

The New York Times

Think Tank Scholar or Corporate Consultant? It Depends on the Day

Acting as independent arbiters to shape government policy, many researchers have corporate roles that are sometimes undisclosed.

Eric Lipton, Nicholas Confessore and Brooke Williams

August 8, 2016

WASHINGTON — Over the many months that officials in Washington debated sweeping new regulations for internet providers, Jeffrey A. Eisenach, a scholar at the conservative American Enterprise Institute, was hard to miss.

Think Tanks Inc.

Articles in this series examine how research institutions have become part of the corporate influence machine in Washington.

He wrote op-ed pieces, including [for The New York Times](#), that were critical of the rules. He filed formal comments with the Federal Communications Commission, where he also met privately with senior lawyers. He appeared before Congress and issued reports detailing how destructive the new rules would be.

“Net neutrality would not improve consumer welfare or protect the public interest,” [Mr. Eisenach testified](#) in September 2014 before the Senate Judiciary Committee.

Intense advocacy by a think tank scholar is not notable in itself, but Mr. Eisenach, 58, a former aide at the Federal Trade Commission, has held another job: as a paid consultant for Verizon and [its trade association](#).

And he has plenty of company.

An examination of 75 think tanks found an array of researchers who had simultaneously worked as registered lobbyists, members of corporate boards or outside consultants in litigation and regulatory disputes, with only intermittent disclosure of their dual roles.

With their expertise and authority, think tank scholars offer themselves as independent arbiters, playing a vital role in Washington's political economy. Their imprimatur helps shape government decisions that can be lucrative to corporations.

But the examination identified dozens of examples of scholars conducting research at think tanks while corporations were paying them to help shape government policy. Many think tanks also readily confer "nonresident scholar" status on lobbyists, former government officials and others who earn their primary living working for private clients, with few restrictions on such outside work.

Largely free from disclosure requirements, the researchers' work is often woven into elaborate corporate lobbying campaigns.

"A report authored by an academic is going to have more credibility in the eyes of the regulator who is reading it," said Michael J. Copps, a former F.C.C. commissioner who is a special adviser for the Media and Democracy Reform Initiative at Common Cause, a liberal group. "They are seeking to build credibility where none exists."

And it is a decidedly bipartisan practice.

Roger Zakheim, a visiting fellow at the American Enterprise Institute, has used research to push for greater spending for new military equipment while working as a lobbyist for Pentagon suppliers like Northrop Grumman and BAE Systems, lobbying records show.

At the liberal-leaning Brookings Institution, Dr. Mark B. McClellan led a health care studies program as he served on the board of directors at Johnson & Johnson, where he was paid \$264,899 last fiscal year. The company sells a high-cost hepatitis C treatment, an approach that Dr. McClellan defended from his Brookings perch.

Carol M. Browner, a former top environmental adviser to President Obama, works as a paid consultant to the nuclear power industry, pushing for government policies that help keep nuclear power plants online. Until recently, she also served as an unpaid senior fellow at the Center for American Progress.

The overlapping roles are often not made clear, and even members of Congress say they are frequently unaware of the financial ties between industries and the witnesses with think tank titles appearing before them at hearings.

"They can make a very deceptive and false claim to credibility that is totally lacking," said Senator Richard Blumenthal, Democrat of Connecticut, who said he had become increasingly disturbed by the role of think tank experts on Capitol Hill. "I think about it every time there is a witness now from a 'think tank,' putting that term in very boldface quotes."

Scholars sometimes include general references to their private-sector work in their official biographies. Mr. Eisenach, for example, notes that he is an executive at NERA Economic Consulting in addition to his position at the American Enterprise Institute. And when a private company pays him or his consulting firm to publish a study, he discloses the name of the corporate sponsor on the study.

But there is no way for the public or policy makers to know Mr. Eisenach's full roster of NERA clients. And there is no comprehensive disclosure of these clients when he writes his think tank reports or academic papers, testifies before Congress, or meets with F.C.C. members or staff.

Mr. Eisenach declined repeated requests to comment in detail. But a spokeswoman for the American Enterprise Institute, Judy Mayka Stecker, said she saw no conflict in his roles.

