

November 14, 2018

## Open letter to Crowdfunding Companies:

As a "chamber of commerce" for the nonprofit community, we have heard a great many concerns from our members about crowdfunding platforms, and we have also been involved over the past year in discussions about potential crowdfunding regulations in California with legislators, the Attorney General's office, and crowdfunding companies. During the past year we have had a chance to speak with some of you directly, and hope to continue these conversations going forward.

Today, we are introducing CalNonprofits' new **Principles for Responsible Crowdfunding**. These Principles are meant to act as a guide for emerging legislation and as a call to you – the crowdfunding platforms – to act in a fair, public-spirited way. They are being sent directly to the CEOs of ten crowdfunding platforms, to members of the California state legislature and to California's newly elected governor, Gavin Newsom. We welcome your comments and feedback on the Principles.

### Background

Crowdfunding – broad, public, online fundraising campaigns – has emerged as an important vehicle for both donors and nonprofits. Crowdfunding campaigns bring causes to the attention of wide audiences who find it a convenient way to make donations, typically of modest amounts. Individuals also use crowdfunding campaigns to encourage their friends to donate to various nonprofit or community efforts. For nonprofits, crowdfunding is also a new way to reach out to prospective donors and can provide a significant revenue stream along with an opportunity to raise awareness and increase engagement with their cause and programs.

**At the same time, as the crowdfunding industry has evolved concerns have also arisen, including:**

- A proliferation of scam artists purporting to be legitimate nonprofits;
- Concerns by donors about undisclosed fees, uncertainty about tax-deductibility, and confusion about disclosure of their identity;
- Nonprofit complaints about slow fund disbursement, undisclosed fees, and inconsistent – or missing – information about donors; and
- Questions about the implications for existing Donor-Advised Funds (DAFs) and for possible DAF regulation in the future as crowdfunding companies reconfigure their giving platforms as DAFs.

The crowdfunding industry has sponsored legislation in California to clarify what is legally permissible, and over the coming years we anticipate more state and federal policy efforts to address concerns that are bound to emerge as this industry and these practices mature.

The principles by which crowdfunding should be operated and regulated will evolve as well. We propose the following Principles to define responsible and ethical practices that will help nonprofits, donors and the industry engage in these online activities in ways that are productive and ensure consistency with long-established laws that strive to balance the interests of stakeholders.

### **Principles for Responsible Crowdfunding**

- All parties must protect the integrity of the relationship between donors and nonprofits. People donate and volunteer because of a history, an affinity, or a relationship with a nonprofit. Anything that jeopardizes that trust threatens the generosity of giving and the work nonprofits do for the common good.
- To maintain donor confidence in the act of giving, donors need to be sure that their donation will be delivered to the nonprofit they designated and in a reasonable amount of time. Donors deserve verification that their donation was delivered as directed. They must be able to choose whether their names and contact info will be given to the nonprofit or whether their donation will be anonymous. Donors should have access to customer support to deal with questions and problems.
- Because donations to 501(c)(3) nonprofits are tax-deductible, the American public also has a stake in how donations are solicited and managed. To protect the public interest, there must be safeguards to prevent crowdfunding platforms from being used to transfer tax-deductible donations to for-profit entities and other ineligible entities (such as political candidates), to purchase goods or services including raffle tickets, sports tickets and nonprofit auction items, to provide excessive profits to the crowdfunding platform, or to directly benefit the donor or the donor's family.

### **Online crowdfunding platforms must**

- Explain at the donation point what institution is the initial recipient of funds from the donor, and whether the donation is tax-deductible or not.
- Ensure that the donor has a clear opportunity to choose whether their contact information will be given to the nonprofit that is receiving the donation and/or if it will also be shared with an outside commercial venture such as the vendor processing the donation.
- Disclose all fees prior to the donation point so that the donor can clearly see what percentage of their donation will be received by the nonprofit.
- Transfer the funds to the nonprofit within 30 days.

- Confirm to donors that their donation was received by the designated nonprofit.
- If the crowdfunding platform cannot find the nonprofit to which the donor has designated, the platform must contact the donor to request alternatives.
- Provide a publicly available annual report to donors, recipients, and government regulators that shows the number of donations and net dollars given to each nonprofit, all fees collected by the platform, and other relevant information.
- Engage with the nonprofit community and appropriate charity officials as the field evolves.

We invite you to respond to these Principles, and we welcome the opportunity to discuss both regulation and best practices further.

CalNonprofits is the voice for California's vibrant nonprofit community.

Jan Masaoka

CEO, California Association of Nonprofits (CalNonprofits)

[Contact Jan Masaoka](#)