USA and brings a general understanding of lobbying culture in the country. The second chapter represents the case-study on lobbying for and against SOPA and PIPA. The chapter provides the historical background of expansion of the copyright regulations in the USA, represents the lobbying parties and tracks the course of events in the lobbying confrontation. The third chapter analyzes

the reasons of lobbying success of the anti-copyright coalition in the case of SOPA and PIPA. The chapter evaluates aspects of lobbying approaches of the two sides according to the theoretical framework outlined in the first chapter. The paper expects to prove that the lobbying victory of the anti-copyright coalition on SOPA and PIPA was determined by a set of additional factors of lobbying success, besides the intensive mass mobilization via the Internet. Institutional characteristics of the political system of the USA, features of the lobbying issue and characteristics of the lobbying groups, performance of the sides on the key phases of lobbying also contributed significantly to the lobbying success of the anti-SOPA/PIPA coalition. The main findings and limitations of the research are restated in the conclusion.

Chapter 1. Factors of Successful Lobbying

Lobbying is a natural part of the political process in the USA. The theory of political pluralism, formulated by Truman (1951) and Dahl (1961), has laid the understanding of the American democracy as interaction between different interest groups and public officials. In contradiction to Mills (1956), Carter (1964) the scholars emphasized that various groups can promote their interests within the policy-making process in the USA. Political pluralism has become the most prominent theory in the field in the 20th century. Later scholars addressed the explosive growth of interest groups and their roles in the American political system (Salisbury 1969, Walker 1983, Rothenberg 1988, Baumgartner and Mahoney 2004). Other researchers focused on inside lobbying strategies (Scholzman and Tierney 1986, Kollman 1998), outside lobbying (Kollman 1998, Goldstein 1999), coalition building (Hula 1995, Heinz et al. 1990), political action committees¹ (McCarty and Rothenberg 1996, Romer and Snyder 1994), targeting (Hall 1998, Hojnacki and Kimball 1998), issue-framing (McKissik, 1995). These aspects are important elements of successful lobbying in the USA.

Lobbying success is difficult to measure due to the absence of a universal scale of gradual measurement and secrecy of a part of the relevant information. Following Mahoney (2008) this paper measures success of a lobbying campaign by evaluating how lobbying outcomes correspond to the interests and stated goals of the lobbying groups. Success in lobbying is determined by numerous factors, often beyond the control of the interest groups. However, Wittenberg (1994), Berry (1997), Avner (2002), Mahoney (2008), Kim and McCluskey (2009) highlight several factors which are crucial for any successful modern lobbying campaign in the USA. The paper organizes these factors in four categories: influence of the American political system including legislature on lobbying, characteristics of a lobbying issue, features of an interest group, lobbying performance on the critical stages of the policy-making

¹ Political Action Committee (PAC) – an organization, which pools contributions from its members and directs the funds to political campaigns.

process.

1.1. Institutional Factors of Lobbying

Characteristics of the American political system influence lobbying activities by creating a specific lobbying environment. First of all, the principle of democratic accountability of politicians exerts a significant influence on lobbying in the USA (Mahoney 2008, Berry 1997). All the consulted literature agrees that the two chambers of Congress are the most prominent targets for lobbyists, as the Congressmen are formulating laws and rationing the national budget. The members of Congress are directly elected in the USA. The Congressmen always seek to maximize their political support and, therefore, are prone to take favorable by public political decisions. So, large representative groups have an advantage to be heard by the legislators. The interest groups use this political leverage to report opinions of the public they represent to the decision-makers. However, the scholars emphasize that the principle of private financing of election campaigns shifts attention of the Congressmen to the wealthier interest groups, which can provide politicians with more resources (Mahoney 2008, Avner 2002, Berry 1997, Wittenberg 1994).

The considered literature underlines that the executive branch is also an important political institution for lobbying the issues, which can be influenced by an administrative interference (Avner 2002, Mahoney 2008, Berry 1997, Wittenberg 1994). With time the White House has become more influential in the policy-making and now more lobbyists work to get access to these officials. However, appointment of administrators, except the President, is independent of public approval. Thus, the administrations are disposed to cooperation with lobbying groups only for the purpose of getting technical assistance and strengthening political positions of their agencies. The White House is selective in communication with lobbyists according to strategic political interests. Therefore, lobbying in the White House depends more on personal contacts (Berry, 1997). Finally, the interest groups apply to the courts in the most protracted and desperate cases when lobbying in other institutions does not work

(Avner 2002, Berry 1997, Wittenberg 1994). However, litigation is an expensive tactic in the USA (Berry, 1997). Therefore, a degree of democratic accountability of the American political institutions directs strategies of the lobbying groups.

Second, rules of the political decision-making process, to a large extent, determine potential success of lobbying (Mahoney, 2008). The course of the American legislative process provides lobbyists with many points of access to influence political outcomes (Mahoney 2008, Berry 1997, Wittenberg 1994). According to the summary of the legislative process provided by the Union of Concerned Scientists (2013), any member of Congress may initiate legislation and other Congressmen can become co-sponsors of the bill. The proposal goes to a specialized committee or a subcommittee for detailed consideration and drafting of a bill. There the interest groups have opportunities to justify their positions on the proposal, promote amendments and, therefore, to influence decisions of the agency whether to report the bill to the floor of the House of Representatives or the Senate. In the chambers the Congressmen discuss the bill and introduce amendments. However, Senators can also bring irrelevant amendments. Any Congressmen can filibuster the bill or prevent voting on the bill by indefinitely extending the debates. In both chambers the bill can be put on an up or down vote. Then voting decision of the majority of the chamber members can withdraw a bill from consideration in the chamber. A bill has to pass consideration in both chambers of Congress and coordination of its versions from the two chambers. After the House of Representatives and Senate come to consensus the bill moves for a signature of President of the USA. The President can sign the bill, let it become a law or disappear automatically, or veto the bill. The legislators may override the Presidential veto with two thirds of votes in favor of the bill in both chambers of Congress (The Union of Concerned Scientists, 2013). Therefore, the interest groups may block passage of a bill at many stages of the legislative process. This reduces chances of successful promotion of a new law and makes the American political system reluctant to change. The American lobbying groups tend either to promote new proposals or to block them and are less oriented to modify bills. Therefore, the American system encourages a clear division between winners and losers among the lobbying groups (Mahoney 2008, Berry 1997).

