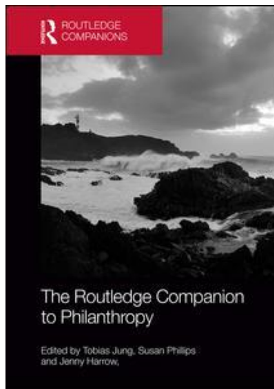
This article was downloaded by: *10.2.97.136*
On: 30 Mar 2023
Access details: *subscription number*
Publisher: *Routledge*
Informa Ltd Registered in England and Wales Registered Number: 1072954 Registered office: 5 Howick Place, London SW1P 1WG, UK



The Routledge Companion to Philanthropy

Tobias Jung, Susan D. Phillips, Jenny Harrow

Minding the pennies

Publication details
https://test.routledgehandbooks.com/doi/10.4324/9781315740324.ch14
Oonagh B. Breen
Published online on: 17 May 2016

How to cite :- Oonagh B. Breen. 17 May 2016, *Minding the pennies from:* The Routledge Companion to Philanthropy Routledge
Accessed on: 30 Mar 2023
https://test.routledgehandbooks.com/doi/10.4324/9781315740324.ch14

PLEASE SCROLL DOWN FOR DOCUMENT

Full terms and conditions of use: https://test.routledgehandbooks.com/legal-notices/terms

This Document PDF may be used for research, teaching and private study purposes. Any substantial or systematic reproductions, re-distribution, re-selling, loan or sub-licensing, systematic supply or distribution in any form to anyone is expressly forbidden.

The publisher does not give any warranty express or implied or make any representation that the contents will be complete or accurate or up to date. The publisher shall not be liable for an loss, actions, claims, proceedings, demand or costs or damages whatsoever or howsoever caused arising directly or indirectly in connection with or arising out of the use of this material.

Downloaded By: 10.2.97.136 At: 05:44 30 Mar 2023; For: 9781315740324, chapter14, 10.4324/9781315740324.ch14

14

Minding the pennies

Global trends in the regulation of charitable fundraising

Oonagh B. Breen

This chapter explores current global trends in fundraising regulation. The perennial issue of effective fundraising regulation has thwarted many policymakers the world over. Indeed, what constitutes effective regulation is a contested issue. Overly prescriptive regulation dates quickly and becomes moribund as technology changes the manner in which funds are raised and the problems associated with these ventures. Enabling regulations, on the other hand, that require agency input for effective oversight, can be hostages to fortune being either dependent upon the good offices of an agent, such as a local authority, police, or tax authority, whose primary concern may be far removed from charity regulation per se, or purely self-regulatory and thereby lacking the necessary teeth of enforcement and sanction. The growing ability of organizations to fundraise across state/country borders, prompted in part by donor migration and the ease with which remote e-donations may now be made, has brought to the fore technical legal issues relating to registration requirements, jurisdiction to regulate non-state fundraisers, particularly when the donations in question are unsolicited, and the burden of conflicting regulatory requirements that apply when an organization seeks to run a nationwide fundraising campaign, not to mention newly emerging concerns prompted by the nature of electronic fundraising.

The emergence of hybrid regulation, also referred to as 'co-regulation', which seeks to combine the operational benefits of local nonstatutory enforcement with the deterrent force of potential statutory intervention should grassroots oversight fail, provides an interesting twist on the traditional options of statutory versus nonstatutory regulation. Recent attempts to develop uniform standards and regulatory requirements across associations of fundraising organizations, and from the perspective of independent fundraising regulatory bodies, in conjunction with moves at state level to develop uniform registration requirements in some jurisdictions also merit further exploration.

This chapter begins by setting out a theoretical framework for the regulation of fundraising before turning to a consideration of recent global trends in the context of both statutory and nonstatutory initiatives. To this end, particular consideration is given to the growing resort to cross-jurisdictional fundraising and emerging regulatory and facilitative innovations to support such activity. Attention is also paid to new, and emerging, forms of electronic fundraising and the question as to whether it is too soon to regulate this form of giving is explored. Finally, the chapter examines the place of charitable fundraising within the broader regulatory framework,

Downloaded By: 10.2.97.136 At: 05:44 30 Mar 2023; For: 9781315740324, chapter14, 10.4324/9781315740324.ch14

and how connections with other regulators influence the oversight of fundraising before assessing the potential for greater global convergence in fundraising regulatory trends.

Theoretical framework

To date, much has been written on the theory of effective fundraising regulation, and research has produced diverse results. Academics and practitioners are divided on issues of donor interest in fundraising costs (Steinberg, 1986; Sargeant, Jay and Lee, 2008), the value and appropriateness of spending ratios (Steinberg, 1991; Tinkelmann, 1999; Flack, 2004) and the extent to which information asymmetries relating to program, fundraising and overhead costs do, or should, affect the behaviour of the giving public (Greenlee and Brown, 1999; Berman and Davidson, 2003; Bowman, 2006; Jacobs and Marudas, 2007). The existence of such diversity inevitably influences the regulatory models available. Thus, in attempting to provide a useful lens through which to examine these various regimes, it is helpful, in light of these identified differences, to acknowledge the effect of the following variables on the regulatory model in question: the 'evil' which the regime seeks to address; the intended target audience of the regulation; and the choice of regulator entrusted with the task of enforcement, along with the timing of such regulation.

In designing any regulatory regime, the first concern must be the nature of the evil the regime seeks to redress. With fundraising regulation, the most oft cited objective is the protection of the public and preservation of public confidence in charities. The likely evils at issue would, therefore, include the prevention of fraud, either through deceptive fundraising practices or embezzlement of money raised for charity. Falling short of fraud, another worthy objective of a regulatory regime may be to ensure the charity's effective management of funds raised. A third and common rationale for fundraising regulation is the desire to empower donors so that they make informed decisions when donating to charities. The regulatory mechanism used will vary according to the 'evil' in question (Breen, 2009). If the goal of the regime is to empower donors in their giving, the form of regulation chosen may focus on the quality and volume of information conveyed to donors, both before and at the time of solicitation. If, on the other hand, the goal is to ensure effective management of funds raised, the regulatory emphasis may focus more on the interrogation of the financial accounts filed by the charity. When the concern is to ensure that only legitimate charities have access to the public's largesse, the most appropriate regulatory tool may take the form of vetting or licensing process to filter those allowed access to the donating public.

As to timing, there are generally three opportunities to give effect to these objectives during the life cycle of a fundraising campaign, namely, the pre-solicitation period when it is possible to impose licensing requirements regulating access to the public; the period during solicitation itself when the charity 'ask' is made; and finally, the post-solicitation period when organizations can be made accountable for the money raised and how it is subsequently expended (Breen, 2009).

