

# Crowdfunding, Online Payments, and Charitable Fundraising

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# What is Crowdfunding?

- “Crowdfunding” is simply raising funds from a large number of funders to support a project, cause, or organization
  - Nonprofits engaged in fundraising from the general public have been “crowdfunding” for centuries!
  - What’s new: A profusion of online crowdfunding platforms
  - Crowdfunding Centre:  
Today there are  
over 450 online platforms

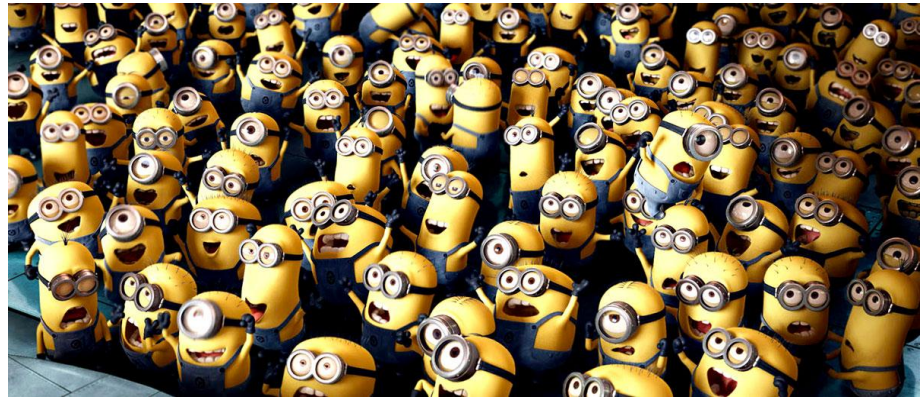


**DONATIONS**  
**REWARDS-BASED**  
**CROWDLENDING**  
**CROWDEQUITY**

# Crowdfunding Models (continued)

## ■ Donations

- Gifts from donors , no (legal) strings attached



## ■ Rewards-based

- A campaign stating that upon achieving a stated goal (*e.g.* receiving \$[x] in donations, having [y] number of people sign up for a marathon etc.), a reward will be provided to each participant
- Creates a contractual obligation to provide the reward once the stated condition(s) have been satisfied



# Crowdfunding Models (continued)

- Crowdlending

- Borrowers are matched with lenders on a platform to make or receive unsecured microloans

- Crowdequity

- SEC rules allow a company to raise up to \$1M by selling securities through registered crowdfunding portals



- Provide some relief from SEC registration and reporting, or accredited investor requirements applicable to companies conducting larger offerings

# Online Donation Crowdfunding Options

## ■ Donations

- DIY: Add a “donate” button to your existing site



- Get listed on a charity directory

- Use a turnkey donation campaign solution



# Donation Crowdfunding – The DIY Option

- Building a crowdfunding mechanism into your organization's own website or on a new organization-controlled site
- Online gateways/processors like PayPal and Stripe provide APIs or hosted white-labelled webpages that allow you to accept payments within your website.

- Pros:

- Lowest cost option – per transaction fee can be less than half of that charged by turnkey solutions
- Maintain full control over your site and user experience

- Cons:

- Requires some coding and integration to implement
- Does not drive traffic to your website or campaign





# Donation Crowdfunding – The Turnkey Solution Option

- Platforms like Network for Good and Indiegogo provide a complete suite of functionality needed to run a donation campaign, including customizable campaign website, social media integration, reports, and payments acceptance

- Pros:

- One-stop shop for all your crowdfunding donation needs
- Integrated social media and data analytics capabilities allow targeted marketing and promotion

- Cons:

- Highest cost option in terms of fees
- May present a credit or compliance risk depending on their level of involvement in payments acceptance



# Donation Crowdfunding – The Charity Directory Option

- Online directories like JustGive and Causes provide organized communities or searchable listings that connect individual or businesses with causes and nonprofits

- Pros:

- Provides access to community members with a common cause or interest
- May allow greater flexibility to use other services of your choice

- Cons:

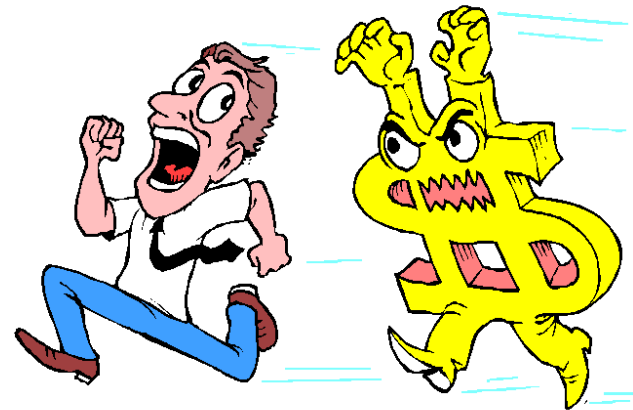
- Search and community functionalities will generate multiple results besides your organization
- User interface tends to be cluttered