Finally, compliance with the legal provisions on lobbying is another institutional factor of lobbying success in the USA (Wittenberg 1994, Avner 2002, Mahoney 2008). Today lobbying in the USA is regulated primarily by the Lobbying Disclosure Act (LDA) of 1995. According to Guidance to the LDA (Office of the Clerk, 2013), all lobbyists and lobbying firms have to register with Congress within 45 days since signing a lobbying contract or proceeding to work. All registrants must report their lobbying activities quarterly and lobbying firms - separately for each client. The reports are submitted electronically and must be available for public. In these forms lobbyists disclose their gross income per client or expenditures on lobbying. Also, the interest groups specify lobbying issues, the contacted public agencies, and names of the lobbyists. Every six months lobbyists, who remain officially active in the list of the Congress, submit lobbying reports. There they specify dates, contributions to public officials (if they exceed \$200), names of recipients, and established or sponsored political committees. In these reports lobbyists certify that they are aware of the lobbying regulations and have not violated them. The lobbyists, who break the legal provisions on lobbying, are subject to a fine up to \$200,000 and/or up to five years of imprisonment (Lobbying Disclosure Act Guidance, 2013). Thus, lobbying activities are subject to some disclosure in the USA.

Behavior of public officials towards lobbying groups are also regulated. According to the Restrictions on former officers, employees, and elected officials, the former Senators can not lobby for an interest group for two years after resignation and the former Representatives - for one year. The former staff of Congress and the Executive branch must not lobby for a year after termination of their employment (The US Office of Government Ethics, 2013). By the House Rule 25 (Committee of Ethics of House of Representatives, 2013) and the Senate Rule 35 (Committee of Ethics of Senate, 2013) members and employees of Congress must not receive contributions from the registered lobbyists and participate in favoring events organized by lobbyists. Policy-makers may participate in travel, conferences, and charitable events sponsored by lobbyists if they are officially connected to their public duties. Public servants may accept gifts, food, and refreshments of nominal value from lobbyists, and gifts of value under \$250 from personal friends and relatives. Under the US Code, Lobbyists may contribute to election campaigns individually up to \$2000 and

maximum \$5000 per a PAC (the US Code, 2013). Therefore, the USA has extended regulations on interactions between public servants and lobbyists. Compliance with the established rules is a necessary condition for long-term and successful lobbying activities in the USA.

1.2. Characteristics of an Issue

Some features of a lobbying issue pre-determine to some degree the success of a lobbying campaign. Thus, lobbying for a large-scale issue reduces the chances for success of a particular interest group (Mahoney, 2008). A broad issue influences the whole political system, involves many groups in lobbying, and draws attention of masses. This makes policy-makers compromise all the crucial interests engaged. A similar logic can be applied to salience of an issue (Mahoney, 2008). However, increased issue salience significantly raises the likelihood of success for a part of the lobbying groups, usually lobbying to block the bill, due to the democratic accountability of the American policy-makers (Mahoney 2008, Wittenberg 1994). Also, competition between numerous counteracting interests impedes lobbying for a particular group. Thus, a higher level of conflict around the lobbying issue undermines chances for success for the lobbying groups (Mahoney, 2008). Thereby, a bigger scope, issue salience, and conflict of groups around the lobbying issue facilitate lobbying to block a new policy initiative.

1.3. Characteristics of a Lobbying Group

Some lobbying groups have more potential to succeed than others. Scholars confirm that lobbying groups with more financial resources in general have more power in Washington (Berry 1997, Wittenberg 1994, Mahoney 2008). The interest groups can transfer their wealth in winning support of politicians or allies, hiring professional consultants, implementing more lobbying tactics, and subsidizing election campaigns.

Second, reluctance of the American political system to change gives an advantage to the groups which lobby for a status quo (Mahoney, 2008). The type of group is another factor of lobbying success in the USA. Business lobbyists are more likely to succeed due to the overall orientation of policy-makers to the wealthier interest groups, their solvency to apply more lobbying tactics and tendency to lobby for status quo (Berry 1997, Mahoney 2008). A higher level of expertise on the issue increases chances of lobbyists to succeed as it allows them to strengthen arguments with empirical evidence (Wittenberg 1994, Berry 1997, Avner 2002). Finally, lobbyists must maintain their credibility to get access and ensure a long-term cooperation with policy-makers (Wittenberg 1994, Berry 1997). Therefore, lobbying groups have to meet several criteria to increase their chances for lobbying success.

1.4. Performance at Stages of the Lobbying Process

1. Lobbyists must professionally operate on the crucial stages of the decision-making process to achieve success in lobbying. First of all, it is crucial for them to formulate a lobbying issue correctly. An attractive definition may result in more support of politicians for the same subject. The issue needs to be narrowly defined and feasible in the current political context (Avner 2002, Mahoney 2008). Lobbyists need to emphasize a broad public concern on the issue and positive political and economical ramifications of resolving the problem in the particular way (Mahoney, 2008). Wittenberg (1994) underlined that the message should be presented to the policy-makers in a very short and understandable manner. It should contain a maximum of factual information to look convincing (Berry, 1997). The interest groups should use technical arguments in combination with references to the public opinion (Wittenberg, 1994).

2. Second, a thought-out targeting or addressing public servants on the issue is a clear determinant of lobbying success (Avner 2002, Mahoney 2008, Wittenberg, 1994, Berry 1997). Access to the relevant policy-makers allows the interest to influence the internal processes of political decision-making. Without this access no lobbying

campaign is likely to be successful in the competitive lobbying environment of the USA (Berry, 1997). In the USA, affiliation to political parties does not strictly define the position of politicians. Policy-makers support issues depending their personal positions or preferences, interests of the state or district of their origin, and national interests. Therefore, it is not enough to target party leaders but important to convince heads of the relevant chamber committees (Mahoney, 2008). The primary target for lobbyists is the issue-friendly policy-makers; the second important group is undecided officials. But with growth of salience and scope of a lobbying issue the interest groups tend to address more decision-makers, including officials opposed to the issue (Mahoney, 2008). However, scholars emphasize the importance of establishing productive communication with staff of politicians and junior public servants from the working committees to increase probability of lobbying success due to sound targeting (Mahoney 2008, Wittenberg, 1994, Berry 1997).

3. Thereafter, active social networking and coalition building contributes to the probability of lobbying success due to the democratic accountability of the politicians (Mahoney 2008, Berry 1997, Wittenberg 1994, Avner 2002). Solid lobbying by multiple interest groups signals to decision-makers about a broad public support for the issue and inclines them to take a responsive stance toward the coalition position. Moreover, a coalition allows for the sharing of lobbying costs and the more efficient distribution of information, human, and financial resources. Lobbyists in the USA tend to form mainly ad hoc coalitions for a particular lobbying campaign (Mahoney 2008, Berry 1997, Avner 2002). However, they always seek to find allies, as joint efforts significantly contribute to lobbying success in the USA.