Knowing which problem is at issue may require policymakers to have a good understanding of the intended charity target audience. The composition of the charity sector and its need for a particular type of regulation will vary over jurisdictions depending upon the state of development of the sector. In examining the charity sector, one could break down this target audience into four sections: the well-intentioned, well-informed charities (which have a tendency to be large charities that enjoy good support staff and tend to be to the fore in terms of regulatory compliance); well-intentioned, ill-informed charities (these bodies often comprise mid-size and emergent charities that have few paid staff and voluntary boards that play a hands-on role in their day-to-day management, resulting in well-intentioned, but time-poor charities); ill-intentioned, ill-informed charities (representing those organizations that are often unaware

Downloaded By: 10.2.97.136 At: 05:44 30 Mar 2023; For: 9781315740324, chapter14, 10.4324/9781315740324.ch14

of their regulatory responsibilities and are not proactive in compliance matters, thus needing constant prompting and supervision); and finally, the ill-intentioned, well-informed charities (those bodies that subvert the charity form for their own gain, by playing fast and loose with the regulatory requirements – one might think of certain noncharitable clothes collectors in this category) (Breen, 2012).

Analysing the composition of the charity audience in this manner can enable regulators to align likely evils that may exist in the sector with the most appropriate regulatory form for redressing them, recognizing that sometimes the audience may be composed of a mix of these categories. It is in this regard that the choice of regulator becomes all the more pressing. Traditionally, three regulatory enforcers present themselves – the state, normally in the guise of a charity regulator, a tax authority, a local authority or a company regulator; charities themselves, whether in the form of pure self-regulation or peer regulation; and the donating public, in the context of the onus being placed upon the public to identify and report charitable misdeeds. Research shows that it is difficult for any one of these interested parties to successfully enforce fundraising regulation single-handedly (Dale, 2007; Breen, 2009): a triumvirate approach involving all stakeholders in enforcement may prove to be more effective (Breen, 2009: 125).

In practice, the particular state body chosen to oversee fundraising can influence the regulatory approach adopted. Yet, the nature of this effect has to be studied on an individual country basis as experience shows that even when similar regulators are used, this does not necessarily lead to consistency in approach or outcomes. Thus, Canada, the US and Ireland (until 2014) use tax authorities to regulate charities. Whereas the Canada Revenue Agency (CRA) has adopted an operational interest approach, issuing guidance on fundraising practice (CRA, 2009) and imposing intermediate sanctions for breach of these rules, the US Internal Revenue Service (IRS, 2010) has recently become more interested in extracting information on funds raised and spent at the reporting stage. To this end, its recently revised tax return for charities, Form 990, now requires greater disclosure and breakdown on fundraising expenses. In complete contrast, the Revenue Commissioners play no similar role in Ireland, neither issuing guidance on fundraising practices nor collecting fundraising information on an annual basis.

Similarly, in jurisdictions in which a charity regulator plays an active role, the attention given to fundraising regulation varies. Thus, the Charity Commission for England and Wales has issued core guidance on fundraising to charities and entered into a memorandum of understanding with the independent fundraising regulator, the Fundraising Standards Board (Charity Commission, 2007; 2011). Part 3 of the *English Charities Act 2006* makes the Commission the lead regulator of public charitable collections, although the relevant provisions have yet to be commenced, and are absent from the recent *Charities Act 2011*, which consolidates existing charity legislation. Lord Hodgson's review found that implementing Part 3 of the 2006 Act was unaffordable and also may not be effective (Cabinet Office, 2012a: 99), thus forcing the Cabinet Office and other stakeholder to rethink this model. One might suspect that a similar explanation lies behind the New Zealand experience, where the New Zealand Charities Board,[1] despite its statutory powers to investigate 'serious wrongdoing' which includes 'unlawful or a corrupt use of the funds or resources of the entity; or an act, omission, or course of conduct that constitutes a serious risk to the public interest in the orderly and appropriate conduct of the affairs of the entity',[2] does not provide any published guidance to registered charities on fundraising practices.

Trends in global regulation

Over the past decade, there has been a general global shift away from purely prescriptive legislative initiatives that seek to regulate all matters relating to charitable solicitation in favour of a

Downloaded By: 10.2.97.136 At: 05:44 30 Mar 2023; For: 9781315740324, chapter14, 10.4324/9781315740324.ch14

mixed system, comprising a legislative framework (often focusing on licensing issues) coupled with a nonstatutory scheme that seeks to oversee the operational issues associated with fundraising regulation.

Statutory initiatives

Notwithstanding the growing popularity of co-regulation and sector certification models, new statutory regimes are still emerging. In 2011, the US State of Oregon debated new fundraising legislation that would have introduced administrative cost ratios for charities. Under Senate Bill 40, the state attorney general would have been empowered to declare that donations to charitable organizations that did not expend at least 30 percent annually on program services (averaged over a three-year period) would no longer be tax deductible, and the charities would have to notify potential donors of that status, or face fines. The Bill, passed by an overwhelming majority in the Oregon Senate in April 2011, never made it out of the House Committee on Revenue (Oregonian, 2011; Row, 2011), but Oregon's Attorney General remains committed to alerting the public to excessive administrative expenditure by charities (Oregon State Department of Justice, 2012). Disaster relief has also focused legislative attention on the management of charitable funds raised for natural disasters, and examples of new statutory regulations introduced to better police money raised in these circumstances can be found in Tennessee.[3]

Notwithstanding this emergence of new statutory regulations, many jurisdictions are moving away from pure command and control regimes towards 'soft' law. Thus, in 2009, the Hong Kong Independent Commission against Corruption (ICAC) launched best practice guidelines to provide assistance to Hong Kong charities on good governance and internal control in the context of fundraising activities. The guidelines, which have government support, cover proper budgeting, good record keeping, regular auditing of accounts, capping administrative expenses, safekeeping donations and publicizing audited accounts of fundraising activities (Independent Commission Against Corruption, 2009). Despite the impressive name of the underwriting institution the guidelines remain voluntary.

Another example is Canada's Fundraising Guidance, which replaces the CRA's previous charity disbursement quota rules.[4] The new 'rules', introduced in 2009, clarify what constitutes prohibited fundraising activity, as well as distinguishing (allowable) expenditure on charitable activity from fundraising expenditure (which is then evaluated by CRA for evidence of excessiveness) (CRA, 2009). According to the CRA, fundraising expenditures include all costs related to any activity that includes a solicitation of support, or that is undertaken as part of the planning and preparation for future solicitations of support.

Expenditures can be allocated as charitable activities, and not fundraising, if substantially all (90 percent) of the purpose was other than fundraising or if a charity can answer 'no' to each of a four part test, namely: was the main objective of the activity fundraising; did the activity include ongoing or repeated requests, emotive requests, gift incentives, donor premiums, or other fundraising merchandise; was the audience selected because of their ability to give; and was commission-based remuneration or compensation tied to the number or amount of donations? The proportion of revenue spent on fundraising activity is then judged on a ratio basis with ratios under 35 percent unlikely to generate questions, ratios over 35 percent calling for more detailed assessment of expenditure and ratios over 70 percent raising CRA concerns and requiring an acceptable explanation (CRA, 2009). Viewing the fundraising guidance as soft law, Phillips (2012) points out that to date, no charity has had its charitable status revoked solely on the grounds of excessive fundraising expenditure.