"We believe in the open competition of ideas and encourage our scholars to engage with experts from all sectors and viewpoints," she said.

Yet even as The Times was making inquiries about the potential for conflicts of interest among some think tank researchers, officials at a number of the nation's most prominent institutions — including Brookings and the Peterson Institute for International Economics — acknowledged that they were revising conflict-of-interest policies.

"I think we have too much influence of funded research with clear interests at stake that is treated as though it is independent and academic research," said Yochai Benkler, a professor at Harvard Law School and co-director of its Berkman Klein Center for Internet & Society. "There is no culture in the discipline to mark funded research clearly, or systematically treat it as less reliable."

Net Neutral?

Several weeks after Tom Wheeler was sworn in as the F.C.C. chairman in 2013, he received a letter signed by more than a dozen prominent economists and scholars identified by their affiliations with Washington think tanks or academic institutions.

The economic evidence, they declared, showed that the internet should not be regulated as a public utility. They urged Mr. Wheeler to reject "net neutrality" regulations that would give the federal government additional powers to oversee the \$100 billion market for internet services, dominated by AT&T, Verizon and Comcast.

A footnote on the first page of the letter indicated that none of the scholars who signed had been compensated by stakeholder companies. But of the dozen studies they submitted as evidence, more than half had been funded by telecommunications giants or based on other work for the companies, industry ties that were disclosed only in footnotes in the original studies.

No federal rules required broader disclosure. Yet on many highly technical policy issues like telecommunications regulation, scholarship is dominated by industry-funded research, according to a review of hundreds of studies, regulatory filings and other documents.

“Let’s say you’re in legal and you want to have a paper that says what you want it to say,” said Dennis Weller, a former Verizon economist who occasionally consults for telecommunications companies and international organizations. “You could have a bunch of economists in house and ask them if they agree with you. How much easier would it be to go to an outside economist and say, ‘How about if I pay you \$100,000 to write this?’”

Few policy battles have had higher stakes in recent years than the debate over net neutrality — a catchall term for proposals to restrict internet service providers from blocking websites or regulating speed.

To bolster their claims that the regulations would hurt consumers, companies have financed research that contends the rules would reduce investment in new services and raise prices. That work is used to shape the public debate and to build an industry-funded narrative in the regulatory record, one that the F.C.C. is required by law to evaluate.

Industry-sponsored research has also figured prominently in court battles over F.C.C. efforts to regulate the internet. When Verizon successfully opposed an earlier F.C.C. rule on net neutrality, more than half of the 23 studies or expert declarations cited in court filings had been sponsored directly by telecommunications companies or trade associations, according to an analysis by The Times. Other studies had been published under the banner of think tanks but written by scholars who consulted extensively for companies.

The attacks began to grow particularly heated nearly two years ago, when Mr. Obama called on Mr. Wheeler and his fellow F.C.C. commissioners to regulate the internet like traditional phone lines.

In December 2014, Robert Litan, then a senior fellow at Brookings, and [Hal Singer](#), then a senior fellow at the left-leaning Progressive Policy Institute, released a “[policy brief](#)” claiming that such a proposal could cost \$15 billion in new fees. (They later revised the figure to \$11 billion.)

The study mentioned their employment at Economists Incorporated, a consulting firm in Washington. But a reader would have had to do more research to learn that Economists Incorporated’s clients included AT&T and Verizon, companies leading the industry’s charge against the commission proposal. That was disclosed on a “select client list” on the Economists Incorporated website.

Mr. Singer and Mr. Litan’s study quickly became central to the industry’s lobbying campaign. The National Cable and Telecommunications Association, a trade group that is listed as an Economists Incorporated client, began an [advertising campaign](#), based on the study, that ran in

Washington and beyond. When debate on the proposal started in Congress, the study was repeatedly cited by lawmakers who wanted to block Mr. Wheeler's plan.

"People who are running advertisements are not going to say, 'In a study we paid for,'" said Mr. Litan, now an adjunct senior fellow at the Council on Foreign Relations. "In the public discourse, the disclaimers often do get dropped."

