Charities and Commercial Partners

RS2

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Introduction

This study focuses on the commercial partnership that exists when a charity and a commercial company enter into an agreement either to raise funds for the charity or to raise its profile. Typically this will allow the company to use the charity's name and logo to promote its own products or services. In return the charity receives a proportion of the income, or some other benefit, generated from the promotion of those products. The report does not cover partnerships that seek to deliver a charity’s service to its users, or the relationship that exists between a charity and a wholly owned trading subsidiary.

As a fund-raising technique, commercial partnerships are just one option available for charities to choose from among a wider portfolio of funding options and opportunities. In some cases, commercial partnerships may not prove to be an effective or viable option for a charity and the trustees may wish to use other forms of fund-raising.

A charity's name is a precious asset and using it to help develop and promote successful commercial partnerships can generate a wide range of benefits for both the charity and the commercial partner. These benefits include the opportunity to raise funds and develop effective working relationships between the charitable and the commercial sector.

To highlight good practice and legal requirements, we have consulted our bank of worked cases and used our own experiences of the issue. We also approached a range of charities that are actively raising funds through commercial partnerships to meet and discuss the issue.

Executive summary

Charities have much to gain from entering into commercial partnerships with companies, both in terms of the opportunities for fund-raising and in providing a mechanism for generating subtler and more pervasive benefits like improved understanding of the corporate sector.

Any charity can enter into a commercial partnership with a company, regardless of its nature and size. It is not the preserve of large national charities.

Commercial partnerships can be worth a great deal and represent big business, both for charities and companies. Benefits for charities include financial donations, gifts in kind, influence within the partner company and a raised profile, all of which can enhance a charity's reputation, lead to further support and help achieve the charity’s objects.

However, charities choosing to raise funds through commercial partnerships need to recognise that the mechanism also carries inherent risks. They should take appropriate steps to identify and address these risks before starting an agreement. A number of charities have also stressed the importance of placing commercial partnerships within the framework of a wider fund-raising strategy. Whilst partnerships can be effective, they may not be the most effective way of raising funds and the more traditional pursuit of legacies and direct appeals can generate more with less initial costs and less risk. However, a partnership can tap into "new" sources of income which a traditional appeal will not reach and the raising of a charity's profile may, in the longer term, boost other fund-raising ventures.

A successful partnership can raise both a charity's income and profile. An unsuccessful one, where stakeholders perceive the charity to have "sold out", can damage income and profile.

The main difficulties that the Commission encounters in this area are cases where charities:

- Have not complied with the relevant fund-raising legislation; Part II of the Charities Act 1992 and The Charitable Institutions (Fund-raising) Regulations 1994.

- Have not recognised the value of their name and reputation and have failed to take adequate steps to protect them before entering into a commercial agreement.

- Have failed to effectively identify and manage any potential risks that the commercial partnership brings with it.

- Have failed to establish an ethical policy which can be used to ensure that there is a common understanding of the charity's ethical values.

- Have not considered how they will monitor and manage the commercial partnership once the agreement has commenced.

- Have failed to check the credentials of the company before entering into the agreement.

Charities can mitigate the chances of problems occurring with commercial partnerships by ensuring that they have robust policies and procedures in place prior to entering into an agreement. These should be incorporated within the charity's wider fund-raising strategies and reviewed on a regular basis to ensure they stay relevant and fresh.

The main points arising out of this report are summarised below. Further information on each point can be found in the main body of the report. Charities may also find the resources listed in Annex B, on pages 30-36 useful.

- Charities should recognise that their name is a valuable asset and that, in a commercial partnership, association with a charity can generate substantial benefits for the company. Accordingly, charities need to take steps to protect and, where appropriate take professional advice on valuing, their name.

- Charities need to clearly establish what they expect to gain from a commercial partnership prior to entering into an agreement and set up appropriate systems to monitor and review the partnership.

- Charities should consider establishing an ethical policy which clearly sets out the charity's values. This will form part of their wider fund-raising strategy and they can use it to ensure that trustees, staff and any potential commercial partners, share a common understanding of the charity's ethical values.

- As best practice, charities should highlight their ethical policies and any commercial partnerships they have in their Annual Report and yearly accounts.

- Against the framework of their ethical policy, charities need to carefully consider whether a proposed commercial partnership is appropriate and in the best interests of the charity.

- Regardless of the size or nature of the commercial partnership, all charities should take the appropriate steps to ensure that they identify and manage any risks connected to a commercial partnership fund-raising agreement.

- All charities need to ensure from the outset of a commercial agreement that the expectations of both the charity and the company have been agreed and can be managed effectively and appropriately.

- All charities should research a proposed commercial partnership carefully and, if it proves to be appropriate and viable, establish a plan of how the partnership will be managed.

- All charities should consider taking advice from a professional or specialist prior to commencing a commercial partner agreement.

- Charities must ensure that they comply with the legal requirements detailed in Part II of the Charities Act 1992 and The Charitable Institutions (Fund-raising) Regulations 1994 if they are involved in, or thinking of becoming involved in, fund-raising with a commercial partner.

- Charities must exercise control over the commercial agreement and must not simply accept an agreement drawn up by a company without seeking appropriate advice.

- Charities should use the legal requirements detailed in Part II of the Charities Act 1992 and The Charitable Institutions (Fund-raising) Regulations 1994 to provide a framework for commercial partnership arrangements made between the charity's trading subsidiary and the commercial partner.

- Charities need to consider the tax implications of a commercial agreement prior to entering into a commercial partnership and take advice as necessary.

- Charities need to make certain that the proposed commercial agreement represents a fair deal for the charity. We also recommend that charities familiarise themselves with the good practice guidance available on this topic, before entering into an agreement.

- As best practice charities should check the credentials of a company, consult with other charities or organisations that have dealt with the company and take professional advice to ensure they are getting a fair deal.

- Charities must establish clear agreements with the commercial partner before the partnership starts. The precise nature and the complexity of the agreement will depend on the size of the charity and company and the type of commercial partner.

- Charities should exercise their ability under Regulation 5 of the 1994 Fund-raising Regulations to request documentation from commercial partners as part of an on-going monitoring and review process.

- Charities should monitor and review the performance of commercial partnerships on a regular basis, to ensure that they remain an effective means of fund-raising.

The Commission will seek to incorporate the findings from this report into its range of publications.

Findings - Thinking about commercial partnerships

The value of a charity's name

> ***"If I was giving a charity advice, I would say do not compromise your work or your principles and don't underestimate the power and importance of your brand, which might actually be more important than a product brand, even though it is a market leader".*** [1]

A charity's name is a unique and precious asset. Our casework experience and discussions with charities indicate that most are acutely aware of this. It is also a message that is conveyed in articles and guidance available to trustees from a variety of sources including a number of our existing publications dealing with charities and fund-raising, (CC20, *Charities and fund-raising and Fund-raising through partnerships with companies*). Charity names and logos are widely respected and linked to certain values and concepts which many people wish to support. A good example of this is the affinity credit cards which has become big business and is an example of the added value that association with a charitable cause can give a commercial company.

Commercial partnerships exist between charities and companies for *mutual* benefit. In a commercial partnership a company uses a charity's name in association with its own in order to generate a specific financial or other benefit, part of which is given to, or applied for the benefit of the charity. As an asset, the name of a charity can be used to further the overall interests of the organisation; commercial participation is a valid way of achieving this.

Charities often have strong brand names and personalities which need to be aligned to their core work to ensure that the fund-raising message is integrated and consistent with the charity's aims and values. The practice of "branding" charities, ascribing a specific value to a charity's name and logo, has gained prevalence in the USA and is designed primarily to assist charities in negotiating a fair deal with a commercial partner. For charities, establishing a "brand personality" is the culmination of a process which entails ensuring there is a common understanding of the objectives, values and aims of the charity throughout the charity.

In our experience, charities can risk public confidence and support when their fund-raising activities and choice of commercial partners seem not to be consistent with the charity's core work, aims, values and image. High profile press stories and Charity Commission cases testify to the damage that can be caused to a charity's reputation by a real or perceived clash between a commercial partnership and a charity's core work, image and name.