Downloaded By: 10.2.97.136 At: 05:44 30 Mar 2023; For: 9781315740324, chapter14, 10.4324/9781315740324.ch14

Mixed statutory initiatives

Mixed regimes consisting of both statutory elements (relating to licensing requirements) and nonstatutory elements involving sector codes of practice (increasingly related to the operational elements of solicitation) are becoming more common in many jurisdictions. A growing trend has been the provision in legislation of a ministerial reserve power to introduce statutory regulation of fundraising if nonstatutory efforts fail to achieve this task.[5] Such statutory powers to regulate are then held in abeyance on the condition that the nonprofit sector establishes and oversees the appropriate standards of fundraising conduct that result in an environment respectful of donors and ultimate beneficiaries and assurance of fundraising methods that are both honest and open. Thus, the UK, through the Institute of Fundraising (IoF) and the Fundraising Standards Board (FRSB), and Ireland, through Irish Charities Tax Research Group in partnership with the Department of Justice, are currently trying hybrid fundraising regulatory schemes (Breen, 2009; 2012). Only the UK, however, has laid down benchmarks for measuring whether such regulation is successful (Home Office, 2005). Lord Hodgson's review of the *Charities Act 2006* provided the first formal opportunity to examine the operation of the FRSB and its achievements to date (Cabinet Office, 2012a, Chapter 8) and his recommendations concerning the need to rationalize further the confusing regulatory landscape in the UK have been broadly accepted by the government (Cabinet Office, 2012b).

Nonstatutory initiatives

Aside from the hybrid systems of regulation, a number of purely ethical or self-regulatory regimes also exist. Ratified by national fundraising organizations in 30 countries,[6] the International Statement of Ethical Principles in Fundraising (AFP, 2006) consists of five universal principles (honesty, respect, integrity, empathy and transparency) and six standards of practice which address fundraisers' responsibility to donors, their relationship with stakeholders, their responsibility for communications, reporting, payments and compensation and their compliance to national laws. First mooted by the US Association of Fundraising Professionals (AFP) at the first International Fundraising Summit in 2003, the Statement has no legal force and no sanctioning mechanism. According to its proponents, however, the existence of this universally recognized set of standards for the fundraising sector has begun to inform practice. Reports from the sixth international fundraising summit, held in London in 2010, revealed that the Fundraising Institute of Australia (FIA) had used the Statement as the guiding document during its comprehensive review of its own codes of practice and that the Statement was also influencing reform in Poland and the Ukraine (Paulette, 2010).

Whereas the International Statement of Ethical Principles and the related international fundraising summits bring together the various national organizations of fundraising professionals, the International Committee of Fundraising Organizations (ICFO) comprises the association of national fundraising monitoring agencies. Established in 1958 and based in the Netherlands, with full member representation from 12 countries (ICFO, 2010), ICFO's aim is to help to harmonize accreditation procedures and standards, and to provide an international forum for discussion and debate on accreditation issues. To this end, ICFO developed a set of International Standards (2003) for good governance and management for international nongovernmental, or nonprofit, private organizations that directly, or indirectly through subsidiary bodies, raise funds from the public for charitable or public benefit purposes.

ICFO's prescribed standards relate to five areas: membership and responsibilities of the governing body; fulfilment of public benefit goals; fiscal control, management and reporting;

Downloaded By: 10.2.97.136 At: 05:44 30 Mar 2023; For: 9781315740324, chapter14, 10.4324/9781315740324.ch14

fundraising practices; and provision of public information. In particular, ICFO expects fundraising public benefit organizations 'to present their accounts of income and expenditure in a common format to enable appropriate thresholds to be set for categories of expenditure and for meaningful inter-organizational comparisons to be made'. This move towards uniformity in accountancy presentation across a wide variety of member countries, if achieved, would be significant progress. The ability of ICFO members to bring this change about, however, is dependent upon the practical strength of these monitoring organizations in their home countries. Of the twelve countries with full member representation (Austria, Canada, France, Germany, Italy, The Netherlands, Norway, Spain, Sweden, Switzerland, Taiwan and the USA) some purport to monitor only organizations within a specific sector (as is the case with the Canadian Council of Christian Charities and the US Evangelical Council for Financial Accountability) while others make no reference at all to their oversight role for national fundraising (as is the case with the Austrian Österreichische Forschungsstiftung für Entwicklungshilfe [ÖFSE]). Interestingly, there is no full member from the UK (such as the FRSB) with only 'supporting' member presence in the form of the Charities Aid Foundation (CAF) and the consumer association Which.

A third take on a nonstatutory regulatory initiative, this time led entirely by the sector itself, is the ambitious project undertaken by Imagine Canada in its Standards Program (Imagine Canada, 2011a). Initially conceived as an ethical code relating to fundraising only (Imagine Canada, 2011b), admission of new applicants to the Ethical Code Program was suspended in December 2011 and in December 2013, the Ethical Code Program was formally merged with the new Standards Program. This program offers a Canada-wide set of shared standards for charities and nonprofits designed to strengthen their capacity in five core areas: governance; financial accountability; fundraising; staff management; and volunteer involvement. Participation is voluntary in a process that entails peer-reviewed accreditation, with ongoing monitoring based on complaints and selected annual audits, enabling those accredited organizations to display a trustmark that publicly demonstrates their successful adherence to the new standards. It remains to be seen how this structural change in self-regulation will impact on fundraising regulation in Canada. Of the 89 new Standards, all of which must be addressed, 20 relate directly to fundraising, mirroring the existing Ethical Code fundraising principles. Previously, 363 charities had signed up to the Ethical Code Program (Imagine Canada, 2010), a far cry from the hoped for 15,000 adherents (Phillips, 2012); in the first two years of the new program, 150 organizations have been successfully accredited (Imagine Canada, 2015). As Phillips acknowledges (2012), the Standards Program is unlikely ever to get buy-in from the bulk of sector, comprising small independent nonprofits. Yet, one would have to critically question the ability of, or indeed appetite for, the majority of Canadian charities to seek accreditation across all 89 standards, if so few in the past managed to sign up for just the 20 fundraising standards.

Cross-border regulation projects: US, Australia and Europe

When donors give to charities outside their home state or country, the resulting donation may raise regulatory issues for the recipient charity, particularly if tax benefits accrue to either the donor or charity as a result of the donation. If the charity may be viewed as having solicited the donation, this may also raise registration issues for the charity in the donor's jurisdiction. The regulatory complexities that such cross-border donations create have resulted in some innovative 'solutions' in various parts of the world.

In the US, the Multi-State Filer project (2010), a joint venture initiated in 1998 between the National Association of State Charity Officials (NASCO) and the National Association of Attorneys General (NAAG), was set up to provide charities that fundraised nationally or in

Downloaded By: 10.2.97.136 At: 05:44 30 Mar 2023; For: 9781315740324, chapter14, 10.4324/9781315740324.ch14

multiple states with a user-friendly alternative to registering individually in each cooperating state. The project developed a 'uniform registration statement' (URS) that is now accepted in 36 states and the District of Columbia, whereas 13 other states will accept the URS upon the filing of supplemental documentation. (National Association of State Charity Officials and National Association of Attorneys General, 2010)[7] It should be noted however, that the URS covers registration issues only and not subsequent reporting requirements, which still require individual attention on a state-by-state basis (Usry, 2008). Nave (2004: 235) has made a strong argument for greater US federal involvement in the streamlining of concurrent regulatory burdens on national fundraising charities through greater reliance on the constitutional Commerce clause and its role in preventing state regulation that 'unduly burdens interstate commerce and thereby imped[es] free private trade in the national marketplace'. Given the acknowledged reluctance of US courts to favour challenges under the dormant commerce clause and charities' natural averseness to litigation (Nave, 2004: 243), it remains to be seen whether this negative approach will result in real change to the law in the short to medium term.