4. Subsequently, sophisticated implementation of various lobbying tactics appropriate to a lobbying issue is necessary for lobbying success. Scholars conclude that interest groups need to combine tactics inside lobbying and outside lobbying (Mahoney 2008, Berry 1997, Avner 2002). Inside lobbying implies personal communications between lobbyists and policy-makers in order to convince the officials to take a desired position on the issue (Mahoney 2008, Avner 2002). The most popular inside lobbying tactics in the USA are face-to-face meetings between lobbyists and public servants,

sending letters and position papers, strategic communication with members of working committees, suggesting drafts of pieces of legislature, and justification of the issue position on public hearings in the working committees (Mahoney, 2008). Due to the institutional framework, the American lobbyists tend mobilize broad coalitions and conduct fundraising campaigns instead of host dinner parties to influence decision-makers. Outside lobbying or grass-roots mobilization are activities directed to influence positions of decision-makers by pressure of public opinion (Mahoney, 2008). Lobbyists apply grass-roots strategies when a large proportion of population shares their interests (Goldstein, 1999). The most wide-spread outside lobbying strategies include attracting media coverage, mobilization of alien interest groups, publishing articles and op-eds in popular media, and mobilization of the general public (Mahoney 2008, Avner 2002). The more supporters lobbying groups have the more often they resort to outside lobbying. Outside lobbying is getting more important as an increased salience of the issue significantly contributes to the lobbying success in the USA (Wittenberg 1994, Mahoney 2008).

Wittenberg (1994) emphasized the importance of working with media to educate the public in the favorable direction and raise the issue salience for successful lobbying in the USA. The American single-language media quickly communicates news to the general public. This maintains the political environment when the policy-makers know that their actions will be reported to their electorate and the interest groups can effectively mobilize the public for a political pressure campaign (Mahoney 2008, Berry 1997). A larger authoritativeness and objectivity of the alien media intensifies outcomes of the information campaign (Kim and Min, 2008). Development of the electronic means of communication has changed the media environment and facilitated mass mobilization for the interest groups (Kim and McCluskey 2009, Kim and Min 2008). The Internet speeds up communications, reduces costs of information dissemination, and gives influence opportunities to the less established groups. Most important, the Internet technologies make communication between lobbying groups, the public, and policy-makers more interactive. They allow lobbyists to directly address the public and receive immediate feedback and mobilize broader groups of initial supporters and the latent like-minded people in lobbying campaigns (Kim and McCluskey 2009, Kim and Min 2008). The larger the scope of the lobbying issue, the

more salient it is to the public. And the higher the level of conflict is, the more tactics of inside and outside lobbying interest groups need to apply (Mahoney, 2008).

5. Finally, lobbyists need to continuously monitor the situation around the issue and support it at all stages of the decision-making process (Wittenberg 1994, Berry 1997, Avner 2002). It is crucial for lobbyists to earnestly represent their positions at public hearings at committees of Congress as further political debates are based on the proposal shaped in the committee (Wittenberg 1994, Berry 1997). The lobbyists need to monitor discussions and voting at every institution within the decision-making process and be ready to compromise on less critical aspects of the proposal with the opponents. Lobbyists need to continuously and quickly provide policy-makers with expert information support, and simultaneously shape a favorable public attitude to the issue. This creates an interest and some dependence of public servants on cooperation with lobbying groups (Wittenberg 1994, Berry 1997). Therefore, only uninterrupted, competent, and intensive lobbying work can lead to a lobbying success.

To sum up, characteristics of the American political system, regulations on lobbying, characteristics of an issue and a lobbying group, and competent performance at critical stages of the lobbying process influence lobbying outcomes. Some of these factors are independent from efforts of the lobbying groups and initially put them at advantage or disadvantage. However, every lobbying campaign is a unique story, determined by numerous additional factors and coincidences. This paper considers the case of lobbying for and against the Stop Online Piracy Act and the PROTECT Intellectual Property Act.

Chapter 2. Case Study: Lobbying Confrontation over SOPA and PIPA

2.1. Political Background

Legal protection of intellectual property (IP) has become a prominent issue in public policy debates in the USA. Herman (2012) and Sell (2010, 2013) tracked historical development of the IP rights regulation in the USA and came to conclusion that the IP rights holders, including the TV, movie, music industries, print publishers, software producers, etc. traditionally dominated in the policy-making process. These groups promoted strengthening of the copyright regulations as they faced a threat to their welfare from the increased free sharing of the copyrighted content. The counterweight camp, consisting of NGOs, librarians, and academics, advocating freedom of speech and access to information, was politically insignificant until the 21st century.

According to Herman (2012) and Sell (2010, 2013), the political struggle began in the 70's when the IP rights holders brought provisions on IP rights into a trade policy of the USA. Since the 1990's the rights holders groups were present on the highest levels of the economic decision-making in the USA and had multiple ties with Congress. Policy-makers heavily relied on the groups' expertise and strengthened regulations on the IP rights. The lobbies expanded copyright regulations on the Internet sphere by promotion of the Digital Millenium Copyright Act of 1998. The act baned circumvention and actions which might facilitate the circumvention of the IP rights in cyberspace. But the bill stipulated impunity of the Internet service providers for actions of the Internet users. Debates over the act resulted in the rise of the anti-copyright camp but the copyright interests continued to dominate.

Herman (2012) and Sell (2013) continued that since 2010's the copyright groups have been promoting norms on seizing domain names of the websites² which violate

² The seize of domain name of a website implies blocking Internet access to this website and redirecting users other web-pages, which often encourages law-abidance.

copyright. In 2010 senator Patrick Leahy introduced the Combating Online Infringement and Counterfeits Act, which prescribed court actions against the websites devoted to copyright infringement. The courts could seize the domain name of the websites and oblige the Internet service providers to stop operations and block users' access to these websites. Discussion of the bill in Congress was scheduled on 2011. But the US Department of Immigrations and Customs Enforcement started seizing domain names of websites, often mistakenly. This caused immediate protests from the anti-copyright groups and the Internet companies started to lean more towards this coalition. However, the Congressmen, closely cooperating with the copyright lobbyists, supported the idea of such a law. This has led to introduction of the Stop Online Piracy Act and the PROTECT Intellectual Property Act into Congress (Herman, 2012).

