

# Commerce Watchdog Growls At Industry's 'Revolving Door'

## Quick Contents

McCain takes on federal officials who grease their paths into the private sector by doing favors for prospective employers.

Sen. John McCain, whose relentless investigation of an Air Force plan to lease tanker aircraft from Boeing Co. prompted fellow lawmakers to reconfigure the deal more to the taxpayers' advantage, is on the warpath once again.

This time, the Arizona Republican plans to use his perch as chairman of the Senate Commerce, Science and Transportation Committee to scrutinize the broader issue of federal employees who pave their way into lucrative jobs with defense companies such as Boeing by acting as their advocates while still on the government payroll.

The federal government has long provided a deep bench for companies with government contracts. In what is known in Washington as the "revolving door," federal officials working on such contracts routinely, and legally, secure good jobs with the companies they deal with when they retire from government service. Indeed, many young workers are drawn into government service hoping their work will give them the experience that eventually will help them land a high-paying job in the private sector.

The problem, McCain says, is that this relation can lead to corruption: federal workers doing favors for prospective government contractors in hopes that such treatment will be remembered when the federal employee sends a résumé to the company.

**By Niels C. Sorrells**

Exhibit A, he says, is the case of Darleen A. Druyun, a former Air Force acquisition officer who gave special — and possibly illegal — attention to the tanker lease deal with Boeing before she left the Pentagon to work for the aerospace giant in November 2002. The \$20 billion leasing deal was concluded less than five months after she joined Boeing as an executive.

Following McCain's revelations of possible misconduct, Druyun was later fired, along with Boeing's chief financial officer, Michael M. Sears, for discussing a job with Druyun while she was still a senior official at the Air Force. McCain suspects that Druyun is one of many federal officials who may have followed the same crooked path. (2003 CQ Weekly, p. 3041)

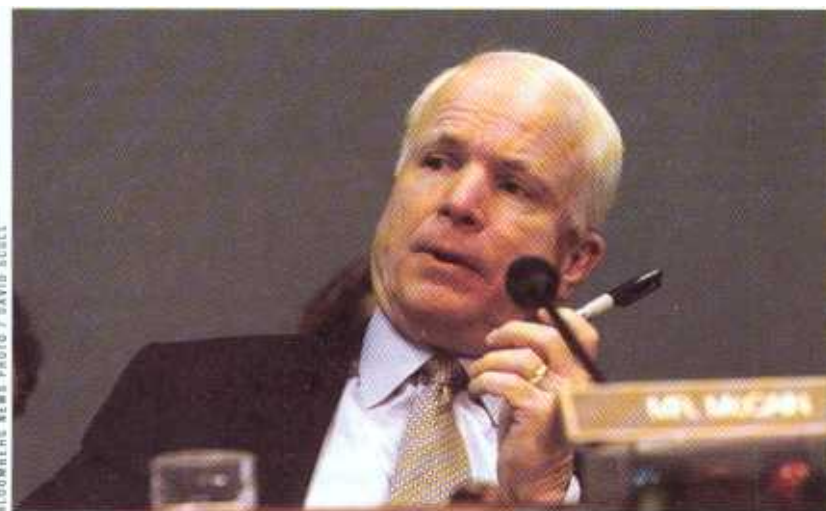
"We need to look at the whole issue," said McCain, who plans to hold a series of hearings on the subject next month, after the Pentagon has completed its own investigation into the tanker deal.

McCain's goal is new legislation that will, if not nail shut the revolving door, at least make it spin a little slower. Laws are already on the books that lay out how long a government employee must wait after taking a job before contact with his former employer. But those laws have holes, he says. At the very least, his hearings "might make for an interesting amendment" to existing laws, he said.

### Walking a Fine Line

McCain's criticism of the tanker leasing arrangement ultimately forced Congress to back away from the deal to let Boeing lease 100 tankers to the Air Force. And if he has his way, his hearings will be the start of an onslaught of congressional sessions examining the revolving door issue. He is working to persuade Republican John W. Warner of Virginia, chairman of the Senate Armed Services Committee, to hold his own hearings. At the same time, McCain's aides say, there is hope the House Armed Services Committee will hold its own hearing.

But even with McCain's hearings, the next steps remain unclear. Staff aides are still sorting through existing laws to figure out if they need any tweaks or additions. Remedies could range from encouraging stricter oversight without any new laws to the introduction of legislation that would ban the movement of government workers to companies



McCain, shown here at a Senate Commerce panel hearing in September, plans hearings to explore suspected abuses in the so-called "revolving door" phenomenon.

with which they had ties during their government employment.

"There is a fine line you're going to walk between letting someone earn a living and keeping them arm's length from their former employers," said Scott Amey, a senior investigator with the Project on Government Oversight, which is working closely with McCain's office to investigate both the tanker lease and the concept of the revolving door.

