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Cornelia Woll: Corporate Power Beyond Lobbying. In: American Affairs 3(3), 38-55 (2019). American Affairs Foundation
The original publication is available at the publisher's web site:
<https://americanaffairsjournal.org/2019/08/corporate-power-beyond-lobbying/>

AMERICAN *Affairs*

August 20, 2019

Corporate Power Beyond Lobbying

by Cornelia Woll

The biases that private interests can introduce into politics have always been a key concern for democratic theory. Lobbying in particular has come into the focus of social science research since the beginning of the twentieth century.¹ After a century of study, there is a general consensus that the freedom of political participation creates an unequal landscape: corporate actors find it much easier to promote their interests than do more fragmented or less well-endowed groups, especially those speaking on behalf of public interests. Ever since the publication of Mancur Olson's *The Logic of Collective Action*, exceptions only seem to prove the rule that perfect pluralist representation of all societal stakeholders is simply unattainable.² What is more, it is easy to attribute the rise in economic inequalities to unequal political representation, and more specifically to consider excessive lobbying as the main cause of biased politics.

Despite the fervor and outrage over frequent lobbying scandals, regulatory responses do not seem well equipped to rein in corporate power in politics. Although the United States has by far the most developed set of regulations for campaign finance, lobbying, and ethical standards for public officeholders, it is still one of the political systems identified as highly permeable to corporate interests.

One reason for this is that we are overestimating the role of lobbying in explaining corporate power. This article points to alternative channels of big business influence. I argue that lobbying is neither sufficient, nor even necessary, to explain the reach firms can hold over politics. If we want to explain why public decisions are made in the interest of specific private stakeholders, we need to pay closer attention to the business activities of firms and the use of their products in private and public life. One limitation of a substantial part of the literature of business power is that it considers only advocacy work as specifically political. This overlooks the fact that the lines between the commercial and political activities of firms are very often blurry. As the use or consumption of these firms' products grows, dependence on specific firms can become critical and introduce biased political decision-making, even in the absence of lobbying, as the title of this article suggests. This is particularly true when products or services are highly prized by affluent consumers.

In the following, I will first discuss why lobbying is not sufficient for corporate influence by presenting recent studies that cast doubt on the overall effectiveness of even considerable advocacy efforts. Yet despite the notable limitations and failures of business lobbying, U.S. politics is oftentimes considerably biased in favor of the corporate sector. I will therefore argue that lobbying is not even necessary for corporate influence and discuss cases in which decisions were made in the interest of private stakeholders, in the absence of concrete political demands on behalf of the beneficiaries. This leads me to explore alternative routes for corporate influence over politics: the roles their commercial activities play in public and private life. The conclusion suggests how to more effectively address corporate power and underlines why this is an increasingly pressing topic.

LOBBYING IS NOT SUFFICIENT TO EXPLAIN CORPORATE POWER

The quest for influence in politics is a flourishing industry, with roughly twelve thousand registered lobbyists in Washington, D.C., and expenditures reaching \$3.4 billion in 2018.³ These impressive official figures probably underestimate actual lobbying activities, however. Several scholars, such as James Thurber, believe the industry employs almost one hundred thousand people, with annual expenditures of \$9 billion.⁴ Among the biggest spenders, one can easily identify large business

groups or entire industries, such as the U.S. Chamber of Commerce, which consistently spends nearly \$95 million each year, or pharmaceutical companies and associations which accounted for \$280 million in spending in 2018 alone. It would be foolish to suggest that all of these expenditures are without effect. There must be some rationale for these massive sums!

And yet, as MIT scholars Stephen Ansolabehere, John M. de Figueiredo, and James M. Snyder ask (following George Tullock, who posed the same question in 1972): “Why is there so little money in U.S. politics?”⁵ Considering the value of public contracts, investments, and regulation at stake, the amounts spent on campaign finance or lobbying are strikingly low, they argue, and thus cannot be explained as “political investment.” It is more reasonable to consider such spending as a form of “consumption good”: the price paid reflects the value of political participation. Like casino chips one needs to buy in order to gamble, the number of chips acquired will not increase the chances of winning; they merely ensure the ability to keep playing. This analogy helps us to understand the seemingly paradoxical research findings that show the limited effect of corporate advocacy, in particular (1) the decline of organized business groups and (2) the relative weakness of business lobbying compared to broad-based interest groups. Let us consider each of these in turn.⁶