An interesting approach to the issue of cross-border regulation of fundraising activities is the legislative solution that has been under consideration in Australia. In 2010, the Council of Australian Governments (COAG) proposed reforms to develop a nationally consistent approach to fundraising regulation and the adoption of a standard chart of accounts where possible (COAG, 2010). COAG tasked a NFP Reform Working Group (NRWG) to review, develop and recommend fundraising regulatory reform options (COAG, 2012). This call for reform came at a time when Australia was seeking to streamline charity regulation with the introduction of a new national charity commission.[8] In its scoping study for a national regulator (Treasury, 2011), the Treasury noted the high regulatory burden borne by Australian nonprofits as a result of inconsistent fundraising regulation and legislation across the states, territories and the Commonwealth. The study also acknowledged the difficulties of divorcing fundraising regulatory reform from broader nonprofit regulatory reforms, recommending that the Government review and coordinate issues common to both the Not-for-Profit Regulator (which could conceivably play a role in the oversight of fundraising regulation) and the COAG consideration of fundraising reform. To that end, the Australian Government published its Fundraising Discussion Paper in February 2012 (Australian Government, 2012), proposing a national framework for charitable fundraising regulation that would apply to all charities registered with the Australian Charities and Not-for-profits Commission (ACNC). Charities raising more than $50,000 would be required to register with the ACNC, as would all charities that fundraise over the internet. The proposed framework would require charities to meet minimum information disclosure requirements at the time donations are solicited, as well as broader reporting and record-keeping requirements. The intent was that charities would be subject only to the national fundraising regulatory framework, thereby avoiding duplication by State and Territory government regulation. Although efforts by the states to advance fundraising legislation harmonization (Office for the Not-for-Profit Sector, 2012) at times seemed promising, progress has stalled, and so far no significant reform of antiquated fundraising laws has been accomplished (McGregor-Lowndes, 2015). In addition, the current government had vowed to abolish the charity commission as part of reducing red tape agenda, although these plans appear presently to be on hold.

Against the backdrop of COAG's top down regulatory reform process, another initiative worthy of consideration is the Australian Centre for Philanthropy and Nonprofit Studies' (ACPNS) independent Nonprofit Model Law Project. The ACPNS project aims to develop streamlined and seamless regulation of nonprofit organizations in Australia through a bottom-up approach, with nonprofits playing a more proactive role in the design of their regulatory environment than typically is possible in a government-led process. ACPNS specifically identifies

Downloaded By: 10.2.97.136 At: 05:44 30 Mar 2023; For: 9781315740324, chapter14, 10.4324/9781315740324.ch14

fundraising as a priority area for attention. To this end, it has facilitated discussion of the key challenges for fundraising regulatory reform amongst key sector and government stakeholders and sought to advance evidence-based policy proposals. In April 2011, ACPNS held a fundraising regulation conference that invited international speakers to join in a symposium with leading Australian policymakers and charities, thereby enabling a broadening of the national debate on regulatory tools. The Nonprofit Model Law Project has a projected duration of five to ten years, which compares favourably with other comparative model law projects, and in stage three of the project is currently producing draft model laws and regulatory instruments.

A particularly European response to taxation problems raised by cross-border giving in Europe has been the Transnational Giving Europe project. It is still common in the EU for some member states to discriminate between domestic charities and resident 'foreign' European charities when it comes to tax relief and exemptions. Although such discrimination has been held to violate the free movement of capital between EU member states,[9] change comes slowly. In this interim period, the TGE foundations based in 17 European countries facilitate tax-efficient cross-border giving by acting as initial domestic recipients of a donor's bounty. Upon receipt the national TGE foundation transfers the gift to the intended foreign recipient while simultaneously providing the donor with the associated national tax reliefs that may flow from the gift. The TGE project thus enables fundraising organizations to ensure income tax deductible gifts for their foreign donors and facilitates the holding of tax efficient fundraising campaigns in other TGE countries. Figures released by TGE in 2015 demonstrate the growing trend towards global giving with more than 5,000 donors using TGE to transfer €12m in 2014, a growth of 37 percent, compared to 2013 when 8.7 M € was channelled (TGE, 2015).

New and emerging areas of concern – is it too soon to regulate?

As the nature of fundraising changes, so too does the type of regulation required. Internet solicitation is not a new phenomenon and the cross-border regulatory issues that it raises are well appreciated, if not yet satisfactorily resolved. Early attempts in the US through the development of the Charleston Principles in 2001 and their subsequent revision (NASCO, 2001) have made some headway in this area, providing nonbinding guidance intended as a resource to help individual states develop their own regulatory approach to the internet. The Charleston Principles focus on the requirement of active charity websites to register with states in order to raise money online. Yet, the past decade has seen such radical changes in the nature of electronic fundraising with new and innovative uses of social media and mobile technology (Bernholz, Chapter 28) that guidelines focusing solely on a charity's website as the gateway for e-fundraising fail now to capture the immense breadth of virtual mechanisms for raising funds, many of which do not begin with (and may not even include) the actual charity in whose name the funds are solicited.

Social networks, like Facebook and Twitter, enable individuals to solicit money from friends and relatives in support of charities much more easily than in the past whereas websites such as Mycharity.ie or Justgive.org raise money on behalf of many different charities, the latter not necessarily having any control over the money raised in their names. For charity regulators, the biggest concerns with such e-endeavours is how best to protect donors from fraud. The very process of internet solicitation by its nature makes it more difficult for the donor to verify the identity of the fundraiser or to interrogate that fundraiser in a direct fashion. Given that donors receive nothing in return for their donations, there is no obvious safety check to ensure that online donations are received by those intended and used for the purposes for which they have been donated. This information asymmetry problem is not a new one in the world of nonprofit law (Hansmann, 1980), but the tendencies for large-scale fraud are more prevalent when the

Downloaded By: 10.2.97.136 At: 05:44 30 Mar 2023; For: 9781315740324, chapter14, 10.4324/9781315740324.ch14

internet, as opposed to face-to-face solicitation, is the chosen medium. The law tends to lag behind practice in this area, particularly given the fast rate of innovation. Certain regulatory policy issues also remain to be worked out even when fraud is not a concern. If, for instance, a website collects donations on behalf of a charity, how long should that website be able to hold on to such proceeds before it is required to release the funds to the charity in question? Where a website charges fees for collecting donations on behalf of a charity, what requirements should govern disclosure of this information to potential donors?