Every charity has a duty to ensure that it protects its name and reputation when it gets involved in commercial partnerships. The law does go some way to embracing and protecting charities, but trustees and charity staff should remain vigilant and give full regard to recommended good practice and professional codes of conduct.

[1] *Business Community Partnerships: Fact or Fiction?* Business Community Connections (2001)

- Charities should recognise that their name is a valuable asset and that, in a commercial partnership, association with a charity can generate substantial benefits for the company. Accordingly, charities need to take steps to protect, and where appropriate take professional advice on valuing their name.

Charities of any size can establish commercial partnerships

Well-known commercial partnerships are often those established between a large charity and a "brand name" company, working together in a joint promotional venture. However, in theory, any charity, regardless of its size and nature can enter into a commercial partnership.

The Charity Commission has identified problems with this sort of fund-raising through commercial partners in a wide range of charities. During 2001, 148 cases were opened by the Charity Commission in connection with commercial partnerships.

Size of Charity[2]	Number of Cases	% of Cases Opened: 2001
Small	16	11%
Medium	42	28%
Large	40	27%
Very Large	50	34%

During this same period a further 217 cases, representing 22% of the total of all cases evaluated by the Commission's Investigations Division, were evaluated because of an apparent failure to comply with the legal requirements (for details of the legal requirements see pages 18 to 21).

Developing a successful strategy and using local companies

This case highlights the steps that have been taken by a medium sized charity to tap into local companies and form successful commercial partnerships.

- A recently registered, medium sized charity has been extremely successful in forging commercial partnerships with local companies, providing a significant boost to the charity's income. The partnerships were established to help the charity meet its aim of building its own premises. The charity has capitalised on its appeal within the local community, which has in turn improved its success rate in developing commercial partnerships with local companies.

- From the point of registration the charity has used a comprehensive Business Plan to inform its fund-raising strategies. Additionally, the trustees have clearly and consistently demonstrated that they understand the need for a professional and pro-active fund-raising strategy if they are to achieve their aim of building their own premises.

[2] Refer to page 29 for the income levels used to categorise the size of the charity in this report.

- The charity appointed an independent fund-raising consultant to help create an understanding about the need for effective fund-raising strategies amongst the trustees and the staff. Before appointing the independent fund-raiser the charity ensured that they checked his credentials, investigated different methods of fund-raising and sought professional advice.

- This charity has found that its forward thinking and professional approach to fund-raising through commercial partnerships has made it a more attractive proposition to companies.

The different types of commercial participation, described on page 28, also have a role to play in determining the visibility a partnership will receive. For example a cause related marketing promotion is likely to attract more widespread attention than a simple one-off sponsorship agreement, regardless of the size of the charity.

What will the charity gain from the partnership?

Charities need to ask themselves exactly what it is they want to gain from a commercial partnership, prior to entering into an agreement, and ensure that the terms that are agreed are of an appropriate level of benefit to the charity. As highlighted in our fund-raising booklet, CC20 and website document *Fund-raising through partnerships with companies*, association with a charity's name can be worth a great deal to a company, and responsibility lies with the charity trustees to protect the charity's best interests by negotiating and upholding an agreement that reflects the full and fair share of that added value.

"Harnessed in the right way, companies can also add impact and weight to the charity's cause and effectively add value to the relationship in non-financial ways". - Senior fund-raiser at a very large charity

Once a partnership has begun, charities should regularly monitor and review its performance. This will help ensure that the expectations of the charity and the commercial partner are being met and that the benefit the charity is gaining from the agreement is not outweighed by its costs to the charity's reputation or otherwise. We would expect a charity to keep the cost/benefit balance of any joint venture under regular review and, if the balance turns against the charity, to have the ability to withdraw from the venture.

A partnership can provide "The opportunity to raise money and promote the charity's key messages using new platforms and communication channels and possibly to new target markets. The use of a company's sales distribution network for fund-raising activity can also be extremely lucrative and cost efficient". - A member of the fund-raising team at a national charity

Commercial partnerships can bring with them a wide range of direct benefits including financial rewards, raised public awareness of the charity's cause, gifts in kind and influence within a company. Subtler benefits mentioned by charities we talked to included: building mutually beneficial relationships with companies, working together creatively to achieve shared goals, and developing good practice. However, charities should be vigilant about the fact that commercial partnerships can also go wrong, even if the appropriate research and planning steps have been taken, leaving the charity with very little or no benefit.

Some charities are exploring the possibility of using commercial partnerships as a means to further their objects by influencing change within a company. A partnership which sets out to reform the working practices of a commercial company has the potential to achieve significant results, however, it also carries additional risk. This is especially true if the charity deliberately seeks out a company whose current practices are at odds with the charity's ethos and with the aim of using the partnership as a "lever for change". In this scenario the trustees will have some very fine decisions to make and they must be confident of the information they hold and their ability to use it in a way which will further the interests of the charity. Trustees also need to guard against losing sight of the charity’s object, and they must ensure that the reforms they are trying to bring about are consistent with the objects of the charity as defined in its governing document.

Commercial partnerships as levers for change

This case highlights the steps taken by a very large charity to use its commercial partnerships as vehicles to foster and encourage better environmental practice within companies.

- Not every commercial partnership is solely about financial benefits. A number of additional benefits for both the charity and the company can be established from the outset, and a partnership can develop new facets over a period of time. In some cases, commercial partnerships can directly further the objects of a charity through means other than pure fund-raising.

- The charity in this case has a highly developed approach to the notion of using partnerships as mechanisms for change. Due to its large size and the profile of some of its partnerships, the charity is conscious of the role it has in the charitable sector and in the wider public arena. The charity is aware that it is potentially setting an example to other charities that are thinking about using commercial partnerships to stimulate change in a company's working practice. For this charity, ensuring that good practice guidelines are met and that commercial partnerships are handled using clear, comprehensive and transparent policies, is a way of providing a good example to other charities and helping to enhance the reputation of the sector.

- After establishing a commercial partnership with a credit card company, the charity instigated a dialogue which resulted in the company making environmentally friendly changes to its working practice. For example; initially only the charity's credit card statements to affinity card members had been printed on recycled paper; the company later modified this to incorporate every statement the company issued to people, regardless of what type of credit card they had.

- Recent partnerships with companies have been designed so that from the outset they deliver benefits which, from the charity's viewpoint, are primarily in furtherance of its objects and secondly about reaping financial benefits. These include partnerships with building suppliers concerning the trade of wood from sustainable sources, and an integrated and complex relationship with an energy supplier, which seeks to support and promote the use of sustainable energy sources.

- Charities need to ensure that they have clearly established what they expect to gain from a commercial partnership prior to entering into an agreement and take responsibility to establish appropriate systems to monitor and review the partnership.

Ethical issues

Whether to enter into a commercial partnership with a company can bring with it a number of ethical questions for a charity. It is recommended that establishing an ethical policy, which is integrated with the charity's wider fund-raising strategy, and clearly outlines what businesses the charity can and cannot become involved in and those it is wary of, can help safeguard the charity against damage to its name and reputation. It can also help to ensure that staff and trustees share a common understanding of the charity's ethical aims and values and lead to a more consistent approach between different departments in larger and / or more complex charities.

Additionally, we would recommend that charities consider informing their stakeholders of any ethical policies and commercial partnerships they have by including details in their Annual Report and Accounts. Highlighting this area of the charity's fund-raising activities directly benefits the charity by ensuring transparency, and helps meet good practice guidelines.

Many of the larger charities that we spoke to demonstrated a high level of awareness of the importance of having an ethical policy in place to support their fund-raising activities, embracing those elements discussed above. Medium and smaller charities involved in commercial partnerships seem less likely to have developed specific ethical policies. This may be due to a number of factors, including a lack of experience of fund-raising through commercial partnerships. Alternatively, the usual types of commercial partnerships these charities become involved in are devoid of ethical implications for the charity which reduces the need to have a well defined policy. Smaller charities may also lack the resources and / or expertise to support the development of an ethical policy.