### A Question of Jurisdiction

Even less certain is Congress' willingness to follow McCain into this issue. Warner says he is interested in pursuing the topic. "Probably it is time for Congress to review the situation," he said Jan 20. But at the same time, he suggests that the Senate Governmental Affairs Committee might be the best place to consider the issue.

Meanwhile, Duncan Hunter, R-Calif., who chairs the House Armed Services Committee, pleads that he is too engrossed with Iraq issues these days to consider a hearing about relations between the Pentagon and its contractors. A committee spokesman said the House panel had drafted a letter asking the General Accounting Office for guidance on investigating the revolving door question but then opted not to send it because it is unclear if the defense panel has jurisdiction over the matter.

Other legislators are not convinced that they want to become embroiled in the issue when congressional involvement could make the situation more difficult than it already is. Some lawmakers point out that the government needs all the qualified workers it can get and that such workers will eschew government service if they do not see some kind of reward at the end of their careers.

"I'm sure we can do all kinds of regulations and paperwork that will make it that much more difficult to get people hired who know what they're doing," said William M. "Mac" Thornberry, R-Texas, a member of the House Armed Services Committee. "I'd hate to make it more difficult. There's such a problem already."

But support might come from some unlikely circles. Democrat Norm Dicks of Washington, a member of the House Appropriations Committee, supported the tanker leasing proposal from the start and has clashed with McCain reg-



Former Pentagon official Druyun is under investigation for helping Boeing for a job.

ularly on the issue. But he notes that questions about Boeing's alleged wrongdoing made it harder to keep the tanker lease proposal alive when it started coming under congressional criticism. With that in mind, he says he would be willing to work with McCain on proposals to place controls on the revolving door.

"I have no problem with oversight hearings," he said. Even legislation would not be a problem. "This would not be partisan."

Still others are concerned that slowing down the revolving door would not go far enough toward fixing the problem of a limited pool of defense contractors. Defense industry consolidation over the last decade has left the Pentagon with two main contractors to choose from when assigning big-ticket contracts — Boeing and Lockheed Martin Corp. If one of those companies is found to be violating rules, the government is restrained from punishing it too severely for fear of removing competition from the bidding process.

In the case of Boeing, that has raised concerns among legislators that the Pentagon investigation may uncover malfeasance but still leave the Pentagon dependent upon Boeing to supply its defense needs.

"I am concerned that we don't have enough contractors out there to have a competitive environment," said Sen. Wayne Allard, R-Colo. "If we have one like Boeing, which needs to be reprimanded, then we get stuck with

only one contractor."

Independent analysts say such concerns are warranted in the case of Boeing. "It is so huge that it's hard to avoid the dynamic," said Michael O'Hanlon, a defense expert with the Brookings Institution. "But it should still pay a demonstrable, clear price for its actions, or there will be little deterrent against future abuse, and the American taxpayer will be hoodwinked."

### Let the Sunshine In

McCain's aides compare his forthcoming hearings to exposing the details of a well-known secret that no one has been willing to discuss openly. While it is common knowledge in Washington that many government officials spend their final years of service wrangling for lucrative positions — legislators also seek lobbying positions after retirement so they can use their lifelong access to Capitol Hill to lobby their former colleagues — the aides insist it is one thing to know the truth and another to see it displayed in public.

Indeed, files recovered by McCain's office during its inquiry into the fiscal soundness of the tanker leasing plan revealed a trove of Pentagon documents that showed chatty contacts between Druyun and Boeing officials as they strategized to find ways to build support for the Boeing deal. E-mail messages and other letters show both sides building a strategy to send out various high-level military and congressional officials to build support within the Pentagon and on Capitol Hill.

"We have the evidence," one aide said. "But we haven't seen it laid out."

McCain's aides say one of the major benefits of reviewing the procurement process will be to show how personal contacts work together to keep projects alive. Such an approach will become even more important as the Pentagon begins to deal with looming budget crunches that force it to choose between different weapons systems. Aides say they would prefer the Pentagon to pick projects on their merits, not on which projects have the best-connected patrons. (2003 CQ Weekly, p. 2649)

Laws dealing with the revolving door phenomenon date back to 1962, when Congress set up legislation (PL 87-849) that limited former government employees from lobbying their former employers. The same law was

expanded in 1991 to limit the amount of professional contact that former legislators can have with their former colleagues. (1962 CQ Almanac, p. 385)

The law sets up a system of guidelines, determining how long a former worker must refrain from contact after leaving a government job. That period is usually a year or two, depending on the employee's seniority and his level of involvement with a particular project. In cases where the employee personally handled details of a project, the ban is permanent. Penalties for violating the law can stretch up to five years in prison and include fines up to \$50,000.