# Choosing a Crowdfunding Platform – Key Considerations

## ■ Cost

- Payment processor and platform fees are a mix of fixed per transaction fees, percentage per transaction fees, and monthly or annual fees
  - Build models incorporating your anticipated number of campaigns and participants, transaction amounts and volumes in order to meaningfully compare different options and platforms
- On some platforms, payment processor fees are passed through separately from platform fees
  - Make sure to read the fine print and not the advertising – or risk paying double what you expected in fees



# Choosing a Crowdfunding Platform – Key Considerations (continued)

## ■ Third-Party Risk

- Donations that are processed directly between donors and donees by PayPal or Stripe only settle through entities that are subject to safety and soundness regulation (money transmitters, banks etc.)
- Some platforms accept payments on your behalf into their corporate accounts, and then periodically wire, write checks for, or ACH funds to donees

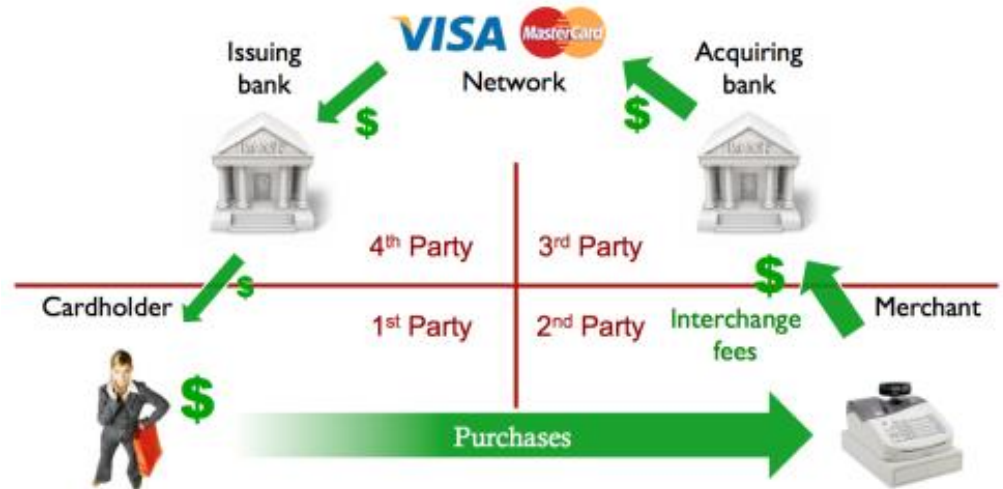


- Risk of loss through platform bankruptcy, security breach or employee malfeasance
- Risk that platform will be deemed a money transmitter by federal or state regulators and ordered to cease and desist their activities
- Many sites disclaim all liability to you in their terms of use – even for donated funds

# Choosing a Crowdfunding Platform – Key Considerations (continued)

## ■ Third-Party Risk (continued)

- Donations made using credit or debit cards are more vulnerable to chargebacks by the cardholder than other payment methods
  - In addition to losing the donated amount, processors charge hefty fees to their merchants for *each* chargeback. Fines and higher interchange rates may also be assessed for excessive chargeback volume
- Beware geeks bearing gifts – online donation pages are a favored method for criminals to test stolen credit card information



# Choosing a Crowdfunding Platform – Key Considerations (continued)

## ■ User Experience

- Tradeoff between maintaining control of user experience and obtaining additional functionalities through outsourcing
  - If you are using a turnkey solution or a charity directory and the “look and feel” of your campaign site is important to you, look into the degree of customization that the platform supports



- Make sure the platform’s service and customer support meets your standards – review BBB ratings and conduct test transactions before running a full campaign



# Choosing a Crowdfunding Platform – Key Considerations (continued)

- Non-Profit Friendliness:
- Some platforms (like [Kickstarter](#)) geared more towards producing tangible products: best used by arts organizations funding a play or art exhibition.
- Some platforms specifically geared towards nonprofits: Razoo, CauseVox, StartSomeGood
- Can nonprofit create master page for campaign with individual supporters creating tangential pages for peer-to-peer outreach to friends and colleagues to support campaign?
- Is the Platform itself a Non-Profit 501(c)(3) organization?