"The charity will not consider a joint venture with any organisation or company whose core business is deemed to be in conflict with our own - according to the charity's governing document". - Fund-raising manager at a very large charity

Ethical issues

Defining the charity's stance on ethical issues and formulating an appropriate policy should form part of the overall research and strategy process. In our experience, any ethical issues that arise will be heavily influenced by the nature of the partnership and the partner itself. The charity should be prepared to treat these on a case by case basis.

Charity stakeholders rightly have high expectations of how charities should conduct themselves and these views are often given a prominent platform of expression as they are capable of attracting lively public interest and debate. At times, when expectations have not been met or a charity has been perceived to be acting unethically, charities have found themselves the subject of high profile news stories. The process of researching the activities of a potential commercial partner to assess the suitability of a proposed partnership might not always be straightforward. In addition to researching the income generating activities of the company, charities should also pay attention to whether the company's wider philosophy will be a good fit with their own. For example, the company's policies towards its employees and customers may prove important.

During our research some charities highlighted their concern that in an effort to attract and secure support a number of charities might be tempted to adapt their philosophy to suit the wishes of the commercial partner. This could lead to criticism from uneasy stakeholders that the charity has acted unethically by "selling out" to a company and could possibly lead to a breach of trust.

> ***"Sometimes a charity's message or mission can be diluted or compromised to fit a company's marketing strategy. In order to avoid this, the charity should be clear on its messages and ensure that a company embraces the charity's remit. In addition, the charity may be asked to do more than its resources allow. To avoid this charities should be clear in the planning stage of a partnership to agree with a company respective roles and responsibilities". - A charity's fund-raising manager***

In the case of large companies, charities may not always be able to get the full picture of the company's activities, even after carrying out research. Nevertheless, trustees must be able to satisfy themselves and their stakeholders that they have secured enough information to ensure that they are confident their commercial partner fits comfortably within the framework of the charity's ethical policy.

> ***"We have produced ethical corporate fund-raising guidelines, and always thoroughly research potential partners prior to entering into a formal partnership". - Director of corporate giving at a very large national charity***

In our experience, charities that enter into commercial partnerships without giving due regard to ethical issues are in danger of putting their name and reputation at risk, in addition to causing a possible breach of trust. Overall responsibility rests with the trustees to ensure that they act responsibly and with a sufficient level of care when considering any ethical questions that may be attached to a proposed commercial partnership.

Charities and ethical partnerships

This case highlights the difficulties a charity faced when it established a commercial partnership with a company which attracted negative and contentious criticism, primarily from another charity.

- A very large charity, working to relieve poverty, established a commercial partnership with a company that attracted substantial criticism about its marketing tactics. The charity had no ethical policy in place and had not anticipated the possibility of attracting criticism over the partnership.

- The partnership attracted the attention of another charity also working to relieve poverty, which publicly attacked the partnership on the grounds that the company's motives for entering into it were based solely on an attempt to improve its image. The commercial partnership was deemed irresponsible and unethical by the protesting charity.

- The dispute was damaging to the reputations of both charities involved and required the intervention of the Commission in order to resolve the situation.

- Ultimately, the trustees decided to terminate the agreement between the charity and the company in an attempt to mitigate the criticisms it was receiving. Commission officers suggested that the charity should consider establishing an ethical policy for future commercial partnerships as well as mechanisms for anticipating and answering questions about future commercial partnerships.

- Charities should consider establishing an ethical policy, which clearly sets out the charity's values. This will form part of their wider fund-raising strategy and it can be used to ensure that trustees, staff and any potential commercial partners, share a common understanding of the charity's ethical values.

- As best practice, charities should highlight their ethical policies and any commercial partnerships they have in their Annual Report and yearly accounts.

- Against the framework of the ethical policy, charities need to consider carefully whether a proposed commercial partnership is appropriate and in the best interests of the charity.

Risks and expectations

"We will seek external legal advice to ensure that the charity has considered all risk assessment criteria effectively, and that our written agreement covers the charity for all eventualities". - A charity's fund-raising manager

We found that charities generally agreed that identifying potential risks and managing expectations is a fundamental part of ensuring commercial partnerships are successful, effective and mutually beneficial from the outset of an agreement.

Fund-raising through commercial partnerships is an important source of income for many charities, as well as offering new and innovative means of promoting a charity's cause. However, in common with all forms of fund-raising, commercial participation carries a degree of risk, which trustees have a duty to identify and manage if they are to effectively discharge their duty of care.

"We do assess the anticipated financial benefit of any partnership, as well as all likely costs to ourselves in terms of time and resources. In all commercial partnerships we ask for a minimum income guarantee, which is based on the value of an association with our name and logo as well as the resources we would need to commit to the relationship, and the perceived benefits for the partner. In a broader sense we have key performance indicators for target return on investment in all our fund-raising ventures". - A charity's director of fund-raising

Charities must be careful about how they allow the charity's name to be used by a commercial partner during a joint venture. It is the trustee's responsibility to ensure that this principle is enforced. We found during our discussions with charities that many have an acute sense of the value of a charity's name and reputation. This was particularly evident in the larger "brand name" charities.

Smaller charities may be more vulnerable to risk. It is likely that this is due, in part, to differences in charitable resources. For example larger charities can sustain their own fund-raising departments.

Choosing a commercial partner with care

This case highlights the need for charities to consider the risks attached to commercial partnerships before entering into an agreement.

- A medium sized animal welfare charity entered into a commercial partnership with a company that raised funds by selling roses to people in restaurants and pubs. The Charity Commission received a query from a police officer who, in addition to checking that the rose sellers had the right licences, wanted to verify with us that the charity details given by the rose sellers were accurate.

- When approached by us the trustees confirmed that they did have an agreement in place with the company and were happy with the donations they had been receiving.

- The agreement between the charity and the company did not meet the requirements of Part II of the Charities Act 1992 and upon closer inspection by Commission officers, it appeared that the trustees were exercising insufficient controls over the management of the partnership.

- The trustees admitted that they had failed to check the credentials of the company with other charities it claimed to have worked with, so the trustees had no way of assuring themselves that the company was bona fide.

- Additionally, no independent professional advice was sought on the commercial agreements; the company prepared them all. Trustees have a responsibility to apply the duty of care to the assets and property of the charity. Failing to take independent, professional advice on the proposed venture can put the charity at risk.

- The charity received a number of verbal assurances from the company that everything connected to the successful operation of the commercial partnership was in order. However, nothing was put into writing for the charity. This meant there were no formal records available, making it difficult to establish an audit trail and leaving the charity in a vulnerable position.

- The trustees were unaware of the size of the profit the company was making as a result of the partnership. The contribution the charity received from the company was tiny in relation to the overall sum the partnership had generated. Ultimately, the trustees took the decision to terminate their contract with the company.

Some charities have expressed concerns that there is a danger that charities have excessive expectations of the benefits commercial partnerships can bring. During our research, a number of charities stated they felt that the amount of time and effort they invested in establishing commercial partnerships was disproportionately large in comparison to the benefits they received. A very large charity with a number of well-established commercial partnerships stated that if the charity was given a windfall to pour into its fund-raising activities, it would not use it to invest in commercial partnerships. Instead, the charity felt it would be more beneficial to invest in other fund-raising tools which it felt were not as resource intensive. Although it is often difficult to quantify longer term benefits that arise from a raised profile.

A very large charity that runs several highly successful partnerships saw these partnerships account for 4.5% of its fund-raising income. However, in the same period legacies, which require much less administration, brought in 25% of the charity's fund-raising income.

Have there been any commercial partnerships which you regretted taking on and why? ***"Yes-regrets are on the large projects, for example; one major supplier went bust, another subsequently proved ethically unsound. Other difficulties are the resources that charity law requires us to put behind commercial arrangements". - Senior fund-raising manager of a national charity***

Identifying and managing risk effectively appears to be an increasingly important concept for charities to tackle. A charity with solid policies and procedures in place for tackling the issue of risk management also creates a framework for managing expectations and is likely to inspire confidence in the charity's stakeholders.