Mr. Singer, in a [Twitter post](#) directed at critics of the study, was a bit more blunt.

"None of us works for free," Mr. Singer wrote. "So let's focus on the merits & be nice to each other!"

In an interview, Mr. Singer said he — like most scholars — disclosed when a client commissioned a particular study published through his consulting firm. Most specialists in the telecommunications field, he suggested, are well aware of his business connections and views on regulatory issues.

"Everybody is on different teams," Mr. Singer said. "So long as you tell the audience what team you are on, you can then offer the opinions. Disclosure is the antidote to all of this."

Few scholars have been as active in the net neutrality debate as Mr. Eisenach.

At least a dozen times between 2007 and 2016, Mr. Eisenach published studies — including one analysis later released under the American Enterprise Institute's banner — that were underwritten by Verizon or a Verizon-supported trade association. (He also wrote two papers last year for Facebook, which has declared [its support](#) for net neutrality.) In the fall of 2013, he [became the director](#) of the think tank's new center on media and internet policy. A [few months later](#), he joined NERA, one of the country's oldest and best-known economic consultancies, as a senior vice president of the firm's telecommunications practice, the latest in a string of jobs at industry consulting firms.

"Jeff is good at linking big theoretical ideas to policy, and he's been good at making money doing that," said Mr. Weller, the former Verizon economist. "He's been good at moving from think tank to think tank and company to company, and I don't think he's ever lost money doing it."

Mr. Eisenach has testified before Congress, filed comment letters to the F.C.C. that mention his status as an American Enterprise Institute scholar, and met privately with F.C.C. commissioners, according to emails obtained through an open records request. He has also [organized public briefings](#) featuring, among others, Senator John Thune, Republican of South Dakota, the chairman of the Senate commerce committee, which oversees the F.C.C. Mr. Eisenach used his position as a think tank researcher to help rally opposition to net neutrality regulations.

At a given moment, it can be difficult to determine which hat Mr. Eisenach is wearing.

In September 2014, at a Senate Judiciary Committee hearing on net neutrality, the formal meeting agenda listed Mr. Eisenach as a visiting scholar at the institute.

His written testimony mentioned that he also served as “co-chair of NERA Economic Consulting’s Communications, Media and Internet Practice,” but included no explicit reference to clients like Verizon. As he opened his testimony, Mr. Eisenach suggested that his opposition was based purely on his personal views.

“While I am here in my capacity as a visiting scholar at the American Enterprise Institute, the views I express are my own, should not be attributed to A.E.I. or to any of the organizations with which I am affiliated,” he said.

He then detailed his vehement opposition to further federal regulation of the internet.

“The potential costs of net neutrality regulation are both sweeping and severe,” he said. “It is best understood as an effort by one set of private interests to enrich itself by using the power of the state.” Both the institute and his consulting firm posted his testimony on their websites.

Mr. Eisenach was similarly ambiguous when he interacted with members of the F.C.C., according to dozens of emails obtained by The Times, all but one of which was sent from Mr. Eisenach’s email address at the American Enterprise Institute.

On behalf of the think tank, he sought meetings with F.C.C. commissioners and lawyers to discuss the rules, and briefed the commission’s Republican members on what its general counsel was telling him about Mr. Wheeler’s thinking. Mr. Eisenach offered speaking slots at American Enterprise Institute events to the two Republican members on the commission, urging one to use a January 2015 forum to speak out against the proposed regulations.

“Net neutrality is obviously top of mind,” he said in an email to that commissioner, Michael O’Rielly. “I’d be delighted if you would use the opportunity to lay out the case against.”

From: Jeffrey Eisenach
Sent: Monday, December 15, 2014 3:25 PM
To: michael.orielly@fcc.gov
Cc: susan.fisenne@fcc.gov
Subject: January 14 Event at AEI

Mr. Commissioner --

Thanks for agreeing to speak at AEI on January 14.

In order to start marketing the event, we need guidance on two issues, (1) subject and (2) format.