# UC's DIY Case Study: Promise for Education

UNIVERSITY OF CALIFORNIA

PROMISE for EDUCATION

Scholarship Money Raised: \$509,027

Time Remaining: 45:14:59:29  
Days Hrs Mins Secs


Make a Promise

Browse Promises

Donate Directly

Why It Matters

About



Make a Promise

and rally friends to raise money for UC scholarships

DONATE DIRECTLY

Promises

See All | Make Yours

Search Promises



Jamie Foxx promises to rap a song like Bill Clinton, President Obama and Monique from the movie Precious.

\$20,000

CONTRIBUTE



Adam Walden promises to Bike to the top of Mt. Diablo (elevation 3,848 feet)

\$1,000

CONTRIBUTE

16

dwt.com

# UC's DIY Case Study: Promise for Education

The screenshot shows a web browser window with the URL <https://promises.promiseforeducation.org/fundraise/create?eid=21197>. A modal titled "Create an Account" is displayed in the center. It offers two sign-up options: "Sign Up with Facebook" and "Sign Up with Email". The "Sign Up with Email" section includes fields for "Your Name" (First Name and Last Name), "Email Address", and "Create a Password". A "Sign Up" button is at the bottom of the modal. The background shows a blurred view of the website's main content, including a "My Story" section and a fundraising goal of \$250.

Sign Up to Create Your Fund

<https://promises.promiseforeducation.org/fundraise/create?eid=21197>

Facebook LinkedIn Twitter Gmail Feedly Google Maps Music Banking Health & Insurance Higher Ed UCOP SharePoint Other Bookmarks

Make a Promise About

### Create an Account

If you already have an account [log in here](#)

**f Sign Up with Facebook**

By signing up, I agree to the [terms and conditions](#).

or

### Sign Up with Email

All fields are required.

Your Name

First Name Last Name

[Make a Promise as a Company/Group](#)

Email Address

Create a Password

**Sign Up**

By signing up, I agree to the [terms and conditions](#).

My Goal: \$250

Raised So Far: \$0

# of Donations: 0

Like Share Tweet Email

se supports:

UNIVERSITY OF CALIFORNIA

<https://promises.promiseforeducation.org/fundraise/create-login?eid=21197>

# UC's DIY Case Study: Promise for Education

The screenshot shows a web browser window with the address bar displaying <https://promises.promiseforeducation.org/checkout/donation?eid=26640>. The browser's bookmark bar includes links to Facebook, LinkedIn, Twitter, Gmail, Feedly, Google Maps, Music, Banking, Health & Insurance, Higher Ed, UCOP, SharePoint, and Other Bookmarks. The main content area is titled "Make a Donation" and includes a sub-header: "If you prefer to just donate directly without making a promise, begin below." Below this is a "Choose an Amount" section with five orange buttons: "\$250", "\$100", "\$50", "\$25", and "Other". A red asterisk and the text "= Required" are positioned to the right of these buttons. Underneath the buttons is a form for "Your Donation" with a dollar sign icon, a text input field, and the label "\$USD". The "Your Information" section follows, containing several form fields: "Name" (split into "First Name" and "Last Name"), a checkbox for "Make donation anonymous" with a help icon, "Email" (with a note "Your receipt will be emailed here."), "Phone number", an "Opt in" checkbox labeled "It's OK to contact me in the future" which is checked, and two dropdown menus labeled "What is your connection to UC?" and "At which campus?".

**Make a Donation**

If you prefer to just donate directly without making a promise, begin below.

**Choose an Amount** \* = Required

**\$250** **\$100** **\$50** **\$25** **Other**

Your Donation \* \$  \$USD

**Your Information**

Name \*  First Name  Last Name

☐ Make donation anonymous ?

Email \*  Your receipt will be emailed here.

Phone number

Opt in ☒ It's OK to contact me in the future

What is your connection to UC?  Please Select

At which campus?  Please Select

**Questions**

- Is my donation secure?
- Is my donation tax-deductible?
- Do I get a receipt?
- May I send a donation through U.S. Mail?