Issues may also arise around the use of what may be described as a 'digital poorbox', a facility whereby an online shopper is given the option when checking out to add a charity donation to the total purchase. Some online sellers will work directly with a particular charity or charities to develop this option. An example of this direct partnership model is the G-Team approach of Groupon, a website that uses collective buying power to secure discounted goods and services for clients. The G-Team model enables charitable donations to be made to a particular campaign through all its deal pages on a given day (Groupon, 2011). An alternative to the direct partnership model involves a business partnering with an intermediary organization that processes all charitable donations and ensures they reach their intended charity, thus allowing benefit to be spread amongst a broader group of charities. An example of the intermediary facilitation model is eBay's partnership with Mission Fish in the UK (eBay, 2011), whereby Mission Fish certifies the eligible nonprofit recipients, collects the donations from eBay users and passes them on to the recipient nonprofits, as well as managing the tax benefits of giving through eBay. 'Round the pound' schemes, whereby shoppers have the option when paying by credit card to round up their bills to the next pound with the balance going to a designated charity, present similar regulatory challenges (Pennies Foundation, 2010; Give Change Make Change, 2011). The issue in all cases remains the same for the regulator: how should such online donations be monitored to ensure the money goes to its intended recipient in a timely fashion?

Other forms of e-giving continue to emerge regularly. Charitable donations via SMS on mobile phones are a particular growth area. In its Giving White Paper, the English Cabinet Office (2011: 17) noted that over 89 percent of 16–65 year olds own a mobile phone in the UK, accounting for 34 million people. In the past, small charities did not avail of text donation options due to prohibitive set up costs. Following a government challenge to make giving via mobile phone easier, Vodafone UK and Just Giving collaborated to create 'Just Text Giving', launched in May 2011, which enables all charities regardless of size to set up a free service to avail of mobile phone giving, whereby all proceeds raised go directly to the charity. With the growth in availability of this method of giving, however, will come new challenges. If overused, the receipt of numerous text messages all seeking solicitations may amount to a nuisance with the recipient donor having little ability to separate the legitimate appeals from the scam artists. What safeguards should be put in place to enable a donor verify that the text sender is a registered charity or an authorized agent working on its behalf?

A further area still under development is automated teller machine (ATM) giving. ATM giving itself is not new. ATM donations in Colombia started in 1998 and an average of 100,000 donations a month are made there, with the average donation value equaling a dollar (Pickard, 2010). In 2002, HSBC Mexico launched an initiative that enabled customers to make ATM and online donations to various regional social organizations and causes working to help children. By 2008, HSBC reported that customers had contributed over US $8.7 million to a wide range of educational, community-based and health services, providing an innovative link between customers, the community and the financial sector (HSBC, 2009: 17). HSBC rolled out a similar initiative in the UK in 2005 but with less success (CAF, 2011). Undeterred, the UK's ATM operators' consortium, LINK, in response to calls by the government, announced in 2011 that

Downloaded By: 10.2.97.136 At: 05:44 30 Mar 2023; For: 9781315740324, chapter14, 10.4324/9781315740324.ch14

it would put in place a system, whereby customers of its 100 million ATM machines would be able to choose to donate to charities chosen by the individual ATM operator (Cabinet Office, 2011). To date, rollout of this scheme has been piecemeal. In October 2012, an independent panel chaired by NCVO Chief Executive Sir Stuart Etherington selected 30 charities from an applicant field of over 550 charities to benefit from ATM giving. The selection panel divided the UK into five regions (Scotland, Wales, Northern Ireland, Northern England and Southern England) and allocated each region six different charities to benefit from the scheme (Weakley, 2012). At the end of 2012, only an estimated 9,000 of a total 65,000 ATMs were able to facilitate donations and some bank cards were not enabled to give (Ribeiro, 2012). From a regulatory perspective, challenges will lie in building this new form of giving into the existing tax efficient Gift Aid scheme. On a cross-border note, Ulster Bank, which operates in both Northern Ireland and the Republic of Ireland, became the first bank in Ireland to provide its customers with the option of making ATM charity donations in 2012. Ulster Bank customers can donate between €1 and €250 in a single transaction to any of eight pre-selected Irish charity recipients (Ulster Bank, 2012). Since choice over recipient charities does not lie with the donor in either jurisdiction and no indication of the rate of likely turnover of recipient names is provided, some charities may find it difficult to break into this new medium.

Given the vast array of fundraising technological options, regulators face an uphill task in providing guidance to charities and advice to donors. To date, the UK's IoF (2006) and Australia's FIA (2011) have issued Codes of Practice on Fundraising by electronic means. In November 2012, the IoF consolidated its 28 codes of practice on fundraising into one single code of practice. The new 20-chapter code is supplemented by 27 guidance notes (IoF, 2012). Chapter 9, therein, now deals with digital media ranging from e-donations and online trading, social media interaction and website content. Those charities that have relations with online providers still need to consult the Guidance Note for Charities Working with Business. Whereas the 2006 Code comprised a checklist of questions for charities, the chapter on digital media is now presented as a series of 'ought' or 'must' statements. The regulatory concerns remain the same: Has a solicitation occurred? Are benefits to fundraisers transparent, authorized and reasonable? Has a charity received its promised dues within a reasonable time period? In the absence of a reform of outdated primary legislation to take account of modern fundraising practices (an absence common in many jurisdictions), organizations such as the IoF and FIA are forced to operate in a regulatory vacuum in their attempts to provide comprehensive and clear guidance to charities and fundraisers in the field of e-fundraising.

Place of fundraising regulation within broader regulatory framework

As discussed earlier in this chapter, there are three moments in time at which regulation of fundraising typically occurs – pre-solicitation, during solicitation and post-solicitation. Yet these moments often find the intersection of other regulatory concerns that may either impinge upon the fundraising policy brief, or duplicate the regulatory burden. Thus, for a public authority or police force tasked with licensing public collections, often the predominant agency concern is one of maintaining public order and avoiding public nuisance by limiting the number of collectors active within a particular locality at any given time. There may be some attention to the legitimacy of the collecting organization, but this generally tends to involve verification that the organization is not subversive in its aims.

Operationally, the regulation of the actual act of solicitation largely falls under the remit of existing sector fundraising regulatory codes although it may depend on media type chosen. Where the solicitation is made on radio or television, the broadcasting standards board and its

Downloaded By: 10.2.97.136 At: 05:44 30 Mar 2023; For: 9781315740324, chapter14, 10.4324/9781315740324.ch14

codes of operation can affect the content and delivery of the message, as happened recently with the UK banning of the One Foundation's television advert for relief of poverty (Digital Spy, 2011).

Post-solicitation regulation will raise a number of non-fundraising regulatory concerns. Apart from any requirement for charities to report directly to funders on the success of fundraising campaigns, regulatory requirements for financial reporting are becoming more developed, requiring charities to account for fundraising income raised, associated costs (whether specifically fundraising costs or more general overhead costs) of raising that income and how then that income is treated in the accounts of the charity. These requirements may arise through the completion of a tax return (as in the US Form 990 (IRS, 2011)), through compliance with a set of standards relating to the preparation of financial accounts (such as the UK's Charities Statement of Recommended Practice (ASB, 2005)) or through additional averments made in relation to fundraising practice in the context of annual accounts and annual reports (as in Ireland under public compliance procedures for fundraising code signatories (ICTR, 2011)).