2.2. Introduction of SOPA and PIPA

On October 26, 2011, Representative Lamar Smith brought the Stop Online Piracy Act (SOPA) into the U.S. House of Representatives. The goal of the bill was to “promote prosperity, creativity, entrepreneurship, and innovation by combating the theft of U.S. property, and for other purposes” (H.R. 3261, Govtrack). Among other provisions the bill empowered the Attorney General to initiate proceedings against foreign websites which engaged in, enabled, or facilitated infringement of intellectual property rights. The language of SOPA was ambiguous (Forbes 2012, Herman 2012, Bridy 2012). It implied punishment for any website which seemed to be facilitating copyright infringement, therefore, websites with the user-generated content could be potentially shut down.

According to section 102 of SOPA, filing a complaint on a website would empower the court to force the Internet providers to block access of American users to the accused website and search engines to remove references to this web-sites from their databases (H.R. 3261, Govtrack). The Internet advertisement providers and payment operators would have to stop their services on these websites. The actions had to be

taken within 5 days after the Attorney's order. Moreover, Internet content providers like Google or Facebook would have to apply the Domain Name System filtering to identify the violating copyright websites and to report them to the Attorney General. The bill stipulated punishment of a fine up to \$2mln or imprisonment up to 10 years for any violator of the copyright regulations. Appeals to these actions could be examined afterwards in court (Bridy 2012, Connolly 2012).

Earlier, in May 12, 2011, Senator Patrick Leahy introduced the Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property Act (PIPA) in Congress. The purpose of the bill was "to prevent online threats to economic creativity and theft of intellectual property, and for other purposes" (S. 968, Govtrack). The Senate's version was very similar to SOPA but targeted only the websites which were dedicated mainly to copyright infringement. It authorized the Attorney General for the same actions but did not demand removal of references to the accused websites from the search engines. In contrast to SOPA, this bill did not contain penalties for willful misrepresentation of activities of websites (Connolly 2012, Herman 2012, Bridy 2012). Despite the earlier introduction, PIPA was obscured by the lobbying confrontation of two coalitions around SOPA.

2.3. The Lobbying Parties

Introduction of PIPA and SOPA resulted from lobbying efforts of the IP rights holders: copyright associations, TV, movie and music industries, some software producers, media outlets and book publishers, aligned with pharmaceutical groups and trademark-dependent companies (Israel, 2012). The Motion Picture Association of America, the Recording Industry Association of America, and the United States Chamber of Commerce led the coalition (Kang, 2011). Thus, the promoting coalition united multiple influential interests on the political stage of the USA and included up to 142 groups (Smith, 2011). The allies were driven by the traditional financial interest to decrease economic losses from the increasing public circumvention of copyright and distribution of counterfeit goods on the Internet. Their second motive was a rightful fight against scaled theft of the American intellectual property in the

foreign sectors of the Internet (Sherman, 2012).

The copyright coalition had long-term and well-established lobbying ties in important agencies in Washington. They often resorted to services of former public officials. The IP Enforcement Research Database identified 68 of such cases (American University Washington College of Law, 2013). For instance, the former Senator Chris Dodd represented the MPAA. The past Director of Federal Bureau of Alcohol, Tobacco, Firearms and Explosives, Bill Buckles and the former Chief Counsel in the Courts and IP Subcommittee of the House Judiciary Committee, Mitch Glazier, worked for the RIAA. Marla Grossman, the former counsel for the Senate Judiciary Committee worked for Viacom. The past IP counsel for the Senate Judiciary Committee, Troy Dow, represented Disney (Martinez, 2011). Therefore, the copyright camp was a strong actor on the American political stage and expected to succeed in promotion of PIPA and SOPA.

However, introduction of the bills mobilized an unexpectedly strong opposition. Initially it consisted of those traditionally involved in resistance to copyright expansion forces: human rights NGOs (Public Knowledge, Fight for the Future, Electronic Frontier Foundation, Consumer Electronic Association, etc.), librarians (American Library Association, etc.), academics, some media (Reddit, Wikipedia, etc.) and Internet activists. These groups strongly opposed the bills advocating the human right to free access to information, protested against technological rigidity of the bills, and their poor fit with the established legal framework (Smith 2011, McSherry 2011, Brigham 2011). At a critical juncture the search engines (Google, Mozilla, Yahoo, BoingBoing) and prominent Internet companies (Facebook, eBay, Amazon, Twitter, Aol, etc.), united in the NetCoalition, joined the opposition. These interest groups had accumulated impressive economic powers and represented the broad Internet audience. The bills significantly affected their financial interests and business models of future development but the promoting groups were reluctant to adjust the bills to these concerns (Plumer, 2012). The SOPA/PIPA would oblige them to develop technologies and continuously police the cyberspace. Work of many web platforms with user-generated content would be endangered. Altogether the Anti-

SOPA/PIPA coalition included up to 222 interest groups (Wikipedia, 2012).

Members of this lobbying camp had less developed but also influential ties with Washington. For example, a former chairman of the Federal Communications Commission in the Government, Red Hundt, represented Public Knowledge (Public Knowledge, 2013). The former Representative Susan Molnar, the past counsel to Senator John McCain, Pablo Chavez, the former Senate Judiciary Committee chief, IP counsel Ryan Triplette, etc. were lobbying for Google (Google Inc. 2012, Weisman 2012). The former head of the staff of a member of the Senate Judiciary Committee, David Hantman, represented Yahoo (Martinez, 2011). Therefore, the tech companies had significantly increased the lobbying power of the coalition.

2.4. Development of the Lobbying Confrontation

The coalition of copyright holders took a political initiative. They encouraged Democrat Patrick Leahy, head of the Senate Judiciary Committee, to introduce the PROTECT Intellectual Property Act in the Senate in May 2011. The recording studios provided policy-makers with the arguments that growing copyright infringement on foreign web-sites has lowered music sales in the USA to the amount of less than half from the sales in 1999 and the direct employment in the industry has decreases for 50% to only 10,000 employees (Sherman, 2012). The Motion Picture Association promoted information through the United States Government Accountability Office that annually the industry loses \$58 bln, the economy loses 373,000 jobs and \$3 bln of taxes (GAO 2010, MPAA 2011). The lobbyists argued that piracy and counterfeit undermine brand value and incentives for creativity in the industry worsen the whole economy of the USA. 16 Senators became co-sponsors of PIPA (S. 968, Govtrack). In two week after introduction, members of the Senate Judiciary Committee unanimously voted at the hearings to report PIPA to the floor of the Senate (Verrier, 2011).