McCain says the conduct of Boeing and Air Force officials during the tanker deal negotiations ran afoul of those rules.

### The Pounce

The tanker deal prompted skepticism from the moment it reached Capitol Hill as part of the fiscal 2002 defense appropriations bill (PL 107-117). McCain immediately pounced on the proposal, calling it a "sweetheart" deal for financially strapped Boeing. He argued that it was improper to allow such an unorthodox deal without a review by the House and Senate Armed Services panels. (2001 CQ Almanac 2-13)

The proposal, which would have originally allowed the Pentagon to enter into a 10-year deal to lease 100 tankers for about \$20 billion, was put on hold largely because of McCain's objections. Those objections grew to include complaints that the lease deal shortchanged the Air Force and overcharged taxpayers. Under the original deal, the Air Force would have taken delivery of the tankers, but it would have had to return them to Boeing after the leasing period expired. Such a proposal would have left the Air Force with its original obsolete tanker force unless it then moved to purchase the tankers, giving even more money to Boeing. Supporters of the deal agreed that the financing was not perfect, but noted that the Air Force was in dire need of tankers and that there was no money available in defense procurement budgets for a direct purchase of the tankers.

Despite McCain's objections, the deal seemed all but set to go by the time the 108th Congress started. The fiscal 2003 defense authorization bill

(PL 107-314) cleared the way for the lease, so long as the House and Senate Armed Services committees and both chambers' Appropriations Defense subcommittees had all signed off on the deal. (2003 CQ Weekly, p. 2165)

When Congress returned from its August recess last year, all panels but the Senate Armed Services Committee had given the deal their blessing.

But at a series of hearings in the first week of September, McCain and his staff released a slew of information detailing the dealings between Boeing officials and Air Force officials. At the center of many of those contacts was Druyun.

Questions about those dealings kept Warner from signing off on any deal. Ultimately, he brokered a compromise in the fiscal 2004 defense authorization bill (PL 108-136) that would allow the Air Force to spend \$27.8 billion to buy 80 air tankers and lease another 20, with deliveries starting no earlier than 2009. (2003 CQ Weekly, p. 2658)

The aftermath of those negotiations has forced introspection at Boeing. In addition to the firings of Druyun and Sears, Boeing's Chairman and CEO, Phil Condit, resigned Dec. 1. It did not help that the company was already reeling from another scandal. In July, the Air Force slapped an indefinite ban on Boeing military rocket launches because the company was found to have used stolen proprietary information from rival Lockheed Martin to help win the initial contract. As a result, Boeing lost \$1 billion in Air Force business.

Almost immediately, Secretary of Defense Donald H. Rumsfeld put any work on the lease deal on hold and began the Inspector General investigation. Initial reports from that investigation are expected sometime in February, coinciding with McCain's planned hearings.

Meanwhile, Rumsfeld, in what appears to be a move to blunt McCain's hearings, has ordered a review to see whether Pentagon officials seeking jobs with private contractors are following government exit policies. The White House also issued a memo earlier this month, reminding agencies that they should defer to the White House's judgment before allowing exceptions to revolving door policies.

Analysts, however, are quick to point out that no wrongdoing by Druyun and other Boeing officials has

yet been proved. Even if such misconduct is established, they return to Alard's concerns about the limited number of big defense contractors.

### A Two-Player Game

Pierre Chao, a defense analyst with the Center for Strategic and International Studies, notes that many of the problems growing out of the revolving door phenomenon are the result of a procurement budget that has shrunk dramatically since the end of the Cold War and a reduced demand for weapons systems that has left only Boeing and Lockheed Martin as the principle defense contractors.

And since the projects are increasingly more complex, contractors need to stay in close contact with government officials and subcontractors to make sure they are all working toward the same goal in a way that is pleasing to legislators.

"If it gets too hard to tell the difference between a trusted partner conversation and an unethical conversation, and they've got to look over their shoulder all the time, we have a serious problem," Chao said.

Amey of the Project on Government Oversight says he can see areas where Congress can remove that kind of uncertainty. For example, he says, lawmakers could tighten revolving door rules for government policy makers who leave to join the private sector. Right now, there are no specific guidelines for such officials.

But Loren Thompson, a defense analyst with the Lexington Institute, remains unswayed about the need for stricter laws.

"Many of these solutions could create other problems," he said. For example, he notes, tightening guidelines on who can move between jobs might block the inflow of qualified workers. "You'd end up with a lot more amateurs in positions of responsibility," he said.

Congress' role, he said, should be one of oversight. While McCain has filled that role, Thompson suggests, McCain's job now should be to get more legislators to pay attention to the issue instead of coming up with new rules and regulations that could further confuse a legal gray area.

"You don't need laws," Thompson said. "You need people who are vigilant. The problem with Congress' approach to these issues is they want to pass laws rather than do the work." ♦