Charity Commission guidelines, including our general fund-raising publication CC20, the website document; *Fund-raising through partnerships with companies*, and a number of the published Commission Inquiries on the website, all raise the issue of risk management. They also promote the message that great care must be taken to ensure commercial partners are reliable, reputable and that they comply with the law. It is also important that charities should have the means to check and monitor the performance of the company and others that use the charity's name. We have seen that it can be very difficult to repair damage to a charity's good name.

- Regardless of the size or nature of the commercial partnership, all charities should take the appropriate steps to ensure that they identify and manage any risks connected to a commercial partnership fund-raising agreement.

- All charities need to ensure from the outset of a commercial agreement that the expectations of both the charity and the company have been agreed and can be managed effectively and appropriately.

Research, planning and strategy

Before entering into an agreement, charities should consider whether a proposed commercial partnership is a viable proposition. In order to assess the validity of a proposal and to help with the process of risk and expectation management, charities need to get to grips with the principles of effective research, planning and strategy. The more complex the proposal, the greater the need for a process which incorporates these principles.

We have found, from discussions with charities and from looking at Charity Commission cases, that research, planning and strategy are key components in ensuring that commercial partnerships are effective and mutually beneficial from the outset.

> ***"We have a wealth of experience in the development of commercial partnerships with companies and as a consequence have an increased knowledge of the area. We are well informed about all aspects of charity law and have established precedents for most corporate partnerships. In cases where a new corporate partnership breaks a precedent we would refer to our solicitors". - A fund-raising manager of a very large charity***

Current Charity Commission guidance, including CC20 and *Fund-raising through partnerships with companies*, recommends that charities develop an internal policy to cover research, planning and strategy processes, which includes establishing flexible written criteria for assessing the suitability of a proposed commercial partnership. An internal policy should include: whether the partnership is compatible with the charity's other policies, strategies and values, whether the company will be able to meet the agreed financial and any other obligations; and how the charity's stakeholders will view the agreement.

Charities seem to have a high level of understanding and commitment to establishing internal policies to deal with commercial partners. However, this principle was far more pronounced amongst the large and very large charities.

> *"The charity works within the Charities Act guidelines and takes legal, commercial, and ethical best practice seriously in all our fund-raising. Commercial fund-raising always involves a comprehensive letter of agreement with the charity's trading company, and all activities from sponsorship to public collection and raffles meet legal requirements". - A charity's director of corporate giving*

Charities have a responsibility to use their resources wisely and in furtherance of the charity's objects when deciding on appropriate fund-raising mechanisms. Ultimately it is the trustee's responsibility to ensure that this requirement is met. Prior to committing charitable resources to fund-raising through a commercial partner, charities might find it useful to obtain advice from an appropriate professional or a specialist organisation.

In our experience, charities which fail to research and plan out a suitable strategy for ensuring their commercial partnerships are as effective as possible are more likely to encounter difficulties which can require our intervention and can lead us to open a formal Inquiry.

Part of the research process should include considering whether commercial partnerships will actually prove to be an effective method of fund-raising within the scope of the charity's wider fund-raising strategy. Other forms of fund-raising might prove to be more effective and efficient in the context of a particular charity's circumstances and charities should consider investigating the options that are available to them.

- All charities should research a proposed commercial partnership carefully and, if it proves to be appropriate and viable, establish a plan of how the partnership will be managed.

- All charities should consider taking advice from a professional or specialist prior to commencing a commercial partner agreement.

Approaching companies

Our research revealed that charities approach companies about the possibility of a commercial partnership using a wide variety of techniques, including networking, pro-active cold approaches - such as formal pitch presentations, and through personal contacts. We found there is a general consensus that where charities are able to capitalise on a personal link to a company, for example through a trustee, the membership, or member of staff, they have an increased chance of attracting and securing the company's attention and support.

However, despite the success of using contacts to approach companies, charities need to remember that a conflict of interest can arise in these circumstances. If a conflict of interest is identified, it needs to be managed effectively in order to ensure that the reputation and integrity of the charity is not compromised. In some instances, it might not be possible or desirable to manage a conflict of interest which has a detrimental impact on the effective working of the charity for example if a trustee or trustees have to withdraw from meetings because of their involvement with the commercial partner and are restricted from fulfilling their role in the charity. The Commission's booklet CC24, *Users on board*, contains further information and guidance on conflicts of interest and how they can be managed effectively.

How is a potential partnership first put forward-do companies usually approach you or do you approach them? *"Potential partnerships are a combination of both. The charity is often approached by companies and/or PR firms about the possibilities of commercial partnerships or through nominations by staff. The charity also has a comprehensive new business programme which is used to actively solicit potential company support". - Senior fund-raiser at a national charity*

Concerns surrounding the differing nature and characteristics of the charitable and commercial sector are often raised in relation to the question of approaching companies in the best way possible. Charity and company representatives alike have expressed the general opinion that, where appropriate, charities need to embrace the language of the corporate sector in addition to developing a business-like approach towards prospective commercial partners.

We found that a number of Charity Commission cases highlight the need for clear channels of communication between the charity and the company from the outset of an agreement. Successful communication will be enhanced if the charity's own internal communication channels are clear and effective, prior to entering into a commercial partnership.

Ensuring effective communication

This case highlights the need for charities to ensure that they have effective channels of communication in place and, where necessary, appropriate policies for delegating responsibility for the management of a commercial partnership.

- A very large charity, established to support general charitable purposes, became the subject of a Commission Inquiry after a complaint to the Commission from a member of the public about the fund-raising methods used by the charity's commercial partner. During the course of the Inquiry, Charity Commission officers discovered that the agreement established between the charity and commercial partner did not comply with the relevant fund-raising legislation.

- In the absence of correctly delegated powers of authority, Commission officers found that charity staff were making decisions and undertaking duties in relation to the commercial partnership which should have been carried out by the trustees. Trustees must be able to devote sufficient time to monitor the actions of their employees and ensure that there are clear channels of communication between staff and trustees within a charity.

- The trustees were also advised that they should not have allowed a situation to arise where members of staff were delegated responsibilities without appropriate mechanisms in place to ensure staff report back to the trustee body. Where tasks are delegated, there should be clear guidance showing the scope and limits of the delegation. Failure to do so can lead to the charity committing a breach of trust and damage the confidence of the commercial partner.

- It is essential that the relationship between a charity and a commercial partner is transparent and that trustees ensure that appropriate monitoring procedures are put in place and enforced. Clear channels of communication and, where necessary, policies for delegation are also important in ensuring an effective and efficient approach to fund-raising with commercial partners.

Companies approach charities with proposals for commercial partnerships using a variety of channels. One method companies can use to do this is to go through specialist agencies that act as an intermediary, or brokerage, between the commercial partner and a suitable charity. In these circumstances, charities need to consider any additional risks that the involvement of an agency may bring, prior to entering into an agreement. It is particularly important that charities ensure there are clear and effective communication channels between the company, the charity and the agency and that they seek to follow the guidance outlined in this report.

Communication with a commercial partner

This case highlights the need for charities to ensure that there are clear and open channels of communication between themselves and their commercial partner.

- A very large charity working with young people commented that one of its least successful commercial partnerships had been with a company that had established a commercial agreement with the charity through an intermediary agency.

- In this case the charity stated it found it difficult to communicate directly and effectively with its commercial partner as all communications were routed through the agency. The charity found it was taking an unsatisfactory amount of time to clarify issues or get confirmation on specific queries from the company and felt that this was partly due to the fact it had to go through an intermediary organisation.

- The charity was also going through a period of significant change and re-organisation during the period the commercial agreement was running, which included the transfer of responsibility for the partnership to numerous departments, compounding the charity's communication problems.

- Charities should consider any additional risks that the involvement of an agency may bring, prior to entering into an agreement. It is particularly important that charities ensure there are clear and effective communication channels between the company, the charity and the agency.

