

Charities: commercial partnerships and why compatibility comes first



Never look a gift horse in the mouth (so the saying goes) but when it comes to forming partnerships with commercial companies, charities would be better advised to ‘look before they leap’.

What should be considered?

There are many things for a charity to consider before signing up to a commercial partnership with a company. For example:

- How long will the agreement last?
- What are the tax and VAT implications?
- Will the deal be compliant with fund-raising legislation?
- How will the partnership further the objects of your charity?
- Will the two organisations and their staff work together as a result or is this merely an opportunity for the charity to raise charitable funds and the company to benefit from a “halo effect” of being associated with the charity?

These and numerous other issues will need to be addressed to ensure that the partnership between the two organisations prospers.

But before anything else is discussed perhaps the most important question to consider is whether the company shares the same values as the charity and its stakeholders. This became an issue for the [Royal Shakespeare Company recently](#) when students threatened to boycott the theatre unless it severed its links with BP, the fossil



fuel company.

The impressive sums of money a prospective partner may be offering a charity can mean a company's credentials get overlooked in the rush to seal the deal. However, a charity's name and brand is a valuable asset so a full risk assessment should be carried out before any form of association with another organisation is agreed.

Indeed the trustees of a charity have a duty to act in the best interests of the charity and to protect its assets and if a commercial partnership leads to negative publicity for the charity they may, in extreme circumstances, be considered to have acted in breach of trust.

Due diligence

The due diligence process will be much easier if the charity has in place an agreed ethical policy which sets out the charity's values. Trustees and staff can then use the policy as a frame of reference when considering the suitability of a potential partner. Ethical policies will typically include an environmental policy and an investment policy along with other policies relevant to the charity in question.

The ethical policy can also be made public on the charity's website and be reported on in their Annual Report and Accounts so that any company considering a partnership with the charity can consider this before approaching the charity.

When checking the company's credentials, the charity will firstly need to find out what the core business of the organisation is and whether any aspect of their business might conflict with the objects of the charity. A charity set up to research the causes of heart disease would not, for example, want to associate with a fast food chain or a cigarette manufacturer.

The due diligence process should also investigate where the company gets its income from and how they invest their profits. Any mission statement or corporate social responsibility policy should be examined and any company policies affecting employees or customers should be looked at. Recent press coverage should also be examined for any adverse publicity and to see whether the company has been involved in court proceedings that might produce negative publicity that would harm the charity purely by association. For example, the widely reported allegations of harassment at the Presidents Club dinner in 2018 led to a number of charities reviewing whether they felt able to retain donations they had received from the Presidents Club.

What would the nation think?

It is also worth taking a step back and considering the zeitgeist. What is the mood of the nation? An association that would have been uncontroversial a few years ago may have very different connotations now. To take a case in point, BP began their sponsorship deal with the RSC in 2011 and it is only now some 8 years later that the link has become an issue now climate change is top of the agenda especially amongst school children. In a similar vein, (although not a commercial partner) Prince Andrew's patronage of a number of charities was [put in doubt](#) following the negative publicity that arose out of the Emily Maitlis interview, although the Duke of York has now himself withdrawn from all 230 of his patronages.

Ultimately no trustees would wish to lose the support of either their beneficiaries or their other supporters and stakeholders over a bad choice of corporate partner. So whilst the work of carrying out proper checks on a potential partner may be time consuming, with the reputation of the charity at stake it will certainly be time well spent.



How we can help

If your charity needs help with a commercial partnership agreement, please contact our [charities team](#).



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