Nonprofit Fundraising In The Digital Age:

Risk Management Tips For A New Frontier

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Today's nonprofit organizations face a variety of challenges, most tied to their financial health and viability. It's no surprise, considering that declining private and governmental support, rising expenses, and pandemic-related operational resiliency challenges combined to create a perfect economic storm – over the same time period that wit-nessed nearly a 35% increase in the number of tax-exempt public charities.

As nonprofits seek to diversify their revenue streams and reach new audiences, they need to communicate their missions and value propositions more broadly, persuasively, and efficiently than ever before, and they're embracing digital media to do so. Statistics show that online philanthropy represents an ever-growing double-digit percentage of all giving. But no significant advance comes risk-free – and digital philan-thropy is no exception.

Pitfalls Of Traditional Insurance

We spot several exposures inherent in digital fundraising, few of which are properly addressed by traditional insurance:

- Many organizations have vibrant websites with rich downloadable content and blogs, among other forms of media including links to Facebook, Twitter and LinkedIn, among others.
- Electronic solicitations are subject to certain statutes, including the CAN-SPAM Act governing advertising and solicitation email.
- The rapid march toward online giving involves transmission and retention of sensitive information. Even if nonprofits engage third-party credit card clearinghouses to handle such traffic, they bear exposure for data breaches, whether or not the data is in their direct custody or control.

From an insurance standpoint, commercial general liability insurance isn't the remedy some imagine. Underwriters have introduced new and broader exclusions for non-advertising-related publishing, electronic bulletin boards and chat rooms, and violations of statutes that prohibit unsolicited advertising faxes or unsolicited e-mails. Traditional personal injury coverage for invasion of rightof privacy may not extend to data breaches, especially since policy language has historically been framed around "oral or written publication" as the underlying offense.

Defensive Strategies

Textbook risk management approaches including avoidance, reduction, and transfer are appropriate to development, just as to many other activities. After taking thorough inventory of the inherent risks and potential consequences, both financial and indirect, an organization can:

- Choose to avoid those risks it considers to be unacceptably large or unpredictable, such as very large special events with pyrotechnics, controversial celebrities, or in hard-to-manage venues.
- Reduce risks that are reasonably controllable, such as workplace use of social media for non-business related matters.
- Contractually transfer risks that should properly be borne by others, such as responsi-bility for a service provider's IT breach that compromises client data.

Generally, an effective corporate risk management plan will combine elements of all of these strategies. A skilled risk and insurance advisor can be a valuable resource with whom to navigate the risk landscape and develop or augment risk management policies before turning to commercial insurance as a risk financing mechanism

Paying For Bad Things That Happen

Despite the best-laid plans and risk management, accidents do happen – and at no other time is the integrity of commercial insurance protection more critical. An insurance policy is a legal contract, and its fine print governs the outcome of any claim for payment.

As noted earlier, run-of-the-mill general liability insurance seldom addresses the threats of today's digital age. Depending on the nature and breadth of their development initiatives, nonprofit organizations should consider:

- **MULTIMEDIA LIABILITY INSURANCE** – which protects the organization and its individual actors against civil liability for offenses including libel, slander, defamation, and invasion of right of privacy arising through media-related activities (online, video, broadcast, publishing), as well as intellectual property matters such as plagiarism and trademark/copyright infringement.

- **NETWORK SECURITY & PRIVACY LIABILITY INSURANCE** – which protects the organization's IT network and digital assets against damage by human error or criminal acts, and insures against civil liability for damage to others' networks and digital assets and unauthorized release of private information, regulatory fines and penalties, and data breach response costs. Cyber liability is the most significant emerging threat to any business today, with stringent consumer protection laws magnifying the exposure in all 50 states -- yet the majority of nonprofit organizations neglect or underestimate the risk.

  Healthcare and human service providers subject to Health Insurance Portability & Accountability Act of 1996 (HIPAA) Privacy and Security Rules may be especially vulnerable, as is any organization engaged in e-commerce (e.g., online merchandising or donations). The Ponemon Institute reports a global average data breach cost approaching $4 million, with a healthcare sector average roughly 85% higher yet.

  Consider the direct costs and reputational damage incurred by a nonprofit organization that inadvertently posted a donor database on its website, divulging personally identifiable information ranging from individual names, addresses, telephone and emergency contact particulars to the amounts donated. To make matters even worse, the online database featured buttons enabling public viewers to edit the information and even to download the entire spreadsheet! When the gaffe was discovered several weeks later, untold damage had already occurred.

  The good news for media liability and network security/privacy liability insurance buyers is that market options have proliferated over the past decade, with a variety of insurers now competing for market share. Modular product offerings enable customized protection, and ample market capacity and competitive forces help maximize value for any budget.

Conclusion

Nonprofit organizations recognize that development is their lifeline in a post-recession era against the backdrop of new government spending cuts. Every new dollar counts – and no organization can afford to have its hard-earned revenue bleed out through the back door in unexpected, uninsured losses. Attention to detail when planning and ex-ecuting new development initiatives, coupled with state-of-the-art insurance protection against the inherent risks, can safeguard an organization's revenue stream and promote maximum operating efficiency.

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