Entering into a commercial partnership

Legal issues

> *"Every partnership that we undertake is fully compliant with charity law and our own ethical standards for partnership". - Fund-raiser in the corporate giving team of a very large charity*

Charities must be aware of the legal requirements contained in Part II of the Charities Act 1992 and The Charitable Institutions (Fund-raising) Regulations 1994 if they are involved in, or thinking of becoming involved in, fund-raising with a commercial partner. The onus for compliance is placed on the commercial partner, who is penalised if the requirements are not met. Trustees must comply with the law and ensure that those with whom they deal also comply with the law. The Commission has highlighted the legal requirements in CC20 and *Fund-raising through partnerships with companies*. The requirements contain important controls designed to safeguard the assets, name, and reputation of the charity, including:

- A written agreement, in a prescribed form, between the charity and the commercial participator or professional fund-raiser.
- A statement to be given to inform potential donors what proportion of their donation will be used to remunerate the fund-raiser.
- Direction to inform the public how the charity will benefit from its involvement with a commercial participator.
- The transfer of funds raised by professional fund-raisers or commercial participators to the charity.

The terms "professional fund-raiser" and "commercial participator" are defined in section 58 (1) of the Charities Act 1992. Please refer to the Glossary on pages 28 to 29 for the details.

Charities have in their possession legal powers, contained in the Charities Act 1992, enabling them to monitor and control charitable fund-raising undertaken by a commercial partner. These powers need to be considered in conjunction with the 1994 Fund-raising Regulations, outlined above, and may be useful if a charity feels that its name is being used unlawfully.

Charities should be aware that the provisions detailed in Part II, section 58 onwards of the Charities Act 1992 include a number of stringent and pro-active measures designed to protect charities, the public and the reputation of charitable fund-raising. Charities are by no means impotent to act if they find themselves in a position with a commercial partner that needs to be resolved through legal intervention. For example, a charity can apply under section 62 of the Act[3] to the Courts for an injunction to prevent commercial partners from using the name of the charity to inappropriately and unlawfully raise funds. There is a power in section 59 of the Act that empowers charities to apply for an injunction to restrain any contravention of a contract, and render the contract unenforceable by the partner except under this section.

[3] References to "the Act" in this section are to the Charities Act 1992.

Furthermore, if a contract does not meet the requirements of the Act and regulations, then no expenses or other costs may be retained by the partner unless a court so orders.

It is our experience that many charities are not aware of the range of legal provisions in place to protect their interests in a venture with a commercial partner. Accordingly, we recommend that all charities involved, or thinking of becoming involved in a commercial partnership should familiarise themselves with the full range of legal powers that exist to protect them.

As well as protecting charities, Part II also affords protection to the public, for example, through the provision of a solicitation statement[4], referred to in section 60 of the 1992 Charities Act and the remuneration and expenses provisions in section 58. These requirements should be viewed as the minimum starting point for a charity drawing up an agreement with a commercial partner. In our experience, we have seen that it is vital that charities do not simply accept a commercial agreement drawn up by the company, but retain control over the process to ensure that the agreement is appropriate and fulfils the best interests of the charity.

Avoiding negative publicity

This case highlights a charity which attracted negative publicity in the media when its commercial partner failed to meet the legal requirements of Part II of the Charities Act 1992 and the 1994 Regulations.

- A very large, high profile charity attracted criticism in the press when it failed to state clearly on tickets it was selling for an event in conjunction with a commercial partner, the proportion of the ticket price that was actually going to the charity.

- We requested that the trustees take steps to address this situation by putting a statement on the tickets which met the legal requirements of the arrangement, clearly stating the level of donation from the sale of the ticket to the charity. By clarifying the situation the trustees could mitigate the criticisms being levelled at the charity in the press and fulfil their responsibilities under Part II of the Charities Act 1992.

- Adherence to the legal requirements not only meets trustees' obligations, it also helps to avoid misunderstandings with supporters.

We found in our discussions with charities that there is a high level of awareness of the existence of the legal requirements attached to the establishment of commercial partnerships. Knowledge of precisely what the requirements entail is sketchier across charities of all sizes. This is not problematic in itself, provided that charities have ready access to the full details of the requirements when they need them.

Relatively few charities had used our web-based guidance *Fund-raising through partnerships with companies.*

[4] A statement must be given to inform donors what proportion of their donation goes to the fund-raiser.

This document gets approximately 200 "hits" a month compared to nearly 900 for the web (as opposed to booklet) version of *Charities and Fund-raising* (CC20). We acknowledge that greater publicity for our guidance and / or its incorporation into the CC range should be considered in response to the findings of this report.

In 2000, 4% of Commission Inquiries were opened as a direct result of charities failing to comply with the relevant fund-raising legislation. In the same period, 22% of the cases evaluated by Commission investigations staff arose directly as a result of an apparent failure by charities to meet the legal requirements.

Complying with legal requirements

This case highlights the need for charities to ensure that their commercial partners are complying with Part II requirements.

- A very large, national charity entered into a cause-related marketing commercial agreement with a global company. The charity failed to comply fully with Part II of the Charities Act 1992 and The Charitable Institutions (Fund-raising) Regulations 1994, which led to the Commission opening a formal Inquiry.

- It was brought to the Commission's attention that the company was not stating the correct information on its advertising material. The details of the level of donation being made were not stated and the name of the charity was given in an abbreviated form which was not the registered name of the charity and which members of the public would not necessarily be able to identify.

- Commission officers advised that the statements given on promotional material should be amended to make the level of donation from the company to the charity clear.

- The charity and the company both readily accepted the Commission's recommendations and agreed to amend the statements made. The Inquiry was subsequently closed.

- Where trustees decide to raise funds by entering into a promotion with a commercial participator they need to be aware of the provisions of Part II of the Charities Act 1992 and The Charitable Institutions (Fund-raising) Regulations 1994. Trustees have a duty to ensure that the name of the charity and the level of donation it is receiving from the company as a result of the agreement are clearly stated on any promotional material.

Nevertheless, Part II of the Charities Act 1992 and the 1994 Regulations do not apply to commercial partnership agreements made between a charity's trading subsidiary and a company. In the interests of ensuring the integrity of the name of the parent charity the trustees should take steps to promote good practice and apply the provisions of Part II and the 1994 Regulations to commercial partnerships between a subsidiary trading company and a commercial partner. Enforcing these requirements will help the charity control and monitor the trading subsidiary, ensuring that the best interests of the charity are protected.

Any charities that are unsure about meeting or complying with any aspect of the legal requirements outlined above should seek appropriate professional advice.

- Charities must ensure that they comply with the legal requirements detailed in Part II of the Charities Act 1992 and The Charitable Institutions (Fund-raising) Regulations 1994 if they are involved in, or thinking of becoming involved in, fund-raising with a commercial partner.

- Charities must exercise control over the commercial agreement and must not simply accept an agreement drawn up by a company without seeking appropriate advice.

- Charities should use the legal requirements detailed in Part II of the Charities Act 1992 and The Charitable Institutions (Fund-raising) Regulations 1994 to provide a framework for commercial partnership arrangements made between the charity's trading subsidiary and the commercial partner.

Tax issues

The tax treatment of payments to a charity by a company as a result of a commercial partnership can be complex and payments are usually taxable. Trustees need to ensure they understand their duties and responsibilities in relation to the Inland Revenues requirements if they are to fulfil their duty of care towards the charity. The Inland Revenue provides a free booklet, *IR2001 - Clubs and Charities Series*, covering the subject of charities and commercial partnerships, which we strongly recommend trustees read before entering into an agreement.

We would also recommend that charities seek professional advice regarding the tax implications of a commercial partnership involving use of the charity's name or logo.

Direct tax elimination may be possible if a charity operates a commercial partnership through its subsidiary trading company rather than through the charity itself. In these circumstances charities need to be aware that their names and logos are valuable assets which must be protected. Charities have a duty to ensure that the partnership arrangements protect their name/logo, act in the charity's best interests and are appropriately secured. We strongly recommend that charities consider taking professional advice on whether a partnership agreement is suitable before establishing a commercial partnership, and refer to IR2001.

Further information on charities and trading subsidiaries can also be found in the Charity Commission booklet, CC35 *Charities and Trading*. If an agreement is established between the subsidiary trading company and the commercial partner, we recommend that both parties should comply with the legal requirements discussed on pages 18 to 21.