Given their superior resources, one might expect business groups to overcome collective action problems more easily than other societal stakeholders, but in fact business organization suffers from comparable challenges to mobilizing members across issue areas. Mark S. Mizruchi even argues that the organizational capacity of business is declining and provides a detailed historical account of the fracturing of the American corporate elite.⁷ He shows that corporate leaders were most organized and influential in the 1960s and 1970s, as represented through organizations such as the Business Roundtable and the Committee for Economic Development. Corporate leaders, operating under the considerable political pressure of the postwar consensus, were ideologically moderate during this time, but they also encouraged tax cuts and deregulation.

Ironically, perhaps, the rise of a more neoliberal economic policy orientation resulted in the fraying of business coordination. With a weakening of the labor movement and the transformation of corporate governance toward shareholder

value, corporate leaders retreated from political coalitions and focused exclusively on individual objectives. This trend was further accelerated by the decline of commercial banks, whose boardrooms had been the meeting place for leaders of the corporate community. With the rise of alternative sources of funding, banks lost their centrality in the American corporate network, which experienced a sharp decline in cohesion. The “inner circle” of large corporate players identified by Michael Useem in the 1980s dissolved in the two decades that followed.⁸ During the 1990s and 2000s, when business leaders rose to celebrity status in the media, they spent successively less time meeting each other and coordinating political strategies.

The limited influence of organized business groups is also confirmed in Mark A. Smith’s extensive policy-focused study of the lobbying efforts by the U.S. Chamber of Commerce, a top spender on lobbying.² Examining well over two thousand issues that the Chamber took a position on, Smith shows that the group tended to lose its battles unless it had public opinion on its side. This is because the issues that U.S. business is willing to work on collectively often have high political salience, which gives politicians an electoral incentive to resist the united corporate front and become more responsive to electoral constituencies. As we know from Pepper D. Culpepper, corporate interests are most effectively defended in “quiet politics.”¹⁰ The active coordination of business interests thus faces a paradox: comprehensive organization and coordination requires stakes that are of relevance to all different types of business actors, but these are precisely the types of issues that will diminish the influence corporate groups can have, as other interest groups are likely to be vocal on these issues as well.

Does this mean that business will simply retreat from large encompassing associations and continue to wage its battles through smaller, issue-specific interest groups or even individually? Although this has certainly been the trend, we have reasons to doubt the effectiveness of even these more focused efforts. To be sure, business groups and individual corporations lobbying in Washington outnumber so-called citizen groups.¹¹ Their omnipresence and superior resources, along with the impressive anecdotal evidence of business success on specific issues, have led many to assume that money is directly related to lobbying success. Yet Matt Grossman finds that policy change is more often associated with advocacy groups than with

business groups. Using the measurements of historians who have established positive group influence over individual policy cases, he also documents that identified interest group influence is in slight decline. While some portion of this trend may be linked to the particular form of measurement, it is noteworthy that “reported interest group influence failed to increase during the numerical explosion of group mobilization in the 1970s.”¹²

In one of the most comprehensive studies by Frank R. Baumgartner, Jeffrey M. Berry, Marie Hojnacki, David C. Kimball, and Beth L. Leech, the analysis of a painstakingly constructed random sample of lobbying issues and participants produced surprising and similar results: most importantly, the relationship between money and policy *change* is close to zero.¹³ There are several reasons for this finding. First, citizen groups are more likely to be cited as central players, despite being outnumbered. Second, influencing policy change requires overcoming a massive status quo bias in American politics. This in turn requires the successful construction of advocacy coalitions from inside and outside the government that most often span the business and nonprofit sector. In many cases—and this is the third point—these heterogeneous coalitions can be found on both sides of a policy issue. As Baumgartner and his colleagues document for nearly one hundred randomly chosen cases, rich interest groups do not just ally with the rich, nor do the poor groups exclusively align with the poor; they mix. The recurrence of such alliances thus tempers the effect of money on interest group success. In a nutshell, money spent on lobbying does not guarantee results.