The civil liberties groups, traditionally involved in resistance to expansion of copyright, expressed to Congress their opposition. A group of law professors argued that provisions of the bill contradicted the previous legal regulations on the copyright, violated the First Amendment to the Constitution due to possible over-blocking in the Internet and empowered interference in business on insufficient grounds (Lemley, Mark A. et al., 2011). Civil liberties groups stressed that PIPA would promote censorship, and violate freedom of speech and access to information in the Internet (Downes, 2012). The Internet technologies groups pointed out that such legal provisions risk breaking the architecture of the Internet (Aol Inc. et al., 2011). Senator Ron Wyden, the traditional opponent of the copyright expansion, placed an official hold on discussion of PIPA in the Senate, repeating arguments of the opposition (Wyden, 2011). However, the Senate vote on PIPA was a clear victory of the copyright coalition and PIPA seemed to pass the stages of the legislative process quickly (Herman, 2012).

In October 2011, the head of the House Judiciary Committee, Republican Lamar Smith, together with 12 co-sponsors introduced a companion to PIPA - the Stop Online Piracy Act in the House of Representatives. Hearings on SOPA at the Judiciary Committee were scheduled on November 16, 2011 (H.R. 3261, S. 968, Govtrack). Five members of the promoting coalition, including the Motion Picture Association, the American Federation of Labor and Congress of Industrial Organizations, and Pfizer received invitations to justify their positions at the hearings. But no civil liberties groups and only one representative from Google were invited from the opposite camp. Google was involved in copyright litigations on its own, therefore, the pushing coalition could assure that the corporate opposition was limited (McCulgan, 2011). The anti-copyright groups, and especially the Internet engineers, widely protested against introduction of the bills without consultation with them on technical issues (Plumer, 2011). Thereby, the anti-SOPA/PIPA groups were steadily losing in the beginning of the lobbying confrontation.

Before the hearings the opponents of the bills mobilized. The Internet companies officially joined the coalition (McCulgan, 2011). To support Google at the hearings

the Internet companies sent a joint letter to Congress calling upon them to keep the Internet architecture non-disturbed (Aol Inc. et al., 2011). The Internet companies emphasized that SOPA/PIPA stipulated unfair unilateral liabilities and costs on Internet service providers to monitor the cyberspace and violated their legal impunity for the user-generated content (NetCoalition et al., 2011). They underlined a dynamic growth of the Internet industry but warned that the bills could stagnate economic development and innovations in the industry. The groups also stressed that those costs would suppress smaller websites and impede start-ups (Plumer, 2011).

The anti-copyright coalition also strengthened their inside and outside lobbying efforts. The civic groups were sending numerous protest statements to Congress. Also, the lobbyists tried to persuade the Congressmen to reject SOPA in personal encounters. As a result, a day before the hearings, ten Representatives circulated a letter urging other Congressmen to oppose SOPA (Anna G. Eschoo et al., 2011). In addition, the coalition members started a massive information campaign against SOPA and PIPA (Electronic Frontier Foundation 2011, Wikimedia 2011). They were continuously posting information and arguments against the bills on the Internet to raise awareness and educate public on the issue. The allies framed and represented their protests under the slogan “Stop Censorship” (Sell, 2013). On the eve of the hearings some Internet companies bought full-page advertisements in printed newspapers urging the Congressmen to vote against SOPA (Kang 2011, Melvin 2011).

At the day of the hearings the coalition carried out an online protest action “American Censorship Day”. The interest groups blacked out logos and put “Stop Censorship” banners on their websites. The coalition encouraged the public to learn more about SOPA and express their opinion to Congress (Fight for the Future, 2011). Over 70 interest groups, including BoingBoing and Mozilla, participated (Frazen, 2012) in the blackout. The campaign involved over 6000 web-sites, generated over 80000 phone calls to Congress and about 2mln Internet users signed an online petition against SOPA (Fight for the Future(2), 2012). Consequently, adherence of the Representatives to the bills was shaken and on the next day the first Representative,

Nancy Pelosi, stated her opposition to SOPA (Nancy Pelosi, 2011).

However, the copyright coalition continued to dominate over opinions of the Congressmen. The hearings revealed support of 31 Representative (Fight for the Future(2), 2011). The hearings protocol reflected an overall favorable attitude of the Representatives to SOPA (Committee on the Judiciary, 2011). Moreover, the SOPA proponents headed by the Committee chairman Lamar Smith accused Google of advocating piracy for the sake of self-serving financial interests (Anderson, 2011). Ultimately, the Committee programmed a markup session on SOPA on December 15, 2011. The copyright coalition won in another round of the lobbying confrontation.

Apparently, before the markup session both lobbying camps continued intensive lobbying as the amount of the Congressmen, responsive to the both sides, increased (Sell, 2013). Before the markup session the anti-copyright coalition published provisions of alternative to PIPA - the Online Protection and Enforcement of Digital Trade Act (the OPEN Act). The bill prescribed prevention of financial flows to the accused web-sites after decision of the US. International Trade Commission. But other Internet service providers were exempt from the reactive actions (S. 2029 Govtrack, Forbes, 2012). During the markup session a small group of SOPA opponents unleashed exhaustive debates and introduced over 20 amendments to the bill. In total, the opposition proposed more than 60 amendments to SOPA. Some amendments implied the removal from SOPA the provisions, which conflicted to the interests of the leading the anti-copyright coalition Internet corporations. But most of the Congressmen did not understand the technical side of the debates (Petri 2011, Gross 2011). On the recommendation of the copyright lobbyists the Committee rejected all amendments and the idea of organization of another hearings with presentations of the Internet engineers by a wide margin (Grant, 2011). The copyright lobbyists kept support of more Congressmen (Herman, 2012). But the opponents protracted the debates and the Committee had to adjourn the session with a plan to resume discussions in 2012 (Tsukayama, 2011). Immediately after the markup session, Ron Wyden and three co-sponsors introduced the OPEN Act into the Senate but the copyright groups ensured block of the proposal on the level of committee (S. 2029,

Govtrack). In turn, Lamar Smith published on the House Judiciary Committee a list of 142 supporting SOPA organizations on December 22, 2011 (Smith, 2011). SOPA seemed likely to reach the voting in the House of Representatives and the Senate vote on PIPA was planned on January 24, 2012 (Falcon, 2012). Thus, the situation continued to develop not in favor of the anti-copyright coalition.