> *"The charity takes advice from the Inland Revenue, legal advisers, consultants and from bodies such as the ICFM[5] as appropriate". - A director of fund-raising at a very large charity*

Charities also need to be aware that different types of commercial participation might have differing implications for the VAT treatment of a charity's affairs, specifically with regard to the nature and status of any donation made to the charity by the company. Charities with any doubts about whether VAT should be considered need to refer to their local VAT office and HM Customs and Excise Notice, 701/1: Charities, for further information. It is likely that professional advice in relation to the VAT aspects of a commercial partnership will be necessary.

Charities should also consider and take advice on establishing an adequate level of reserves for any contingent liabilities a commercial partnership may entail.

During our research, we found that there is generally a high level of understanding about the requirement to acknowledge and consider the tax implications of a commercial partnership. This was more evident amongst the large and very large charities we talked to than in some of the smaller organisations we met.

- Charities need to consider the tax implications of a commercial agreement prior to entering into a commercial partnership and take advice as necessary.

Negotiating a fair deal with a commercial partner

> *"The partnerships which have worked best for us have been those in which we are an equal partner in a promotion, where the company is open and honest about its aims and objectives, where the company has real synergy or empathy with the charity and where an association has a meaning to shareholders or customers". - A charity's fund-raising manager*

A fair deal for a charity is one that represents full value for the charity in return for the use of its name and/or logo, based on the principles of equality, transparency and integrity. Charities should consider the level of benefit the commercial partner will receive from the agreement and be prepared to negotiate to arrange the best deal possible. If a commercial partner will not agree to a charity's reasonable terms we would expect the charity to go elsewhere.

Charities should use their resources wisely when entering into commercial partnerships and should aim to negotiate an inclusive and beneficial agreement which represents a fair deal for the charity. Charities should ask themselves, prior to entering into an agreement, whether the agreement will protect the name of their charity and the good name of charitable fund-raising in general.

[5] Now the Institute of Fundraising, see page 33 for contact details.

Avoiding negative publicity

This case demonstrates that trustees need to ensure they are satisfied that the charity is getting a good deal from its commercial partners.

- A very large charity was involved in a commercial partnership which was bought to our attention by a trustee who had concerns about whether the level of charitable donation the company was making represented a good deal for the charity.

- In this case, Commission officers raised these concerns with the trustee body of the charity. The trustees acknowledged our points and agreed to investigate this particular partnership in more detail, admitting they did not have a sufficient level of knowledge about the arrangement.

- The trustees were not sufficiently informed to be able to make a decision as a body about whether the payments from the company represented a good deal or not. In this respect they were failing to meet their responsibilities by not applying a sufficient duty of care towards the charity.

- Commercial partnerships which do not represent a good deal for a charity can damage the reputation of charities in general by giving the impression that charities are willing to become involved in commercial ventures even if there is little financial, or other, benefit to be derived. It can also make companies wary about entering partnerships with charities.

- Together, trustees need to consider all the benefits and risks attached to a proposed commercial partnership before entering into any agreement. Trustees should determine whether the proposed venture represents a good deal for the charity and ensure that an appropriate level of care has been applied in the process.

The legal requirements of Part II of the Charities Act 1992 and the 1994 Fund-raising Regulations go some way to helping charities get a fair deal from commercial partnerships. For example Regulation 5 of the 1994 Fund-raising Regulations enables charities to call for the books and records of the commercial partner kept for the purposes of the agreement. We also found during our research that many charities do refer to additional good practice guidance and specialist organisations for further information and support, to supplement the framework constituted by the legal requirements. Annex B, on pages 30 to 36, contains details of guidance and specialist bodies available to charities.

Based on our experience and casework, it is clear that charities do not always enter into commercial agreements that represent a fair deal. We recommend, as a matter of good practice, that charities find out prior to entering into an agreement what the likely financial benefit for each partner will be as part of the process of judging the fairness of a proposed deal.

Some Commission cases give examples of charities, particularly smaller organisations, being approached by companies and entering into commercial partnership agreements from which they receive very little financial, or other, benefit. In some of these cases the added financial value that the company derived from its association with a charity was disproportionate to the sum due to the charity. We have seen that this can damage the name of an individual charity and also discredit the wider name of charitable fund-raising.

Ensuring a fair deal for the charity

This case highlights why it is important for charities to research and ensure that commercial agreements give them a fair deal.

- A large charity working to provide support for people with terminal illnesses was approached by a company and entered into a commercial partnership agreement which did not comply with the legal requirements of Part II of the Charities Act 1992 and the 1994 Fund-raising Regulations.

- The charity had initially been quite thorough in its dealings with the company, requesting a termination clause, a reporting and accounting period at the end of each month, details of the revenue generated and the proportion that was to be donated to the charity. However, the charity did not check the credentials or reputation of the company with other charities it claimed to have worked with prior to entering into the agreement.

- The trustees approached the Commission because they were uncomfortable about the lack of control they felt they had over the company's fund-raising tactics, which they perceived as aggressive and capable of damaging the charity's reputation. This could have been mitigated if the charity had addressed the issue of fund-raising tactics with the company before the agreement was signed.

- Charity Commission officers held a meeting with the trustees to discuss their concerns. The trustees were surprised at the low level of income they were receiving from the agreement in comparison to the profit the company was keeping. As a result, the charity decided to terminate their agreement with the company.

- Charities need to make certain that the proposed commercial agreement represents a fair deal for the charity. Additionally, we also recommend that charities familiarise themselves with the good practice guidance available on this topic prior to entering into an agreement.

- As best practice, charities should check the credentials of a company, consult with other charities or organisations that have dealt with the company and take professional advice to ensure they are getting a fair deal.

Commercial agreements

The complexity of an agreement depends on the size and complexity of the charity, the company and the nature of the commercial partnership itself. Charities need to make sure that commercial agreements are clear, accessible and in place before the partnership begins. In order to meet their responsibilities, charities should take professional advice to ensure that the name of the charity is not improperly used or exploited and that the terms of the agreement are precisely drafted and that the interests of the charity are fully protected. As an added safeguard, charities can ensure they have the right to prevent future use of their name by a commercial partner, if they are not satisfied with the partnership.

Additionally, charities should give careful consideration to suitable provisions for terminating the agreement, together with their commercial partner. A suitable "exit strategy", which covers review periods, length of term and the possible consequences the termination of the partnership would have on the charity should be drawn up by the charity. Further guidance can be found in the Resources section beginning on page 30.

"We always retain and exercise the right to proof and approve any use of our name and logo". - A charity's fund-raising director

Overall responsibility for ensuring that clear, unambiguous and accurate information is provided to the public using a commercial partners service rests with the commercial partner. The charity must ensure that its commercial partner meets these responsibilities, minimising the chances of a situation arising in which the charity could be criticised of maladministration as a result of neglecting its duties in this area.

Ensuring commercial agreements are clear and appropriate

This case highlights the need for charities to make sure the information the public is receiving about the charitable donation is clear and unambiguous.

- A member of the public approached the Charity Commission with concerns about the level of money being donated to a small, newly registered charity via the sale of a magazine. She felt that the publishing company misrepresented the level of benefit going to the charity.

- The Commission approached the charity in order to gain an understanding of the situation. It emerged that a number of the charity's trustees were also directors of the publishing company, resulting in a conflict of interest. The trustees had used their connection with the company to instigate a commercial partnership and establish a magazine to raise funds for the charity. Naturally, the magazine also generated income for the company, making it especially important for the trustees' actions to be transparent and accountable, due to the conflict of interest.

- Working with the trustees, Commission officers were able to reassure the individual member of public that the charity and the publishing company had the appropriate commercial agreements in place and that the proceeds from sales of the publication were being applied as stated. The trustees were encouraged to appoint additional trustees who were unconnected to the publishing company in order to help manage the conflict of interest.

In some circumstances, such as those outlined in the case study above, there may be a conflict of interest issue to consider in a commercial partnership. In these cases, once the conflict of interest has been identified and declared, it must be managed effectively and openly in order to ensure that the integrity of the charity or persons involved is not in doubt. In our experience, charities that have established appropriate conflict of interest policies are better placed to respond to this issue when it arises, answer any criticisms which may be levelled at the charity, and in turn help to protect the name and reputation of the charity. Some conflicts may be impossible to manage. Some may result in a trustee receiving a benefit, albeit an indirect benefit (eg if he/she was a shareholder in the company), which would have to be allowable under the charity's governing document.