Data protection issues will also arise in the context of fundraising regulation. Databases of donor contact details, preferred methods of giving, history and patterns of giving and eligibility of donations for gift aid comprise vital information for any charity. Issues will arise over the use made by the charity of such information, the manner in which such information is stored and the circumstances in which it is retained and, quite crucially, the identity of those with access to this information and the circumstances in which it may be shared with third parties.

Equally, certain donations will be eligible to avail of tax incentives introduced to encourage tax-efficient giving. These schemes vary in detail, but most result in either the charity reclaiming all/some of the tax originally paid by the individual on the donated sum or allowing a corporation to donate at a lower cost through the use of tax deductions. Safeguards to ensure that charitable receipts affording such tax relief are issued only in respect of legitimate charitable donations introduce an additional sphere of financial audit and oversight in the prevention of fraud, as is particularly evident in Canada, where in recent times the Canadian Revenue Agency has cracked down on tax shelter schemes and revoked charitable status of charities found to have issued tax receipts for values exceeding charitable donations received (Blumberg, 2011).

The essential point is that since the oversight of fundraising does not take place in a regulatory vacuum, in focusing on fundraising issues, policymakers cannot shut their eyes to the broader regulatory picture and how all of these other areas impinge on fundraising. Rather, the regulation of fundraising is intrinsically related to other larger regulatory issues ranging from data protection, financial reporting standards, taxation issues and broader public nuisance, trade practices and advertising standards issues. Successful resolution of fundraising 'problems' thus requires macro policy solutions or at the very least cooperation from other regulatory agencies.

Conclusion

This chapter set out to review the current global trends in fundraising regulation. In undertaking this journey, we uncovered numerous examples of recent regulatory reform as many different stakeholders struggle to develop effective and efficient fundraising regulatory regimes. Thus, there is much evidence of state intervention and statutory regulation and the emergence of soft law guidance (although the exact degree of its 'soft' nature has yet to be tested fully), alongside regimes that make fundraising professionals or independent fundraising standards bodies (with or without the input of charities themselves) the creators of fundraising codes and the primary enforcement bodies for those charities willing to sign up to such oversight of their fundraising activity. Regulatory reform in the area of fundraising regulation is thus a hot topic in many jurisdictions at present.

Downloaded By: 10.2.97.136 At: 05:44 30 Mar 2023; For: 9781315740324, chapter14, 10.4324/9781315740324.ch14

With regards to possible convergence in regulatory practice, there is certainly evidence that generic problems are being experienced in many countries. Concerns exist over the lack of regulatory consistency demonstrated by state or regional regulators and federal regulators, making it difficult for charities in these jurisdictions to fundraise on a national basis. Multiple accountabilities to various public agencies has not lessened the fundraising compliance burden for charities or necessarily provided better oversight for the public at large. Promised plans to centralize the oversight function for fundraising, for instance in the UK, have yet to be brought into force[10]. While the last player to the regulatory reform table, Australia, appeared to be headed toward elimination of competing state standards and creation of a central authority charged with fundraising oversight on a national basis, progress is stalled and the future of its charity commission uncertain.

The continuously developing area of internet and mobile fundraising is set to be a moving target for regulatory purposes in the coming decade and will force policymakers and regulators to review standards constantly and amend them accordingly as fundraising activities and practices continue to evolve. And yet, the old adage, '*plus* ça *change*, *plus c'est la même chose*' remains particularly pertinent in the field of fundraising regulation. Notwithstanding the technological changes that have transformed the practices of solicitation, the underlying questions that inform our regulatory efforts appear to remain constant: has the donor received trustworthy information that allows him/her to donate in confidence that the money will go to a legitimate charity and be used by that body for its charitable purposes? Are there safeguards in place to protect both the giving public and charities themselves from unscrupulous tricksters? How should we regulate the middleman in charitable solicitation whether that middleman is a third party fundraiser or commercial partner, and whether it is physically present or a virtual presence only? Can safeguards be employed in a manner that is strategic in aim and proactive in effect such that onerous duties are not imposed on compliant entities while the ne'er do wells avoid proactive scrutiny? Challenges, indeed, abound with no easy answers to hand, making the area of fundraising regulation an area to watch in the decade ahead.

Notes

1 The New Zealand Charities Commission was abolished by s.9 of the *Charities Amendment Act (No 2) 2012* and replaced by a Charities Board run from within the New Zealand Ministry of Social Development and the Department of Internal Affairs.

2 *New Zealand Charities Act, 2005*, s. 4(1) and s.10(i), reprint as at July 1, 2012, taking account of changes made by *Charities Amendment Act (No 2) 2012*.

3 State of Tennessee, *Public Chapter No. 232*, signed into law May 20, 2011.

4 The CRA disbursement quota rule required that the amount a charity spent each year on charitable activities—including gifts to qualified donees—be at least the sum of: 80 percent of the previous year's tax-receipted donations, plus other amounts relating to enduring property and transfers between charities (charitable expenditure rule); and 3.5 percent of all assets not currently used in charitable activities or administration if these assets exceed a threshold of $25,000 (capital accumulation rule). This rule was repealed in the 2010 Federal Budget.

5 Such a statutory reserve power exists in the English *Charities Act, 2006*, s. 69; in the Irish *Charities Act, 2009*, s. 97; in the *Charities Act (Northern Ireland) 2008*, s. 158; and in the *Charities and Trustee Investment (Scotland) Act 2005*, s.90.

6 Currently national fundraising organizations in the following countries have ratified the International Statement: Argentina, Hong Kong, Singapore, Australia, Indonesia, South Africa, Belgium, Italy, Spain, Canada, Kenya, Sweden, Finland, South Korea, Switzerland, France, Netherlands, Ukraine, Germany, New Zealand, the United Kingdom, Hungary, Poland, and the United States.

7 Thus, the URS is not accepted in just three states, Florida, Oklahoma and Colorado.

8 *Australian Charities and Not-for-profits Commission Act 2012* and *Australian Charities and Not-for-profits Commission (Consequential and Transitional) Act 2012*. See further www.acnc.gov.au/ [Accessed 15 January 2013].

Downloaded By: 10.2.97.136 At: 05:44 30 Mar 2023; For: 9781315740324, chapter14, 10.4324/9781315740324.ch14

9 Case C-386/04 *Centro di Musicologia Walter Stauffer v. Finanzamt Munchen fur Korperschaften* [2006] ECR I-8203, which prohibits a Member State from discriminating against an EEA-established charity on the grounds that its principal place of business is in another EEA member state; see also Case C-318/07 Hein *Persche v. Finanzamt Lüdenscheid* [2009] E.C.R. I-359.

10 The British Cabinet accepted in full the recommendations of the Etherington (2015) Review of Fundraising in October 2015, including the proposals to replace the Fundraising Standards Board with a new Fundraising Regulator to be funded by charities themselves and to transfer the code of Fundraising Practice from the Institution of Fundraising to the new regulator.