AVERAGE CITIZEN PREFERENCES HAVE LITTLE EFFECT ON POLICY

Does this mean the rich and the poor are equal in politics? Unfortunately, it does not. In an equally impressive research design, Martin Gilens uses survey data on policy preferences for 1,779 issues (measuring support versus opposition) and compares these to actual policy change four years later, asking whether average citizens, economic elites, or organized groups are most likely to see their wishes translated into policy actions.¹⁴ The sobering and most fundamental finding is that average citizen preferences have little or no effect on policy outcomes; their preferences correlate only very modestly with interest groups, even those classified

as “mass-based.” To put it differently, the average American is not well represented through organized groups and does not shape policy dynamics through electoral mechanisms or public opinion pressure.

The category that appears to have the largest impact on policy outcomes is not organized interest groups but affluent citizens. These economic elites, measured as respondents with income levels at the ninetieth percentile, have a separate effect on policy change that is almost twice as large as business groups, whose effect is in turn twice as large as mass-based groups.¹⁵ Moreover, the association between affluent citizen preferences and business group preferences is surprisingly low. Consistent with the study by Frank Baumgartner and colleagues, Martin Gilens’s data shows that the success of an average business group is roughly equal to an average mass-based group. At the aggregate level, however, the numerical advantage of business groups in Washington creates a greater correlation between business group preferences and policy change. What is more, and in line with popular sentiment, a combination of preferences from economic elites and business groups increases the likelihood of policy change substantially.

In sum, we face a puzzle. Affluence and influence work in tandem in American politics, but this is *not* because of the superiority of organized business groups or the effectiveness of formal corporate lobbying or campaign finance, even though these special interests have considerable resources and are well connected with policymakers.¹⁶ American politics works in the interest of capital, but our understanding of the mechanisms of this influence is patchy at best.

THE IMPORTANCE OF STRUCTURAL ADVANTAGES

In the wake of the recent financial crisis, the literature on corporate power has moved beyond the interactions that characterize political advocacy and returned to the systemic features of market economies that give structural advantage to business over other societal stakeholders. Drawing on traditional Marxian analysis, accounts of structural power recognize that the source of business influence lies in the organization of the economy.¹⁷ To define our terms, power can be conceived as “the production, in and through social relations, of effects on actors that shape their capacity to control their fate.”¹⁸ Structural power then operates through existing

institutional arrangements that put certain actors in privileged positions, allowing them “to change the range of choices open to others without apparently putting pressure directly on them.”¹⁹ The financial crisis revived the structural power debate.²⁰ David Harvey and Wolfgang Streeck in particular have pointed to the dynamics inherent in accumulation regimes and debt-financed government expenditures that create fundamental challenges for representative democracy.²¹ The essence of privilege is that you do not need to ask explicitly for favors. Indeed, you may not even have to lobby.

The mechanisms that support corporate power are familiar to comparative public policy analysts and are cited in many studies. In open economies, interconnected markets create pressures on social protection regimes if and when firms can relocate more easily than labor. The investment decisions of private firms are sensitive to political signals concerning taxes, regulatory control, or other forms of government intervention, which can trigger a race to the bottom among political regimes that are in competition with one another for investments. Moreover, an increase in the indebtedness of a government makes it vulnerable to fluctuations in international financial markets, the signaling devices of rating agencies, and other performance evaluations. Relying on borrowed money for economic growth makes government dependent upon the health of financial institutions, which in turn have become too interconnected and too big to fail. These dynamics—capital flight, regulatory competition, dependence on international financial markets, and too-big-to-fail financial institutions—create problematic structures that put pressure on politicians regardless of their party affiliation. They shape the discourse of the political debates within which policy reforms can take place. Alternative solutions are most often considered radical, which in turn leads policy actors of very different political leanings to organize their debate around these constraints.²² Through these different mechanisms, the often-criticized “straightjacket of globalization” works in favor of business.²³

In addition, the structural advantage of business reinforces itself over time through cumulative biases. Paul Pierson underlines this temporal dimension of power from a historical institutionalist perspective: “political contestation is both a battle to gain control [and] to institutionalize advantage.”²⁴ Through institutional arrangements, politics distributes and generates power in the future. The cumulative bias of

structural advantage can work through several mechanisms: (1) nondecisions, (2) spreading across policy domains, and (3) the reorganization of political authority. Let us consider these in turn.