Then, the lobbying opposition doubled its efforts in raising public awareness and mobilization around the issue. On December 22, 2011 the coalition launched a boycott of the prominent SOPA supporter GoDaddy by refusing services of the company. This made GoDaddy.com abandon support of SOPA (GoDaddy.com, 2011). The list of the organizations supporting SOPA/PIPA started to decline (Weisman, 2012). On January 14, after a meeting with representatives of Google and Facebook, the White House Administration stated its opposition to the bills in their current wording (Espinell et al., 2012). The opposition planned a scaled public online campaign on January 18, 2012. In advance, Wikipedia engaged users in a direct discussion of necessity of this action. Many popular web-portals and media including Reddit, BoingBoing, Mozilla, WordPress, etc. also popularized the action among the public beforehand (Franzen, 2012). On January 18, according to Fight for the Future (2012), more than 115,000 websites participated in the protest against SOPA/PIPA. Some websites, including Wikipedia, Reddit, Mozilla, etc. went offline for 24 hours. Some put a black splash screen on their main pages. The web-companies encouraged users to blackout personal web-pages as well. The coalition members posted their arguments on the blacked out websites, provided the contact information for users to write or call to Congress. Google launched an online petition, which collected 4.5 mln signatures (Netburn, 2012). In total, Congress received more than 4mln emails, over 8mln of call attempts, more than 10mln users signed different petitions against the SOPA (Fight for the Future(3), 2012). In five cities SOPA opponents went to street demonstrations (Colleen, 2012). This anti-SOPA strike had become the largest online protest in the world (Herman, 2012).

The campaign dramatically changed balance between the lobbying camps. According to ProPublica, by January 18 there were 80 supporters and 31 opponents on the

SOPA/PIPA in Congress. After the strike there were only 65 in favor and 101 opinions against. There appeared a new group of 41 Congressmen leaning to oppose the bills and some politicians pledged not to vote in support of the bills until they would be significantly revised (Nguyen, 2012). On January 18, Representative Issa and 25 co-sponsors introduced the OPEN Act in the House of Representatives, however, the bill has never been discussed (H.R. 3782, Govtrack). The copyright coalition responded by a media campaign on TV and in major newspapers accusing the opponents of being irresponsible and disseminating false fears (Franzen 2012, Gross 2012). The MPAA lobbyist Chris Dodd publically threatened to stop supporting election campaigns of the politicians who had not supported the bills (FoxNews.com, 2012). Nevertheless, after these events the Senate Majority Leader, Harry Reid, and Representative Lamar Smith had to officially postpone consideration of the bills and later SOPA and PIPA automatically vanished (Martinez, 2012).

Therefore, that round of lobbying confrontation on the copyright issue was over. It required a great amount of lobbying efforts, and attracted much attention of politicians, media, and public. But also, it marked a new phase in the history of lobbying confrontation between supporters and opponents of strengthening regulations on copyright in the USA.

Chapter 3. Influence of Factors of Successful Lobbying on the Lobbying Outcome

Observers recognize the outcomes of the lobbying confrontation around SOPA and PIPA as a stunning success of the anti-copyright coalition (Sell 2013, Herman 2012). These groups achieved their primary goal to kill the bills whereas the promoting groups were defeated. This paper examines the factors, which had led to the lobbying victory of the anti-copyright coalition. Besides the fortunate turn of events, such factors as: characteristics of the American political system, features of the lobbying groups and the issue, and the groups' lobbying performance influenced outcomes of that lobbying confrontation.

3.1. Institutional Factors of Lobbying

The democratic accountability of the America Congress was one of the crucial factors that determined the lobbying success of the anti-SOPA coalition. The aggregate of the interest groups involved in the lobbying confrontation decisively affected positions of the Congressmen. On one hand, the pro-legislature business groups significantly overspent their opponents on lobbying. Before the SOPA/PIPA confrontation, the overwhelming majority of the Congressmen had received donations to their election campaigns from the both sides (Nguyen, 2012). But, according to ProPublica (2012), the content industries made larger donations to a bigger number of the current Congressmen in comparison with the Internet companies. According to a non-partisan analytical group Maplight, the current Senators have gained \$14.4mln from the entertainment groups and \$2mln from the Internet groups (Martinez, 2011). Therefore, the record of financial contributions persistently inclined the Congressmen to support the copyright coalition. However, the anti-copyright groups seemed to be more supported in the White House. In 2008, employees of Google and Microsoft constituted the 4th and 5th largest contributors to the Obama's presidential campaign. The employees of Time Warner made the 8th largest donations. In the 2011 re-election

campaign Google was the 5th and Time Warner the 10th supporter of Obama (Martinez, 2011). But certainly, over time, the copyright lobbyists had invested much more in campaigns of politicians and, therefore, accumulated more protective attitude in the American political institutions.

But on the other hand, the policy-makers tended to be responsive to the interests of the population and this benefited the anti-copyright coalition. The anti-SOPA/PIPA camp was more representative as it consisted of more diverse public advocacy and business groups. In addition, the anti-copyright coalition was larger, consisting of 220 groups, in comparison with 140 groups of the promoting coalition. Moreover, the bills opponents made the copyright coalition shrink to 125 organisations (Wikipedia, 2012). In general, the anti-copyright camp received direct support of 10mln Internet users within 24 hours on January 18, whereas the copy-right industries only argued about thousands of employees they represented. This signalled to the Congressmen about a prevailing public attitude to the bills and the desirability to drop support of the unpopular bills. In addition, the anti-SOPA/PIPA coalition convinced the White House to stand against adoption of the bills in their current wording. This gave the opponents of the bills significant political support and influenced opinions of the Congressmen.

The established rules of the decision-making process in the USA also worked to the advantage of the anti-copyright coalition. Apart from the lost opportunity to lobby against PIPA at initial stage of its consideration in Congress, the opposition camp had access to all phases of discussions on SOPA to block both bills. The efforts of the copyright coalition to restrict access of the adversaries to the hearings on the SOPA had a tangible but limited effect. According to the publicly available information, both lobbying sides acted within the law on lobbying in the USA. Thus, despite the settled tradition of expansion of the copyright law in the USA, the structure of the decision-making process benefitted those groups which lobbied for preservation of the status quo or tabling the bills.

Therefore, the factor of bigger representativeness of the anti-copyright block, support

of the executive branch, and reluctance of the American political system to changes overrode the factor of financial interest of the Congressmen in support the content coalition.

3.2. Characteristics of an Issue

The nature of the lobbying issue benefited both lobbying forces but in different way. Both coalitions emphasized a large scope and far-reaching ramifications of the copyright infringement problem in the USA. Initially this strengthened the position of the promoting groups. In the beginning the issue was not so controversial and the well-established political ties of the content holders prevented policy-makers from detailed consideration of the opposing arguments. Intensification of lobbying confrontation between the two camps worked against the pro-legislature groups. Then the increased salience of the issue clearly benefited the anti-copyright coalition. This outbalanced personal affiliations of politicians with the copyright groups, made arguments of the anti-SOPA/PIPA camp visible, and contributed to their lobbying victory. Therefore, the raised salience and level of conflict on the issue helped the anti-SOPA/PIPA coalition to succeed on later stages of the policy-making process.