References

Accounting Standards Board. (2005) *Accounting and reporting by charities: Statement of recommended practice. (SORP)*. www.charitycommission.gov.uk/Library/guidance/sorp05textcolour.pdf [Accessed 21 October 2011].

Association of Fundraising Professionals (AFP). (2006) *International statement for ethical principles in fundraising*. www.afpnet.org/Ethics/IntlArticleDetail.cfm?ItemNumber=3681 [Accessed 4 November 2011].

Australian Government. (2012) *Charitable fundraising regulation reform: Discussion Paper and draft regulation impact statement*. www.treasury.gov.au/documents/2297/PDF/Charitable_fundraising_discussion_paper.pdf [Accessed 17 February 2012].

Berman, G. and Davidson, S. (2003) 'Do donors care? Some Australian evidence,' *Voluntas*, 14(4): 421–9.

Blumberg, M. (2011) *CRA Revokes Choson Kallah Fund of Toronto as tax shelter donation arrangement*. www.globalphilanthropy.ca/blog/cra_revokes_choson_kallah_fund_of_toronto [Accessed 3 February 2012].

Bowman, W. (2006) 'Should donors care about overhead costs? Do they care?,' *Nonprofit and Voluntary Sector Quarterly*, 35(2): 288–310.

Breen, O. (2009) 'Regulating charitable solicitation practices – The search for a hybrid solution,' *Financial Accountability and Management*, 25(1): 115–43.

Breen, O. (2012) 'The perks and perils of non-statutory fundraising regulatory regimes: An Anglo-Irish perspective,' *Voluntas*, 23(3): 763–90.

Cabinet Office. (2011) *Giving White Paper* (Cmnd. 8084) London: HMSO.

——. (2012a) *Trusted and independent: Giving charity back to charities. Review of the Charities Act 2006*. www.gov.uk/government/uploads/system/uploads/attachment_data/file/79275/Charities-Act-Review-2006-report-Hodgson.pdf [Accessed 14 January 2013].

——. (2012b) *Interim charities review response from the Minister for civil society*, Mr. Nick Hurd, December 2012. www.gov.uk/government/uploads/system/uploads/attachment_data/file/79277/Charities-Act-Review-2006-response-Nick-Hurd.pdf [Accessed 14 January 2013].

Canada Revenue Agency (CRA). (2009) *Guidance: Fundraising by registered charities—CPS 028*, Canada Revenue Agency, Ottawa. www.cra-arc.gc.ca/chrts-gvng/chrts/plcy/cgd/fndrsng-eng.html [Accessed 13 May 2015].

Charity Commission for England and Wales and Fundraising Standards Board. (2007) *Memorandum of understanding between the Charity Commission and the Fundraising Standards Board*. London: CCEW and FSB.

Charity Commission for England and Wales. (2011) *Charities and fundraising*, CC 20. London: Charities Commission.

Charities Aid Foundation (CAF). (2011) *Charities Aid Foundation response to the Cabinet Office's Giving Green Paper*. London: CAF.

Council of Australian Governments (COAG). (2010) *COAG Communiqué*, April 19–20. www.coag.gov.au/sites/default/files/2010-20-04.pdf [Accessed 14 January 2013].

——. (2012) *Terms of reference – COAG NFP Reform Working Group*. www.treasury.gov.au/PublicationsAndMedia/Publications/2012/COAG-NFP-reform/TOR [Accessed January 14, 2013].

Dale, H. (2007) 'Study on models of self-regulation in the nonprofit sector.' In Panel on the Nonprofit Sector. *Principles for good governance and ethical practice: A guide for charities and foundations – Reference edition*. Washington DC: Independent Sector, 75–129. www.independentsector.org/principles_reference_redirect [Accessed October 21, 2011].

Digital Spy. (2011) *U2 Bono's Charity Advert banned*. www.digitalspy.ie/media/news/a344535/u2-bonos-charity-advert-banned.html [Accessed 21 October 2011].

Downloaded By: 10.2.97.136 At: 05:44 30 Mar 2023; For: 9781315740324, chapter14, 10.4324/9781315740324.ch14

eBay. (2011) *eBay for charity: Frequently asked questions*. www.pages.ebay.co.uk/ebayforcharity/help.html [Accessed October 21, 2011].

Flack, T. (2004) 'The mandatory disclosure of cost of fundraising ratios: Does it achieve the regulators' purposes?' *CPNS Working Paper*, No. CPNS26. Brisbane, QLD: Queensland University of Technology.

Fundraising Institute of Australia. (2011) *Standard of electronic fundraising practice*. Chatswood, NSW. www.fia.org.au/data/documents/Resources/Principles__Standards/Standard_of_Electronic_Fundraising_Practice_2011.pdf [Accessed September 20, 2012].

Give Change Make Change. (2011) *Information for retailers*. www.givechangemakechange.com/ [Accessed October 21, 2011].

Greenlee, J. S. and Brown K. L. (1999) 'The impact of accounting information on contributions to charitable organizations,' *Research in Accounting Regulation*, 13: 111–25.

Groupon. (2011) *Supporting causes and causing a scene*. www.groupon.com/g-team [Accessed October 21, 2011].

Hansmann, H. (1980) 'The role of nonprofit enterprise,' *Yale Law Journal*, 89: 835–901.

Home Office, Charities Unit. (2005) *Principles for assessing the success of self-regulation of fundraising'*. A consultation paper. London: Home Office.

HSBC. (2009) *Community Investment at HSBC*.

Imagine Canada. (2010) *Progress report 2010: Ethical Code Program*. www.imaginecanada.ca/files/www/en/ethicalcode/ethical_code_2010_progress_report_en_09142011.pdf [Accessed January 13, 2012].

——. (2011a) *Standards for Canada's charities and nonprofits 2011 pilot standards*. www.imaginecanada.ca/files/www/en/standards/standards_imagine_canada_dec2011.pdf [Accessed January 13, 2012].

——. (2011b) *Ethical Code Handbook 2007, revised edition 2011*. www.imaginecanada.ca/files/www/en/ethicalcode/ec_handbook_2011_en.pdf [Accessed January 13, 2012].

——. (2015) *Standards Program reaches 150 milestone as 25 more charities accredited*. www.imaginecanada.ca/who-we-are/whats-new/news/standards-program-reaches-150-milestone-25-more-charities-accredited [Accessed May 27, 2015].

Independent Commission Against Corruption Hong Kong. (2009) *Management of charities and fundraising activities: Best practice check list*. Hong Kong: Corruption Prevention Department. www.icac.org.hk/filemanager/en/Content_1031/fund_raising.pdf [Accessed May 25, 2015].

——. (2011) *Form 990*. www.irs.gov/pub/irs-pdf/f990.pdf [Accessed October 21, 2011].

Institute of Fundraising. (n.d.) *Charities working with business code of practice*. London: IoF. www.institute-of-fundraising.org.uk/library/charities-working-with-business/iof-code-of-fundraising-practice-charities-working-with-business.pdf [Accessed February 3, 2012].