Nondecisions are central to what Jacob S. Hacker and Pierson have called “drift.” Drift occurs when policymakers fail to update public policies to the changing socioeconomic context, “despite the recognition of alternatives.”²⁵ This is not only “due to pressures from intense minority interests or political actors exploiting veto points in the political process”; in some cases, the updating of policies may be discarded because it creates tensions with other policies, or because the updating would require government resources that are simply unavailable. Drift occurs when labor laws are not updated to keep pace with new workplace practices, when stock option regulation does not evolve alongside substantial changes in executive pay packages, or when security regulation does not keep up with the speed of innovation in financial instruments. All of these individual policy areas can have considerable effects on the relationships between economic stakeholders and can slowly undermine former compromises. As Baumgartner and his colleagues have shown, politics has a strong status quo bias, even independent of political ideology.²⁶ Yet when one set of stakeholders has won a series of battles in the past, as business groups have in Hacker and Pierson’s account of U.S. politics, such drift can silently solidify their privileged position over time.

A second mechanism points to a horizontal dimension of cumulative bias, which can move from one policy domain to another. In comparative political economy, the literature on the varieties of capitalism has drawn attention to the intricate setup of socioeconomic orders, in particular the importance of institutional complementarities.²⁷ Complementarity is a functional term, highlighting that two elements must be combined to produce an outcome. In the comparative analysis of production regimes, studies have shown that wage coordination requires specific monetary policy institutions and that skill formation regimes depend on particular corporate governance arrangements. If one of these domains is reformed, the other will stop functioning adequately. For example, listed companies managed in order to maximize shareholder value are likely to invest less in vocational training for their employees, thus linking corporate governance with training. Such secondary effects do not have to be deliberate decisions. They nonetheless illustrate how the

transformation of key aspects of institutional arrangements can have repercussions across domains, even if these are never directly targeted politically by any of the stakeholders.

Finally, cumulative bias may happen through the reallocation of political authority as a result of previous policy decisions. Examples of such decisions include the delegation of certain domains to independent regulatory agencies or an independent central bank, or the transfer of competencies to supranational institutions. Lawrence Jacobs and Desmond King provide such an analysis of the profound cumulative bias that has benefited large financial institutions at the expense of the general population in their study of the Federal Reserve.²⁸ Similar analysis has been conducted on a variety of regulatory agencies, which were created to make decisions independent from partisan influence, but have become captured by corporate interests over time. And once delegation arrangements are in place, however well justified they were initially, they provide guidelines for future political decisions that can create fundamentally biased system dynamics.

Let me illustrate how corporate power plays out through all of these dynamics by returning to the financial crisis of 2008. The massive government interventions undertaken in the immediate aftermath of the crisis to prevent the financial system from collapsing have been cited repeatedly as the ultimate illustration of inequality in the United States and beyond. This example also demonstrates the power of Wall Street and the fact that governments do have resources available that they refuse to invest in other public causes such as health care, infrastructure, or education. As extraordinarily costly and highly redistributive public policies, bank bailouts are commonly assumed to result from pressure exerted by financial institutions upon their governments.²⁹

To be sure, the financial industry had lobbied considerably in the decades prior to the crisis to influence the regulations governing their business.³⁰ The actual bailouts, however, were not provided at the request of the financial institutions that benefited from them— quite the contrary. As I have previously documented in a comparative study of bank bailouts in the United States and five European countries, the actual bailout plans were devised by governments, supervisors, and central banks, often against the will of individual institutions who insisted that they merely had

temporary financing difficulties and requested additional liquidity.³¹ Of course, all financial institutions had an interest in government intervention to stabilize the overall economy, but they had a very hard time coordinating their demands with competitors who were also affected. With the exceptions of France and Denmark, the crisis was not a high time of collective action within the financial industry. Rather, individual institutions played the clock in the hope that the government would intervene single-handedly and shoulder the costs, comparable to a game of chicken.

To push the argument, I believe that the CEOs and lobbyists of the major financial institutions could have gone off to distant islands slurping cocktails rather than meet with public authorities during the crisis. They still would have gotten bailed out—because of the position that these institutions hold in highly financialized economies, where their collapse threatens the stability of the entire system. Previous regulatory victories and an increased reliance upon the financial industry among both households and governments funded through debt made any other political choice almost impossible. From such a structural perspective, corporate power does not need lobbying to produce highly unequal results.