# UC's DIY Case Study: Legal Issues

- Terms of Use Agreement
  - Recipient of Gift
  - Enforceability of Gift
  - Quid Pro Quo
- Privacy Policy
  - Donor name and other Identifying Information
- Sponsorship/Intellectual Property

# Other Major Legal Concerns

- Who is responsible? The crowdfunding platform, or the organization using that platform to raise funds?
- Is the crowdfunding platform also a charitable organization?
- State and local law:
  - Charitable solicitation rules
  - State and local sales and use tax
- Fair trade practices laws at both state and federal levels
- Federal tax compliance
  - Applies to recipient organization, platform, and donor alike





# Legal Concerns: Fair Trade Laws

- State laws in all states forbid practices that are deceptive or unfair
  - Enforced by the Attorney General in almost all states
- Federal fair trade laws apply to interstate commerce and are enforced by FTC
  - Limited exception for 501(c)(3) organizations



- Both crowdfunding platforms and recipient organizations may be held liable
  - Both civil and criminal penalties apply
- Ensure all communications to public are **complete, accurate, and not deceptive**, particularly concerning use of funds

# Legal Concerns: State Charitable Solicitation Laws

- Perhaps the biggest minefield in charitable fundraising, whether crowdfunding is involved or not
- Use of crowdfunding platform **does not** insulate a charitable organization from state charitable solicitation laws, and can increase exposure in some respects
- Crowdfunding platform operators are not always informed
- Key players may be classified as any of the following:
  - Professional fundraiser
  - Fundraising counsel
  - Commercial co-venturer
  - Charitable organization



# Legal Concerns: State Charitable Solicitation Laws

- What states have jurisdiction?
  - The state where an organization soliciting funds is domiciled
  - Any state where the organization is targeting its fundraising
  - What about Internet solicitation?
- Charleston Principles (NASCO)
  - Law in only two states (TN and CO), but represent charity regulators' most up-to-date thinking, and are helpful elsewhere
  - Jurisdiction applies if organization receives contributions:
    - “on a substantial basis”
    - “on a repeated and ongoing basis”

# Legal Concerns: State Charitable Solicitation Laws

## ■ Registration for Charities

- Approximately 45 states require registration for any organization soliciting funds for charity, including charities themselves
- Which states have jurisdiction over my organization's fundraising?
- Use of a crowdfunding platform may trigger Charleston Principles analysis
- Is the crowdfunding platform operator required to register?
- On the other hand... can the presence of a registered crowdfunding platform operator relieve the recipient organization of registration?
- Can be a complex, expensive, bureaucratic process

# Legal Concerns: State Charitable Solicitation Laws

- Professional fundraiser (“PFR”) status
  - A PFR **solicits** funds for **consideration**
  - PFR status triggers heavy regulation in almost every state
  - Some states exclude 501(c)(3) organizations from PFR status
- ***Are crowdfunding platforms PFRs? The question is unsettled. Who is doing the soliciting?***
- Commercial co-venturer (“CCV”) status
  - **For-profit business** that makes a **representation** to the public that sales or use will **benefit charity**
  - Regulated in about half of the states

# Legal Concerns: Federal Tax Issues

- Charitable contribution deduction for contributions made through crowdfunding platforms
  - Who is the donee and is responsible for issuing the acknowledgment of each contribution? Factors to consider:
    - Is the crowdfunding platform operated by a charitable organization?
    - Does the crowdfunding platform have any discretion and control over the use of contributed funds, or is the relationship strictly one of agency?
  - What is the amount of the deduction? Does the deduction include the amount retained by the operator of the crowdfunding platform?





# Legal Concerns: Federal Tax Issues

- 501(c)(3) organizations operating crowdfunding platforms
  - Due diligence for recipient organizations
  - What is the nature of the relationship?
    - Mere agency relationship, or
    - Active role in soliciting, making decisions how to use funds, or other aspects?
  - Private inurement or excess private benefit
    - May threaten a platform's 501(c)(3) status or trigger punitive excise taxes
  - Operated for charitable purposes? Some operators may provide service "like a business" and run afoul of the Commerciality Doctrine
  - Public charity status is essential. PF rules and crowdfunding don't mix well.



# UC's DIY Case Study: Practical Issues and Lessons Learned

- Did It Work?
- New Method
  - Tapping into Kickstarter Mentality

VS.

- Applying For-Profit Model to Nonprofit Fundraising

# 10 Tips and Considerations before Crowdfunding

1. Protect your brand. See where your organization is represented on crowdfunding platforms and charity directories: check for accuracy.
2. Develop a crowdfunding campaign strategy.
3. Have a good crowdfunding story to tell.
4. Choose the right platform for your campaign.
5. Know what your donors' experience is going to be.
6. Know whether your organization is responsible for issuing a tax receipt / acknowledgement letter.
7. Provide guidance to your volunteer peer-to-peer fundraisers.
8. Ensure proper registration for charitable solicitation in appropriate jurisdictions.
9. Be ready to promote the crowdfunding campaign to your existing network.
10. Stay in touch with old and new supporters after the campaign!

Questions?



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