3.3. Characteristics of a Lobbying Group

Features of the involved interest groups had framed the lobbying confrontation around SOPA and PIPA. It became a vivid example of the clash of two powerful blocks prominent in the USA business interests. However, the anti-legislature camp had support of more public advocacy groups and the advantage lobbying for the status quo. Both camps had extensive resources at their disposal. According to the Center for Responsive Politics, the two sides spent over \$100mln on lobbying SOPA and PIPA (Novak, 2012). The copyright groups dramatically outspent the Internet companies both in nominal figures and as a share of their revenues (Herman 2012,

Taglang 2012). The entertainment industries spent on lobbying the bills approximately \$94mln and the Internet corporations about \$15.1mln (Martinez, 2011). For example, among the bills proponents Comcast spent over \$5mln, the Motion Picture Association \$850 000, and the Recording Industry Association \$1.1mln (Taglang, 2012). In the opposition camp, for instance, Google spent over \$3.76mln and Facebook up to \$440 000 on lobbying in October - December 2011 (Taglang, 2012). However, by January 2012 the content industries and Internet companies officially spent more equal sums for the 2012 federal election campaigns: the entertainment groups \$2.5mln and the computer and Internet industry \$1.7mln (Martinez, 2011).

Certainly, the promoting groups had stronger and more extensive ties with policy-makers. They more often used services of former public servants and had a longer history of cooperation with policy-makers. However, the wealthy groups of the anti-SOPA/PIPA coalition quickly enlarged their lobbying staff. According to the Center for Responsive Politics, by January 2012 the two business sides were approximately even in number of lobbyists working on the issue. The Internet companies hired 246 lobbyists, and the entertainment industry – 241 lobbyists (Novak, 2012). However, the copyright groups had support of more policy-makers who occupied crucial for passage of the bills positions. Therefore, they conducted an inflexible line of lobbying.

Both coalitions brought desirable expert information into the decision-making process. However, the technical arguments of the Internet groups were much more difficult for policy-makers to comprehend. Nevertheless, the expert analysis of consequences of adoption of SOPA/PIPA was indispensable for building their counter-argumentation at the hearings, attracting support of Congressmen and the public. The anti-copyright coalition challenged the credibility of the promoting groups by research which demonstrated the likelihood of deliberate overestimation of the economic losses by the entertainment industries (Sanchez, 2012). However, the assessed underemployed in the entertainment industries remained a very powerful argument for the Congressmen. The anti-copyright groups tried to look more

objective. But the content groups repeatedly questioned the true lobbying motives of the Internet companies in public and at the committee hearings (Kang, 2011).

Therefore, the pro-legislature coalition was originally a stronger lobbying side. But after the Internet companies joined, the opposing coalition outbalanced many advantages of the copyright camp and kept the advantage of easier lobbying for a status quo.

3.4. Performance at Stages of the Policy-Making Process

1. The competing parties performed with different level of success on various stages of lobbying. Both sides formulated their positions on the issue professionally. The promoting groups made very strong political claims about financial losses, underemployment, and continuous violations of law with ramifications to the whole US economy. Illustration of the arguments with impressive empirical data made their position simple, straightforward, and appealing to the Congressmen.

The opposition camp had successfully overcome difficulties in formulating their position in a coherent and attractive to the policy-makers caused by the overall immaturity and diversity of the coalition. The Internet companies, which led the coalition, faced difficulties in convincing the Congressmen of the gravity of their stated concerns. They happened to work with the copyright violators and this made their position vulnerable to attacks of the pushing forces. The technical arguments of the anti-copyright coalition were much more difficult to understand by the policy-makers and referred to the future negative consequences and were less supported by the empirical data of present. Arguments of the academia and public advocacy groups might sound as technical problems, which needed to be addressed while drafting the bills. However, the coalition successfully managed to frame their common concern in a very simple but urging introductory claim – “Stop Censorship”. This motto was close to the citizens and mobilized millions of the Internet users. Therefore, the anti-

copyright coalition successfully caught up with their opponents with the issue framing for the purpose of subsequent addressing the policy-makers with a solid position.

2. Performance on targeting public officials ensured the overwhelming dominance of the copyright coalition until the January 18 blackout due to their extended ties with the Congressmen. Moreover, the copyright groups had support of the Congressmen, most important for passage of the bills: all members of the Senate Judiciary Committee and most of members of the House Judiciary Committee (Herman, 2012). The Heads of these committees were powerful allies to dispose the committee members to accept SOPA. The computer and Internet groups had to target policy-makers on the copyright issues almost from scratch (Herman, 2012) These groups had to address a much broader net of Congressmen and their staff outside the Judiciary Committees to get political support and shatter conviction of the adversary policy-makers (Taglang, 2012). By the end of confrontation, the Congressmen from the Judiciary Committees received signals that the overall Congress support for the bills is not determined. The opposition must have intensively lobbied less adversary to their position members of the House Judiciary Committee. This successful targeting a small group of Representatives was able to stall passage of SOPA. Therefore, well-tuned targeting of politicians was vital for lobbying success of the anti-SOPA/PIPA camp.

3. Following the principle of democratic accountability of the US legislature, both lobbying camps were actively building coalitions in support of their positions. The opposing block struggled to gain support of the Congressmen until it gathered a larger coalition including the Internet giants. The expanded coalition allowed the anti-copyright groups to look more representative regarding public interests, strengthen positions of each other, coordinate scaled actions, and signal to policy-makers the direction of development of the political situation around the proposed bills. The shrinking pushing coalition had a depressive effect on the Congressmen supporting the bills and shattered their positions. Therefore, the broader coalition of allies had become a powerful resource for the anti-SOPA/PIPA lobbying side.

4. Both sides used a variety of lobbying tactics. However, the point of crucial difference was that the pro-legislature forces strongly gravitated to inside lobbying tactics while the opposition had to rely more on outside lobbying. Observers argue that the copyright groups implemented their traditional inside lobbying approach which proved efficient in 1990-2000's (Herman 2012, Sell 2013). The opposition had to build an adequate response strategy based on the currently available resources. The entertainment groups had deeply promoted their expert information among different public agencies and politicians, whereas the opposition struggled to make politicians familiarize themselves with their arguments. Accelerated by stronger political ties, this pre-determined more effective presentations by the copyright groups during the debates on the bills and rejection of all amendments proposed by the opposition in Congress.