What then can be done to correct political inequalities? By arguing that lobbying is neither sufficient nor even necessary for corporate power to create massive biases, I seek to move the discussion of political equality away from political participation and representation alone. Political advocacy is much less central to the disequilibrium than the actual commercial activities of business and the way their products and services enter into public and private life. This requires understanding the political nature of economic choices and moving beyond an angelic conception of business development as simply a motor of prosperity.

THE BUSINESS OF BUSINESS IS BUSINESS?

The root of the difficulty in addressing corporate power has been the tendency to consider the economy and politics as separate spheres. Corporations may enter into politics through political advocacy, but when they are concentrating on their main activities, the assumption is that they are simply creating profits, and thus prosperity, which should be encouraged. Despite a general distrust of corporate power, the

majority of Americans still agree that “what is good for business is good for America.”³² Milton Friedman famously asserted in 1970 that companies have only one responsibility, making a profit: “the business of business is business.”³³

Yet cheap prices and consumer welfare no longer suffice in measuring the validity of this principle. Both the financial crisis and the current political debate on the big tech companies draw our attention to the role that corporations can play in public and private life and the political influence this grants them. Consumption of specific goods and services can create dependencies that will lead to more favorable treatment of the companies providing them. Through public-private partnerships or hybrid governance arrangements, companies can even shape public activities, simply by going about their business.

In this case, we can talk about “infrastructure power” or “platform power.” Drawing on Michael Mann’s original concept,³⁴ Benjamin Braun explains that infrastructure power arises when the government relies on markets for the implementation of policies. In economic governance, this applies in particular to treasuries and central banks, which have outsourced certain financial and monetary functions to the private sector and interact routinely with them for the buying and selling of financial claims for public policy purposes. When companies become “the conduits for market-based economic governance,” they enjoy infrastructure power, because the government will seek to maintain the stability of these instruments.³⁵ In a similar vein, Pepper D. Culpepper and Kathleen Thelen refer to “platform power” to highlight the political advantage that big tech companies derive from their specific market position.³⁶ As highly centralized providers of information, media content, social networks, online shopping, or other services at a very cheap price, these companies are difficult to control politically, because of the impact government intervention can have on their customers, in many cases, a large part of ordinary citizens. In addition, these private companies increasingly provide valuable services to the government directly, not only in financial transactions. To cite just one product, consider GovCloud, an Amazon web service providing cloud computing solutions to the U.S. government.

To put it simply, the government and private households use products and services provided by companies in ways that shape the political clout of the latter. In many respects, this insight is so basic that it should be obvious to anybody. Indeed, for more than a century, scholarly writing has warned against the political risks of extensive market power. Exemplified by the near monopolies of the second industrial revolution in the nineteenth and early twentieth centuries in the United States, such economic and therefore political biases were at the origin of antitrust law and the insistence that competition was necessary for equal economic and political opportunities. At the time, network services and goods such as oil, steel, and railroads, as well as telephone services and movie distribution, enjoyed the same infrastructure or platform power we can observe in the finance and technology industries today. The bad news is that the tools devised to tackle anticompetitive practices in the early twentieth century seem inadequate to meet the current challenges.³⁷

Heavily reliant on courts, antitrust enforcement has slowed down to the lowest rate of cases brought by the U.S. government against both cartels and monopolies.³⁸ This stands in contrast to the consolidation trends within industries, which are increasingly becoming dominated by a handful of firms per sector.³⁹ The apparent hiatus has triggered an intensive scholarly and political debate about the need to revive antitrust regulation to deal more effectively with industry concentration and the ensuing political power of corporations.⁴⁰ Big tech companies are central in this debate, with the last big antitrust case against Microsoft at the turn of the century standing as a reminder of responses that have been applied in the past.⁴¹ It is indeed hard to understand how the bundling of Microsoft's operating system and its browser in 1998 was a different type of abuse of market dominance than the practices of Google, Amazon, or others today. Quite tellingly, Facebook CEO Mark Zuckerberg was unable to name any major competitors when asked to do so in his recent congressional hearing. On the other side of the Atlantic, the European Commission fined Google €1.49 billion for abusive online advertising contracts in March 2019 and ruled against illegally advantageous fiscal arrangements in Luxemburg for Amazon in October 2017. To understand why such practices are under seemingly less scrutiny in the United States is certainly one of the most urgent issues surrounding corporate power in American politics today.⁴² Reigning in

excessive corporate power has therefore become a political slogan for politicians on both the left and the right of the political spectrum, from Elizabeth Warren to Ted Cruz.⁴³