With respect to the subject, net neutrality is obviously top of mind, and I'd be delighted if you would use the opportunity to lay out the case against Title II (and indeed against NN regulation in general), and perhaps discuss whether a statutory resolution is called for (as I am hoping that will be in the mix by then). You could also go with a different topic, or something broader. If you haven't decided, we can simply call it "The FCC in 2015: A Conversation with Commissioner Mike O'Rielly."

In a 2014 email, Mr. Eisenach encouraged Michael O'Rielly, a Republican F.C.C. commissioner, to use an American Enterprise Institute event to "lay out the case against" internet regulations.

Ms. Stecker, the institute spokeswoman, said it should be no surprise that the opinions of experts like Mr. Eisenach were in demand. The think tank requires scholars to submit an annual report on any "outside activities," she added, and A.E.I. has "not as an institution sought to influence or constrain" this work.

Other technology companies like Google and Comcast have also underwritten research by think tank scholars, whose findings typically dovetail with the companies' lobbying agenda. Geoffrey Manne, for example, who runs the Oregon-based International Center for Law and Economics and is a senior fellow at the Washington-based think tank TechFreedom, has frequently written pieces questioning federal antitrust investigations of Google while accepting financial support from the company.

Double Duty

While private consulting arrangements can leave scholars' ties to corporate interests murky, the conflict is more apparent when think tank researchers do double duty as registered lobbyists.

C. Stewart Verdery Jr., as a senior associate at the Center for Strategic and International Studies, one of Washington's most influential think tanks, hosted a panel of experts in December to discuss a federal program — now being expanded — that tightens border security by having the American authorities conduct passport checks in foreign airports.

Mr. Verdery made clear that he favored the preclearance effort, which speeds the arrival of travelers in the United States.

“It provides unmatched benefits to our security, travel facilitation and passenger convenience,” Mr. Verdery said as he introduced the other speakers, including Howard Eng, the president and chief executive of the Greater Toronto Airports Authority, during an event that was broadcast on C-Span.

Mr. Verdery, a former senior official at the Department of Homeland Security whose office helped run the inspection program at foreign airports, briefly mentioned that in addition to his status as a scholar at the Center for Strategic and International Studies, he was the founder of the Monument Policy Group.

Left unsaid: Mr. Eng’s airports authority is one of Mr. Verdery’s regular lobbying clients, paying his firm \$130,000 last year to influence the Obama administration and Congress.

Officials at the Toronto airport, with Mr. Verdery’s help, have been trying to persuade the American authorities to increase staff and equipment to reduce bottlenecks sometimes created by the preclearance program.

Asked whether it was appropriate for a lobbyist to host his clients at a think tank event, Mr. Verdery said, “It is fairly typical.”

Mr. Verdery is not paid by the think tank, he noted. He does benefit from the C.S.I.S. title, however, when laying out a client’s case.

As of late last year, at least 70 unpaid senior advisers and associates listed on the think tank’s website had simultaneously worked as consultants. Seven others listed as C.S.I.S. senior advisers or associates during the past five years had worked as registered corporate lobbyists while holding the positions.

Officials at the Center for Strategic and International Studies, when asked about Mr. Verdery, said his December presentation should not have taken place.

“This event did not meet our standards of transparency and integrity,” the think tank said in a statement in response to questions. “This constituted a lapse in oversight from C.S.I.S.”

Mr. Verdery is no longer listed among the think tank’s senior associates.

Bruce Bartlett, a scholar who has worked at the Cato Institute and the Heritage Foundation, said it was becoming the norm in Washington for lobbyists and consultants like Mr. Verdery to vie for nonresident scholar posts to help them burnish sales pitches to corporate clients.

“Clients prefer it that way,” Mr. Bartlett said. “They get a chance to have their work done by scholars.”

Christopher Miller, a former policy adviser to Senator Harry Reid, Democrat of Nevada, has worked as a paid senior visiting fellow on energy and environmental issues at Third Way, a

centrist think tank, while also aregistered lobbyist for Covanta Energy, which owns waste-to-energy facilities that burn municipal trash. Mr. Miller acknowledged in an interview that his clients could benefit from the work he had done briefing members of Congress on behalf of his think tank.