- Charities must establish clear agreements between themselves and the commercial partner prior to the commencement of the partnership. The precise nature and the complexity of the agreement will depend on the size of the charity, company and the type of commercial partnership itself.

Monitoring

> *"Review points are systematically built into all commercial partnerships". - A senior fund-raiser at a very large national charity*

Once the terms of the commercial partnership have been agreed, charities should consider putting in place monitoring and reassessment provisions to ensure that the arrangement continues to be an effective means of fund-raising. Charities should not automatically renew commercial partnerships without assessing whether any changes are needed.

Under Regulation 5 of the 1994 Fund-raising Regulations commercial partners are legally required to make available to charities upon request any books, documents or other records (however kept), which relate to them and are kept for the purpose of the agreement. Using this Regulation enables charities to see exactly how much the commercial partner is making from the agreement, and should assist them in monitoring and assessing the performance and suitability of a commercial partnership.

Additionally, as discussed in the 'Legal issues' section (pages 18 to 21), charities should consider using the legal powers they have at their disposal, where appropriate, to monitor and control charitable fund-raising by commercial partners. For example, in cases where the charities name is being used unlawfully, or the provisions of the commercial agreement need to be enforced by the charity. As discussed on page 19, charities do have considerable legal powers designed to assist them safeguard their name, donors and the reputation of charitable fund-raising, which can be applied, if necessary, as a result of an effective monitoring programme. The effective monitoring of the commercial partnership by the charity, awareness of the relevant legal powers and a willingness to tackle situations where the charity's best interests are not being met ensures charities will be able to meet their responsibilities.

Charities should periodically review and consider the consequences and impact the termination of a partnership agreement will have on their fund-raising income. There may also be additional and complex factors to consider in some cases, such as publicity and safeguarding a new donor base to ensure the charity's best interests are protected.

- Charities should exercise their ability under Regulation 5 of the 1994 Fund-raising Regulations to request documentation from commercial partners as part of an on-going monitoring and review process.

- Charities should monitor and review the performance of commercial partnerships on a regular basis, to ensure that they remain an effective means of fund-raising.

Annex A - Glossary of Terms

Commercial partnership: Any partnership between a charity and a commercial company whereby the charity endorses a product or agrees to allow the use of its logo in return for a benefit (usually financial). Throughout this report we refer to a commercial "company", however, it should be noted that a partnership could also be with an individual e.g. a sole trader. Some common examples of partnerships are below.

Examples of Commercial Partnership	
Type of commercial partnership	**Example of fund-raising mechanism**
Cause-related marketing/joint promotional venture	The charity plays an integral part in the marketing of the company's image, product or service. The company seeks to establish a link in people's minds between the company and the charity's cause.
Licensing agreement	The charity gives the company a licence to use the charity's name and/or logo in selling a product or a service. Includes a wide range of commercial products, the best known being charity Christmas cards.
Sponsorship agreement	A company, in effect, pays a charity to publicise the company and the fact that it has contributed to the charity. The company agrees to meet some or all of the costs of, for instance, one of the charity's publications, projects or fund-raising events.

Commercial participator is defined by section 58 (1) of the Charities Act 1992. A commercial participator is any person who carries on for gain a business which is not fund-raising business but who in the course of that business engages in any promotional venture (i.e. any advertising or sales campaign or any other venture undertaken for promotional purposes) in the course of which it is represented that contributions are to be given to or applied for the benefit of a charity.

Professional fund-raiser is defined by section 58 (1) of the Charities Act 1992 and is any person (apart from the charitable institution or a company connected with such an institution) who carries on a fund-raising business for gain which is wholly or primarily engaged in soliciting or otherwise procuring money or other property for charitable purposes; or any other person who solicits for reward money or other property for charity apart from:

- Any charity or connected company.
- Any officer or employee of a charity or connected company.

- Any charity trustee.
- Any public charitable collector-other than promoters.
- People who solicit funds on TV or radio.
- Any commercial participator.

Small, Medium, Large, Very large charity

- Small - Income band less than £10,000.
- Medium - Income band £10,001-£250,000.
- Large - Income band £250,001-£999,999.
- Very large - Income band £1,000,000 +.

Annex B - Resources for Trustees

There are many resources which charity trustees can tap into to help them with commercial partnership issues. While this is not a definitive list of all the sources of information available, it does offer an overview and is useful as a starting point. The publications listed in Annex C may also be useful.

Organisations

These organisations can provide you with a wide range of help, support and information.

- ***The Charity Commission for England and Wales***

Responsibility for charities is split between our three offices. Further information can be obtained from the Commission at:

London	**Liverpool**	**Taunton**
Harmsworth House	2nd Floor	Woodfield House
13-15 Bouverie Street	20 Kings Parade	Tangier
London	Queens Dock	Taunton
EC4Y 8DP	Liverpool L3 4DQ	Somerset TA1 4BL

Tel: 0870 3330123
Minicom: 0870 3330125
E-mail: feedback@charity-commission.gov.uk
Website: www.charity-commission.gov.uk

- ***Advertising Standards Authority (ASA)***

Deals with complaints about printed advertisements and provides free information about promotions established to benefit charities.

Advertising Standards Authority
2 Torrington Place
London
WC1E 7HW

E-mail: inquiries@asa.org.uk
Website: www.asa.org.uk

Business in the Community (BiTC)

BiTC is a movement of companies committed to continually improving their positive impact on society. BiTC have a wide range of services and information, especially in connection with cause related marketing.

137 Shepherdess Walk
London N1 7RQ

Tel: 0870 600 2482
E-mail: information@bitc.org.uk
Website: www.bitc.org.uk

Business Community Connections (BCC)

BCC is a charity dedicated to helping other charities obtain more support from business.

14 Northfields
London SW18 1UU

Tel: 020 8875 5700
E-mail: info@bcconnections.org.uk
Website: www.bcconnections.org.uk

Charities Aid Foundation (CAF)

CAF helps non-profit organisations in the UK and overseas to increase, manage and administer their resources.

Kings Hill
West Malling
Kent ME19 4TA

Tel: 01732 520000
Fax: 01732 520001
E-mail: enquiries@caf.charitynet.org
Website: www.cafonline.org

Charity Finance Director's Group (CFDG)

CFDG provides information for its members on a range of issues and specialises in helping charities to manage their accounting, taxation, audit and other finance related functions.

Charity Finance Director's Group
Camelford House
87-89 Albert Embankment
London SE1 7TP

Telephone: 020 7793 1400
Fax: 020 7793 1600
E-mail: mail@cfdg,org.uk
Website: www.cfdg.org.uk

Directory of Social Change (DSC)

Kings Hill
West Malling
Kent ME19 4TA

The Directory promotes positive social change and provides a wide range of resources for trustees.

London
24 Stephenson Way
London NW1 2DP

Liverpool
Federation House
Hope Street
Liverpool L1 9BW

Tel (books): 020 7209 5151
Tel (training and events): London 020 7209 4949 & Liverpool 0151 708 0117
E-mail (training and events): London training@dsc.org.uk &
Liverpool: north@dsc.org.uk
Website: www.dsc.org.uk

HM Customs and Excise

For information relating to VAT queries refer to your local telephone directory for the contact details. General information is available from:

Tel: 0845 0109000
Website: www.hmce.gov.uk

Inland Revenue (IR)

For information on tax issues relating to charities.

IR (Charities)
St John's House
Merton Road
Bootle
Merseyside L69 9BB

Tel: 0151 472 6046 (trading enquiries)
0151 472 6036 (general enquiries)
Website: www.inlandrevenue.gov.uk

Institute of Fundraising (formerly ICFM)

The Institute of Fundraising aims to promote the highest standards of fund-raising practice. They have developed a code of practice for commercial partnerships.

