

Texting donations to political campaigns: The good, the bad and the needed regulations

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There was a time when teens needed a chaperone to date. Now, not only are there no chaperones, but teens can sit in their cars and text their date when they've arrived.

Texting is about to have an impact on campaign fundraising as well. Fundraising used to be a straight-forward transaction between donor and candidate. It is about to get more complicated.

Though not yet authorized, new technology permits contributions sent via text messages. Just as parents are adjusting to new dating realities, regulators also will have to adapt to the changing fundraising landscape.

[In a column](#) last August, I first wrote about this latest wrinkle in fundraising. At the time the Wireless Association had asked the Federal Election Commission (FEC) whether contributions could be raised via text messages.

Since then the FEC has said no. But the issue is far from over.

The Wall Street Journal reported recently that two political consulting firms, one Democratic, one Republican, "are pushing a bipartisan plan to make online giving even easier by letting cellphone users make small donations with a single text."

Texting of contributions presents campaign finance regulators with a myriad of problems.

First, there is a typical 30-day cellphone billing period that would create problems with pre-election disclosure, particularly during the month preceding the election.

Second, it makes contribution limits harder to enforce.

Third, in states like New Jersey, which has a pay-to-play law that seeks to restrict contributions by public contractors, texting of contributions may constitute another avenue for evading the law.

Fourth, the typical arrangement whereby a middleman serving as a clearing house collects and aggregates the texted contributions, receives a fee, and turns the remaining money over to the campaign, presents further problems with enforcing the contribution limits and getting accurate disclosure.

On the other hand, there are positives associated with texting of contributions.

First, it may widen political participation by encouraging small donations.

Second, it gives fundraisers another tool for helping their candidates run effective, adequately-financed campaigns.

Third, as noted in the Wall Street Journal, it may be “an easy way to bring in money at rallies on university campuses and other places where people are likely to be carrying cellphones.”

Campaign finance regulators will need to weigh the good against the bad in deciding whether to allow texting of contributions. My guess is that the practice is inevitable. So it behooves regulators to begin preparing.

First, any regulatory scheme should limit texting of contributions to small amounts- perhaps \$50 - \$75 per month.

Second, it should require all funds to go first to campaigns. The campaigns, in turn, will use campaign checks to pay any fees owed to middlemen.

Finally, an arrangement must be developed whereby the campaign can disclose texted contributions in a timely, pre-election setting.

Undoubtedly, there are other measures that can be taken to assure accountability and transparency. But at the very least, thought should be given to how texting contributions will be dealt with.

Jeff Brindle is the Executive Director of the New Jersey Election Law Enforcement Commission. The opinions presented here are his own and not necessarily those of the Commission.