“I don’t think they see any downside,” Mr. Miller said of his corporate clients and the think tank.

While Mr. Miller is not well known, he has high-profile company.

Within three months of leaving Congress in January 2011, Byron L. Dorgan, a former Democratic senator from North Dakota, had been named a co-chairman of government relations and a senior policy adviser for the energy industry lobbying team at the Washington offices at Arent Fox — as well as a senior fellow, specializing in energy issues, at the Bipartisan Policy Center, a Washington think tank.

Mr. Dorgan did not immediately register as a lobbyist, but his firm has oil and gas industry clients.

Using his post at the Bipartisan Policy Center, Mr. Dorgan urged Congress and the Obama administration to do more to promote oil and gas production in the United States. He was often joined by Trent Lott, a former Republican senator from Mississippi and another Bipartisan Policy Center fellow working simultaneously as a lobbyist. Together, they sent letters under think tank letterhead to Congress, and Mr. Dorgan testified before the House Subcommittee on Energy and Power in favor of expanded oil and gas production in the United States.

Mr. Dorgan’s most aggressive efforts relate to the National Biodiesel Board, which he has represented as a lobbyist since 2014, earning his firm \$240,000 a year. He has written op-ed pieces, given speeches and set up meetings with top officials at the Environmental Protection Agency on behalf of the biodiesel board, emails obtained by the New England Center for Investigative Reporting show. Mr. Dorgan generally does identify himself as both a think tank scholar and an Arent Fox senior policy adviser representing the biodiesel industry.

Asked if his dual role represented a conflict of interest, Mr. Dorgan said that the premise of the Bipartisan Policy Center was “to bring interested parties together to find solutions to difficult problems,” and that he was proud to work there.

Mr. Zakheim, of the American Enterprise Institute, is also a lobbyist at Covington & Burling L.L.P., where, on behalf of BAE Systems, he is urging Congress and the Defense Department to increase spending on ground combat vehicles that the company manufactures. Other clients include Northrop Grumman, which is building a new long-range Air Force bomber.

In October, as a “visiting fellow,” Mr. Zakheim contributed to an 87-page American Enterprise Institute report, “To Rebuild America’s Military,” which concluded that strengthening the

military's ground forces and land combat vehicles would be an "essential key to deterrence in Europe and success in the greater Middle East."

The report did not mention that Mr. Zakheim was a paid lobbyist. His client, BAE, recently won a contract to supply the vehicles.

Some scholars add another twist: They serve on corporate boards directly related to their areas of expertise at think tanks.

Dr. McClellan, a former commissioner at the Food and Drug Administration who until January was a senior fellow at Brookings, has been a go-to expert for the federal government as it debates how to cope with surging costs of prescription drugs.

At public events, Dr. McClellan emphasized the extraordinary progress by the pharmaceutical industry in coming up with treatments for diseases like diabetes, H.I.V. and hepatitis C.

"Lots of diseases have been transformed," Dr. McClellan said at a hearing in November sponsored by the Department of Health and Human Services. He ran through a series of slides prominently stamped with Brookings's name. He also argued that even though these drugs were very expensive, they were worth it given the improvement in a patient's quality of life.

"They are, over all, a pretty good deal," Dr. McClellan said, referring to treatments for hepatitis C. One such drug, manufactured by Johnson & Johnson, generated \$2.3 billion in sales in its first full year, representing about 7 percent of the company's overall drug sales in 2014. The pills cost \$66,000 for a standard 12-week regimen.

There was no mention in a video of the event that Dr. McClellan joined Johnson & Johnson's board of directors in October 2013 — or that he earned nearly \$530,000 over the past two years in overall compensation from the company. That is in addition to his salary at Brookings, where he is one of the top-paid scholars, with \$353,145 in wages and other compensation from the think tank in 2014, tax records show.

Dr. McClellan, in a statement, disputed any suggestion that he might have had a conflict.

"My entire career in academics, government and public policy has focused on evidence-based ways to improve health and restrain costs for consumers, and my extensive track record speaks for itself," he said.