——. (2006) *Fundraising through electronic media code of fundraising practice*. London: IoF. www.institute-of-fundraising.org.uk/library/fundraising-through-electronic-media/2iof-code-of-fundraising-practice-fundraising-through-electronic-media.pdf [Accessed February 3, 2012].

——. (2012) *Code of Fundraising Practice*. London: IoF. www.institute-of-fundraising.org.uk/guidance/code-of-fundraising-practice/ [Accessed 15 January 2013].

Internal Revenue Service. (2010) *Instructions for Schedule G (Form 990 or 990-EZ) supplemental information regarding fundraising or gaming activities*. www.irs.gov/pub/irs-pdf/i990sg.pdf [Accessed November 25, 2011].

International Committee of Fundraising Organizations (ICFO). (2003) *International Standards Online*. Zurich: ICFO. www.oneworldtrust.org/csoproject/images/documents/INTL19.pdf [Accessed November 4, 2011].

——. (2010) *Annual Report 2010*. Zurich: ICFO.

Irish Charities Tax Reform Group (ICTR). (2011) *Compliance checklist*. www.ictr.ie/files/Compliance%20Checklist.pdf [Accessed October 21, 2011].

Jacobs, F. and Marudas N. (2007) *The impact of fundraising inefficiency on donations to nonprofit organizations, proceedings of the American Society of Business and Behavioural Sciences* (February) www.google.ie/url?sa=t&rct=j&q=the%20impact%20of%20fundraising%20inefficiency%20on%20donations%20to%20non-profit%20organizations%22&source=web&cd=4&sqi=2&ved=0CD4QFjAD&url=http%3A%2F%2Fpure.ltu.se%2Fportal%2Ffiles%2F1275604%2FJacobs-F-2007&ei=1Se0ToqFA87t-gaKiIWFBg&usg=AFQjCNGmQN6wU8C4XiXYoEK0J-QcUngxFw&cad=rja [Accessed November 4, 2011].

McGregor-Lowndes, M. (2015) *The regulatory riddle of putting the wind beneath the wings of fundraisers*. Syd Herron Oration, Fundraising Institute of Australia. Brisbane, QLD, February 19.

National Association of State Charity Officials (NASCO). (2001) *The Charleston Principles: Guidelines on charitable solicitations using the internet*. www.nasconet.org/wp-content/uploads/2011/05/Charleston-Principles-Final.pdf [Accessed October 21, 2011].

Downloaded By: 10.2.97.136 At: 05:44 30 Mar 2023; For: 9781315740324, chapter14, 10.4324/9781315740324.ch14

National Association of State Charity Officials and National Association of Attorneys General. (2010) *Multi-State Filer Project*. www.multistatefiling.org/index.html [Accessed October 21, 2011].

Nave, C. (2004) 'Charitable state registration and the dormant Commerce Clause,' *William Mitchell Law Review*, 31(1): 227–43.

Office for the Not-for-Profit Sector. (2012) *Submission to the Senate Standing Commission on Community Affairs on the inquiry into the Australian Charities and Not-for-Profits Commission Bill 2012*, Canberra: Office for the Not-for-Profit Sector.

Oregon State Department of Justice. (2012) *Attorney General Rosenblum announces Oregon's 20 worst charities for 2012*, December 13, 2012. www.doj.state.or.us/releases/Pages/2012/rel121312.aspx [Accessed January 14, 2013].

Oregonian. (2011) *2011 Session: Senate Bill 40*. www.gov.oregonlive.com/bill/2011/SB40/ [Accessed February 10, 2012].

Paulette's Point of View. (2010) *International fundraising summit*. www.paulettespov.blogspot.com/2010/07/international-fundraising-summit.html [Accessed November 4, 2011].

Pennies Foundation. (2010) *Pennies – The electronic charity box*. www.pennies.org.uk/ [Accessed October 21, 2011].

Phillips, S. D. (2012) 'Canadian leapfrog: From regulating charitable fundraising to co-regulating good governance,' *Voluntas*, 23(3): 808–29.

Pickard, J. (2010) 'Charity donations invited at cash machines,' *Financial Times*, 29 December 2010. www.ft.com/cms/s/0/0f48e3c8-12c1-11e0-b4c8-00144feabdc0.html#axzz1dRWFgpjV [Accessed November 11, 2011].

Ribeiro, C. (2012) 'ATM giving rollout has been "piecemeal", says bank machine,' *Civil Society*, 22 November 2012. www.civilsociety.co.uk/fundraising/news/content/13865/atm_giving_roll-out_has_been_piecemeal_says_bank_machine [Accessed November 27, 2012].

Row, D. K. (2011) 'Senate Bill 40, which proposed to punish underperforming charities, dies in Oregon Legislature,' *The Oregonian*, 6 July. www.oregonlive.com/pacific-northwestnews/index.ssf/2011/07/senate_bill_40_which_proposed_to_punish_underperforming_charities_dies_in_oregon_legislature.html [Accessed February 10, 2012].

Sargeant, A., Jay E. and Lee S. (2008) 'The true cost of fundraising: Should donors care?,' *Journal of Direct, Data and Digital Marketing Practice*, 9(4): 340–53.

Steinberg, R. (1986) 'Should donors care about fundraising?.' In S. Rose-Ackerman (ed.) *The economics of nonprofit institutions—Studies in structure and policy*. New York: Oxford University Press.

——. (1991) 'The Economics of Fundraising.' In D. F. Burlingame and L. J. Hulse (eds.) *Taking fund raising seriously: Advancing the profession and practice of raising money*. San Francisco, California: Jossey-Bass, 239–56.

Tinkelmann, D. (1999) 'Factors affecting the relation between donations to not-for-profit organizations and an efficiency ratio,' *Research in Government and Nonprofit Accounting*, 10: 135.

Transnational Giving Europe. (2015) www.transnationalgiving.eu/tge/details.aspx?id=219950&LangType=1033 [Accessed June 2, 2015].

Treasury, Government of Australia. (2011) *Final report: Scoping study for a national not-for-profit regulator*. http://archive.treasury.gov.au/documents/2054/PDF/20110706%20-%20Final%20Report%20-%20Scoping%20Study.pdf [Accessed January 20, 2012].

Ulster Bank. (2012) *Ulster Bank opens ATM network to charitable giving scheme*. 18 October 2012. www.group.ulsterbank.com/media/press-releases/republic-of-ireland/2012/18-10-12.ashx [Accessed November 27, 2012].

Usry, J. (2008) 'Charitable solicitation regulation for the nonprofit sector: Paving the regulatory landscape for future success,' *Policy Perspectives*. Salt Lake City: Center for Public Policy and Administration, University of Utah. www.imakenews.com/cppa/e_article001162331.cfm?x=b6Gdd3k,b30DNQvw,w [Accessed October 21, 2011].

Weakley, K. (2012) '30 charities to benefit from ATM giving scheme revealed,' *Civil Society*. www.civilsociety.co.uk/fundraising/news/content/13582/30_charities_to_benefit_from_atm_giving_scheme_revealed [Accessed November 27, 2012].