5th Floor
Market Towers
1 Nine Elms Street
London SW8 5NQ

Tel: 020 7627 3436
E-mail: info@institute-of-fundraising.org.uk
Website: www.institute-of-fundraising.org.uk

National Council for Voluntary Organisations (NCVO)

Information available on fund-raising and governance issues and a range of general support services.

National Council for Voluntary Organisations
Regent's Wharf
8 All Saints Street
London N1 9RL

Tel: 020 7713 6161
E-mail: ncvo@ncvo-vol.org.uk
Website: www.ncvo-vol.org.uk

Wales Council for Voluntary Action (WCVA)

WCVA supports charities and the voluntary sector in Wales.

Baltic House
Mount Stewart Square
Cardiff
CF10 5FH

Tel: 029 20431700
E-mail: enquiries@wcva.org.uk
Website: www.wcva.org.uk

Journals, magazines and newspapers

The following publications often cover fund-raising issues, including charities and partnerships with commercial partners.

Charity Finance

Website: www.charityfinance.co.uk

Subscriptions

Tel: 020 7819 1200
E-mail: sbailey@charityfinance.co.uk

- ***Charity Management***

Subscriptions

Mitre House Publishing
The Clifton Centre
110 Clifton Street
London EC2A 4HD

- ***Charity Times***

Website: www.charitytimes.com

Subscriptions

Tel: 020 7426 0496 / 0123

- ***Community Affairs Briefing***

Provides an overview and round-up of current issues largely through case studies.

Fax: 020 7945 6138
E-mail: mail@corporate-citizenship.co.uk
Website: www.corporate-citizenship.co.uk / publications

- ***Corporate Citizen***

Published three times a year by the Directory of Social Change (DSC).

Website: www.dsc.org.uk / corporatecitizen

- ***The Guardian - Society***

The *Society* section in Wednesday's edition of The Guardian is particularly useful.

Website: www.SocietyGuardian.co.uk

- ***Third Sector***

Subscriptions

Tel: 020 8709 9050

- ***Voluntary Sector***

Contact NCVO for details - see above.

Books and other publications

The following publications are a good starting point for trustees who want more information about fund-raising through commercial partnerships with companies. A more detailed list of books and other publications can be found in the Bibliography.

- Bates, Wells & Braithwaite / Centre for Voluntary Sector Development, (2000) *The fund-raisers guide to the law*, Directory of Social Change, London.
- Botting, N and Norton, M. (2001), *The Complete Fund-raising Handbook*, Directory of Social Change, London.
- Charity Commission (2000), *Charities and trading (CC35)*, Charity Commission, London.
- Charity Commission (2000), *Charities and Fund-raising (CC20)*, Charity Commission, London.
- Charity Commission (2000), *Fund-raising through partnerships with companies*, Charity Commission, London.
- Hudson, M. (1999), *Managing without profit*, 2nd Edn, Penguin, London.
- Morton, V. (1999), *Corporate Fund-raising*, Charities Aid Foundation, Kent.
- Mullin, R. (2002), *Fund-raising Strategy*, Directory of Social Change / Charities Aid Foundation / Institute of Charity Fundraising Managers, London[6].

[6] Due for publication in August, 2002.

Annex C - Bibliography

Adkins, S., *Using cause related marketing*, Charities Management, Spring 2000.

Bates, Wells & Braithwaite / Centre for Voluntary Sector Development, (2000), *The fund-raisers guide to the law*, Directory of Social Change, London.

Botting, N and Norton, M. (2001), *"The Complete Fund-raising Handbook"*, Directory of Social Change, London.

Business Community Connections (2001), *Business Community Partnerships: Fact or fiction?*, Business Community Connections, London.

Business in the Community (1998), *The cause related marketing guidelines*, Business in the Community, London.

Canning, V. (1999), *"A practical guide to fund-raising and public relations"*, ICSA Publishing, London.

Carnie, C. (2000), *Find the funds - a new approach to fund-raising research*, Directory of Social Change, London.

Charity Commission (2000), *Charities and trading (CC35)*, Charity Commission, London.

Charity Commission (2000), *Charities and Fund-raising (CC20)*, Charity Commission, London.

Charity Commission (2000), *Fund-raising through partnerships with companies*, Charity Commission, London.

Charity Commission (2000), *Avoiding donor disgust*, Charity Commission presentation, London.

Charity Commission (2000), *Fund-raising and charities*, Charity Commission presentation, London.

Charity Commission, *Commercial participators and Christmas Cards*, in Charity Commission News, Issue 3, Autumn 1995.

Charity Commission, *Fund-raising using commercial participators and fund-raising businesses*, in Charity Commission News, Issue 5, Autumn 1996.

Charity Commission, *Fund-raising*, in Charity Commission News, Issue 7, Autumn 1997.

Coe, D, *Spanking new brand*, in ThirdSector, 4 October 2001.

Dabson, B (ed.) (1991), *"Company Giving in Europe"*, Directory of Social Change, London.

Elischer, T. (1995), *Teach yourself fund-raising*, Hodder & Staughton, London.

Epstein, S. (1998), *"Licensing Deals for Charity Christmas Cards"*, Charities Advisory Trust.

Fishel, D. (1993), *"The arts sponsorship handbook"*, Directory of Social Change, London.

Gibson, A., *Charity at a price*, in The Times, October 13 2001.

Gilchrist, K. (2000), *Looking after your Donors*, Directory of Social Change, London.

Griffiths, J., *Companies and the second term:the voluntary sector*, Community Affairs Briefing, April / May 2001.

Hazell, R and Whybrew, T. (1997), *"Resourcing the Voluntary Sector - the funders perspective"*, Association of Charitable Foundations, London.

Hind, A. (1995), *The Governance and management of charities*, The Voluntary Sector Press, High Barnet.

Home Office Voluntary and Community Unit (1995), *"Charitable fund-raising: professional and commercial involvement*, The Stationary Office, London.

Hudson, M. (1999), *"Managing without profit"*, 2nd Edn, Penguin, London.

Inland Revenue (2001), *"Trading by Charities-Clubs and Charities Series IR2001"*, Inland Revenue.

Lawrence, J., *Invest in the future with WWF*, in Sponsorship News, Vol 20, Issue 7, July 2001.

Leat, D. (1989), *Fund-raising and grant making: A case study of ITV Telethon '88*, Charities Aid Foundation, Kent.

Logan, D. (1994), *"Transnational giving - an introduction to the corporate citizenship activity of international companies operating in Europe"*, Directory of Social Change, London.

McCurry, P., *Givers, Takers*, in The Guardian / Society, 12 May 2001.

Morton, V. (1999), *"Corporate fund-raising"*, Charities Aid Foundation, Kent.

National Center for Non-Profit Boards, *Choose for-profit partners wisely*, Board Member, Vol 8, No 3, March 1999.

NCVO (1999), *The Good Trustee Guide*, NCVO, London.

NCVO (1991), *Finding Funds*, NCVO, London.

Picarda, H. (1995), *The law and practice relating to charities*, 2nd Ed., Butterworths, London.

Pollock, L., *"More than a cheque"*, in Voluntary Sector, June 2001.

Ramrayka, L., *Charities go on-line with big-name partners*, in The Guardian / Society, 22 October 2001.

Rowell, A., *Sleeping with the enemy*, in BBC Wildlife, August 2001.

Sawyer, P., *Diana marge? Just think of the charity cash says Flora*, in the Evening Standard, 23 March 1998.

Smallwood, J., *Harnessing cause related marketing*, in Charities Management, Autumn 2000.

Sweatman, S., *Fund-raising is about relationships*, in Charities Management, Summer 2001.

Tweedy, C., *Bringing the arts to work*, Community Affairs Briefing, February / March 2001.

Villemur, A. (1996), *Applying to a grant making trust - a guide for fund-raisers*, Charities Aid Foundation, Kent.

Vintner, L., *"Take your partners"*, in Voluntary Sector, June 2001.

Warburton, J (1995), *Tudor on Charities*, 8th Ed., Sweet & Maxwell, London.

Wells, C (2000), *Finding Company Sponsors*, 1st Ed., Directory of Social Change, London.

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