Ms. Browner, a former E.P.A. administrator under President Bill Clinton, has traveled to cities around the world — including Chicago and Davos, Switzerland — where introductions of her included her credential as a distinguished senior fellow at the Center for American Progress. But she is also a member of the leadership council of Nuclear Matters, an industry-funded group that pays her to promote nuclear energy. At these stops, she has argued that any solution to climate

change must include nuclear energy because it generates power without producing emissions that are blamed for global warming, even though, as an environmentalist, she was once a critic of nuclear power.

She said that her change of heart on nuclear power had predated her engagement with Nuclear Matters, and was motivated by her desire to combat climate change, not by payment from the industry.

“Obviously, the single most important thing any individual has is their reputation,” she said in an interview. “I have worked really hard to be forthcoming about what I stand for and believe in. I am who I am.”

Ms. Browner has since resigned as a senior fellow at the center, but she remains on the board.

‘A Glass House’

Adam S. Posen, the president of the Peterson Institute, considered the world’s pre-eminent think tank on global economics, has a commanding view of the construction of the new headquarters for the American Enterprise Institute, as well as the main office of Brookings. From his grand office, he recently had a series of uncomfortable conversations with three scholars he had decided to let go.

After much internal debate, Mr. Posen decided to formally prohibit Peterson’s scholars from holding outside jobs that directly related to the field they wrote about on behalf of the think tank.

The three who had such outside engagements were terminated.

Mr. Posen noted that the change did not imply the researchers had done anything wrong. But tighter rules are needed, he said, to respond to a growing sense he shares with the Peterson board that the think tank industry must reassert its commitment to impartiality.

“I live in a glass house,” said Mr. Posen, a Harvard-trained economist who previously served on the Monetary Policy Committee of the Bank of England, gesturing toward the floor-to-ceiling glass that provides him stunning views.

“Our reputation is built on our credibility,” Mr. Posen said. “Without being perceived as credible and objective, our studies just get thrown on the scrap heap.”

The Urban Institute, a Washington-based think tank that focuses on issues confronting cities, has decided to require that its scholars with any outside jobs detail the relationship in their writings.

“Urban’s greatest asset is its reputation for objective research that is based upon rigorous academic and ethical standards,” the institute’s president, Sarah Rosen Wartell, said in a December memo to her staff.

And at Brookings, executives imposed new rules in December requiring that unpaid nonresident scholars use their title from any paying job, not from Brookings, if they testify before Congress. They are also prohibited from using their affiliation with Brookings in any research report they publish under contract with an outside party.

“These are designed to avoid not just conflicts of interests, but the appearance of conflicts of interests,” said Martin S. Indyk, the executive vice president at Brookings.

Separately, Brookings terminated its relationship with Mr. Litan in September after he failed to make clear that testimony he provided to a Senate committee last year, based on a study he had done as a private consultant, “left the false impression that Brookings was connected with the report and the testimony,” Strobe Talbott, the Brookings president, said in a letter explaining the matter.

Mr. Eisenach, for reasons he would not specify, said he was no longer working on issues related to net neutrality — even though he had taken up the topic on behalf of the American Enterprise Institute as recently as January and published an industry-funded report through his consulting firm in February that discussed it.

“I’ve moved on to other issues,” Mr. Eisenach said.

Such steps are long overdue, said Thomas Medvetz, the author of the 2012 book “Think Tanks in America” and an associate professor of sociology at the University of California, San Diego.

“It has gotten to the point where everyone in Washington has their own expert,” Mr. Medvetz said. “It is yet another reflection of the tremendous influence of economic power in American politics — as with money, you can create your own vehicles of political influence.”

Still, not everyone is worried about the multiple roles played by think tank scholars.

Representative Greg Walden, Republican of Oregon, oversaw a House hearing on the F.C.C.’s net neutrality rule early last year. Among the evidence he submitted into the congressional record was a Wall Street Journal op-ed article co-written by Robert M. McDowell, a Hudson Institute scholar who also serves as a telecommunications industry lawyer at a firm retained by AT&T to lobby on net neutrality.

“Everyone’s got their point of view,” Mr. Walden said in an interview last year. “And some of them get paid to have that point of view.”