FROM CORPORATE INFLUENCE TO STATE DEPENDENCE

Corporate power is a reality that significantly affects the distribution of resources and opportunities and creates an unequal economic and political system. Addressing such biases is a key challenge for democratic societies. But these problems cannot be solved by looking at the political system or the regulation of participation and representation alone. The attention that has been paid to access, lobbying, and campaign financing will not provide a full understanding of the mechanisms that create biased policy outcomes or regulation. For the most important corporate actors, such activities are a side event and may not even be necessary to explain the most extreme choices, such as massive bank bailouts after the recent financial crisis.

It is more promising to examine the regulation of economic activity and competition practices in particular. Within concentrated industries, broad reliance on specific goods and services makes the government and households more vulnerable to disruption in company practices. In an attempt to ensure stability, governments become subservient to the major corporate players. This can only be addressed through more structural economic reform and greater competition, to make sure that no single company can threaten the entire system. Commercial activities are not “just business” if a provider cannot be discarded.

As a result of integrated markets and the cumulative effect of favorable policy decisions in the past, today the balanced relationship of the postwar compromise between government and business is broken. Large American companies have benefited from foreign opportunities by offshoring much of their labor and minimizing responsibility for employees. Long-term investment is reduced drastically and replaced by short-term financial engineering like share buybacks. Within industries, we see the emergence of “superstar firms” where a small number of firms gain a very large share of the market. These winner-take-most firms with high profits have a particularly low labor share in value-added and sales, and create competitive

dynamics that help to explain the decades-long decline in the labor share of GDP in the United States.⁴⁴ Playing consciously on their importance for the American economy, these firms deny most formal obligations to the state, including corporate taxes that are typically minimized through complex arrangements shifting the accounting of profits into tax havens. Proclaiming themselves as global citizens, they insist that government should interfere as little as possible with their activities, and routinely offer voluntary standards and philanthropy as an alternative approach to regulation and taxation. Quite clearly, the government is no longer able to impose its conditions on corporate America. I have tried to argue that the most simple and straightforward response to corporate power would be a renewed and ambitious antitrust framework that goes beyond the protection of consumer prices and considers economic and political power.

Unfortunately, it is not only partisan and intellectual differences that make the rewriting of competition policy difficult. What increasingly hampers more prudent responses to market power is also the interconnected global markets that the United States has helped to construct. Reducing the size of a company at home may mean giving a greater market share to foreign companies active in the same industries. Competition policy and regulation affects not just home markets, it stretches well beyond. Perfect competition in global markets may be desirable from an economic perspective, but it does pose a considerable political challenge, because economic and geopolitical interests are tightly intertwined.⁴⁵ One may think of recent international disputes concerning payment systems, energy, or internet security. In many recent cases, the U.S. government uses the “specific topography and structure of economic networks” in order to exercise coercive authority, as Farrell and Newman write about a phenomenon they call “weaponized interdependence.”⁴⁶ Exploiting the fact that foreign companies pay in dollars, use the SWIFT payment system, or even just a Google email account to discuss transactions, the Department of Justice has been able to pursue foreign companies and negotiate substantial settlements for violations of U.S. law abroad. The extraterritorial reach of American law thus rests on the economic networks established by its companies.

It thus becomes quite clear that the U.S. government has a strategic interest in maintaining strong companies not only to weigh in abroad, but also to avoid having to rely on a foreign provider for central services or policy implementation, as the recent battle over Huawei and global data security illustrates. Quite rapidly, the concerns about undue corporate power can be replaced by concerns about the risk of foreign influence. When asked to choose between the two, most politicians will prefer the former.

Thus the extent of corporate power today goes far beyond the efficacy of lobbying. Nor is this power manifested simply in the ability to limit state intervention in the economy or wealth redistribution. In fact, the state has become dependent upon the corporate sector to perform even basic functions, and as such is severely constrained in its ability to act in any public interest.

This article originally appeared in AMERICAN AFFAIRS Volume III, Number 3 (Fall 2019): 38-55.

NOTES

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