According to Taglang (2012), the copyright coalition launched campaigns of e-mails and phone calls to the policy-makers. They made numerous visits to the Congressmen in Washington and other states, including about 20 flights of leaders of the National Songwriters Association to Washington. The opposition, especially Internet companies, employed the same inside tactics. However, they were less successful with their prime target - Congressmen and more efficient in the White House. The entertainment lobbies often organized exclusive movie screenings and music concerts for the Congressmen and their staff (Taglang, 2012). However, lobbyists from both camps held fundraising evenings and receptions for the politicians, involved in the copyright issues (Gratten, 2012). Overall, the pushing forces were more successful in implementation of inside lobbying tactics.

However, the copyright coalition failed to sufficiently implement the outside lobbying strategies in comparison with their opponents. The entertainment industries ordered television and print advertisement in several states. They launched information campaign of criticism of the opponents and ensured dry coverage of the protests against the bills in the traditional media. However, those groups were unnoticeable in the cyberspace and had not taken mobilization opportunities of the Internet. In turn, the anti-copyright groups put stakes on the grass-roots mobilization as the inside

lobbying did not promise success. They deployed scaled and continuous information campaigns both in the alien media and in the cyberspace to raise awareness, educate, and mobilize public on the issue. The interest groups used all the channels of Internet communication to deliver their message to public, attract broad masses, and mobilize them for actions. The groups involved public in an interactive dialogue, empathetically urged them to participate in the planned mass activities, and facilitated algorithms of the actions needed from Internet users. The anti-copyright coalition ensured participation of the most popular Internet companies in the online protest campaigns to attract huge masses. Therefore, taking advantage of the lobbying mistakes of the copyright coalition, the opposing groups much more successfully supplemented inside lobbying with grass-roots mobilization. And it was the outside lobbying strategies, especially public mobilization on January 18, which brought the lobbying victory to the anti-SOPA/PIPA coalition.

5. The probability of lobbying success was higher for the copyright coalition in terms of their presence at each stage of the decision-making process on the bills. In turn, the opposition lost the first phase of the lobbying confrontation due to insufficient attention to the situation from Internet companies, which later headed the opposition. Therefore, the chosen strategy of the copyright groups to promote discussion and adoption the bills in Congress as quickly as possible put them in a favorable position. The opposition had to intensify their lobbying efforts after introduction of SOPA in Congress to make up for lost time and political influence. However, the pro-SOPA/PIPA coalition seemed to lose a comprehensive understanding of the situation by the end of the lobbying confrontation. They did not sufficiently employ the mass mobilization tactics, which exerted a decisive influence on the Congressmen. The development of events was surprising for that coalition and they had not given an adequately strong response to it. Therefore, the anti-copyright camp seized the political initiative what significantly contributed to their lobbying success.

Thus, the anti-copyright coalition successfully overcame difficulties in framing their position in an appealing view and targeting a group of Congressmen to block passage of the bills. The anti-SOPA/PIPA camp built a more extended coalition, used their ties

with the executive branch, and mobilized a huge mass of population to protest against the bills. This passed the political initiative in their hands and convinced many democratically accountable Congressmen to step back from support of the unpopular bills.

Conclusion

This paper has considered the factors which determined the lobbying victory of the groups which opposed passage SOPA and PIPA in the American Congress. This thesis has distinguished four categories of factors, which mostly influence the lobbying outcomes in the USA, such as characteristics of the political system, regulations on lobbying, characteristics of an issue and a lobbying group, and competent performance at critical stages of the lobbying process. The examination of the lobbying confrontation revealed significant influence of all four categories of factors on lobbying SOPA/PIPA, which either contributed to or impeded lobbying success of the anti-copyright coalition.

The beginning of the lobbying confrontation turned in favor of the promoting groups. As lobbyists they had more extended political ties, plentiful resources and the record of generous contributions made for political campaigns of politicians, and consolidated lobbying alliance. The anti-copyright coalition had to rely primarily on grass-roots mobilization via the Internet and hasty building of coalition and relationships with the policy-makers, regardless the costs of lobbying. Therefore, the findings of this thesis confirm the widely acknowledged reasons of the lobbying victory by the opponents to the bills.

However, this research reveals that many of the factors, distinguished in the theoretical section, also significantly benefited the position of the anti-copyright coalition. Influence of these aspects of lobbying has been broadly omitted in earlier research by other authors. First of all, this research finds that anti-SOPA/PIPA groups have followed the initially easier route of lobbying within the American political system, what is to preserve a status quo. Secondly, they ensured political support for their position by creating a larger and more representative coalition and achieving support of the White House. Finally, over time of development of the lobbying confrontation the anti-SOPA/PIPA groups outbalanced many initial advantages of the promoting groups. This included successful targeting a group of Congressmen to stall

passage of the bills and investment of much more resources in lobbying. Also, the increased issue salience and level of conflict on the copyright issue allowed the anti-copyright groups to change the course of events. The groups successfully overrode fragmentation of interests within their coalition and presented the joint position in a more appealing to public slogan.

These identified in the thesis aspects of lobbying by the anti-copyright groups allowed them to successfully apply the outside lobbying tactics, primarily via the Internet, to mobilize broad masses to protest against SOPA and PIPA. In accordance with the previous studies this paper considers those public protest campaigns to be the watershed moments in the lobbying confrontation when the promoting groups were gradually losing political initiative. However, this research underlines that the success of the grass-roots mobilization campaigns has resulted from a competent performance of the lobbying coalition on previous stages of lobbying. And the lobbying process, in turn, was influenced by the enumerated above institutional factors, characteristics of the issue, and the lobbying coalition.

Nevertheless, the research of this contemporary case of lobbying confrontation demonstrates that now lobbying in the USA is undergoing significant changes. The copyright coalition was defeated despite keeping of all the advantages, which determined the lobbying success in 1990-2000's. But the Internet technologies have profoundly changed the political environment and communications in society. Therefore, today any successful lobbying campaign needs to ensure its visibility and public support in the Internet as well. The anti-SOPA/PIPA groups have eloquently illustrated this shift in lobbying in the USA, taking a huge advantage of the relative absence of the copyright coalition in the cyberspace. Therefore, the lobbying confrontation around SOPA and PIPA have indicated that political lobbying in the USA has entered a new epoch when active incorporation of the Internet technologies is a necessary tactic of a successful lobbying campaign.

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