

Blockchain: Challenges and Opportunities for the Philanthropic Sphere

Host: Ted Hart

Guest: Jeffrey Neuburger – Proskauer Technology Media & Telecommunications Group

Announcer: Welcome to the *CAF America Radio Network*, a production of the Charities Aid Foundation of America. As the leader in global giving, CAF America offers more than 20 years of experience and expertise to corporations, foundations and individuals who wish to give internationally and with enhanced due diligence in the United States. Through its industry leading grants management programs and philanthropic advisory services, CAF America helps donors amplify their impact. This show is dedicated to these donors and the charities they support.

CAF America is uniquely positioned to serve as the bridge between these important partners and transforms vision into meaningful action. Guest on the *CAF America Radio Network* are leaders in their field who share tips for success and stories that inspire. Our host is Ted Hart, the CEO of the Charities Aid Foundation of America. This is a live call in show. Add your voice by calling 914-338-0855. After the show, you can find all of our podcasts at cafamerica.org. Don't forget to dial 914-338-0855.

Now, welcome the host of the CAF America Radio Network, Ted Hart.

Ted Hart: Welcome to this latest edition of the *CAF America Radio Network*. Thank you for joining us today. Our topic today is blockchain, challenges and opportunities for the philanthropic sphere. Our interest always at CAF America is to provide you with the most up-to-date information that is unvarnished to give leaders in the sector an opportunity to make decisions with eyes wide open. When it comes to blockchain, there is a lot that has been written on this topic.

Our interest today in the show is to make sure that you walk away with facts, more information than you had coming into in this program. We hope that you will share this podcast with others who are looking to understand potentially the unique challenges and opportunities for the philanthropic sector as we look at new technology.

My guest today here on the *CAF America Radio Network* is Jeffrey Neuburger. He is a partner and co-head of the Technology, Media and Telecommunications Group, member of the Privacy and Cybersecurity Group, and editor of the Proskauer's firm's New Media and Technology Law blog. Welcome here to the *CAF America Radio Network*. Thank you for being my guest here on the show, Jeffrey Neuburger.

Jeffrey Neuburger: Thank you, Ted, great to be here.

Ted: Now, Jeffrey, let's start off because there are going to be some who are listening today that have probably heard of the phrase blockchain, but don't really know where it fits. They probably maybe even heard of bit coin and think they're the same thing. That maybe cryptocurrency is the same thing. Can you help us just sort of frame what is blockchain, what is not blockchain, and why are we talking about it today?

Jeffrey: Sure, blockchain simply put is a system where a database is spread out across a number of nodes in a network. There's no central trusted node. The way it works is that a database is replicated across a number of nodes, and everybody-- all the nodes have an identical copy of the database. Every time a transaction is conducted, the community verifies the transaction, and the way they do that can vary. Once the transaction is verified, all] of the databases on the network are updated. There's a high degree of visibility and no central controlling entity. That's blockchain. It's also referred to as distributed ledger of technology.

The issue of cryptocurrency is different. Cryptocurrency is actually an application of blockchain. Cryptocurrency is a value, a digital value that can be that can be bought and sold and exchanged on a blockchain platform. Really it's a type of application that runs on blockchain. The most well known in earliest application is bitcoin. Today, there are many others. There is Ether, and then there are a whole series of new types of cryptocurrency that are issued in connection with where code initial coin offerings.

The other piece of blockchain is something called smart contracts, and despite the name, they're neither smart nor are they contracts. They're actually just software applications that run on a blockchain platform, and they can cause things to happen. You can have software that says if something happens, then something else happens, so they're self-executing applications.

Ted: Right. Just so everyone is clear on the phrases that we're using today, a node, as it relates to blockchain, is a computer connected to that network that has a copy of the blockchain, a distributed ledger, as you're mentioning it, which is automatically updated across the network, and if at any time a node has copy of the blockchain application itself, it does not match the others, then it is no longer a part of the blockchain. That's part of what makes this attractive, is that in theory, it's harder to hack because you would literally have to hack all of the nodes on the blockchain simultaneously to update all of those records because anyone that's out of sync is no longer part of the blockchain. Is that correct?

Jeffrey: Yes, essentially that's correct. It depends on the specific blockchain implementation, but the way the distributive nature of blockchain makes it very secure. The insecurity, the hacks that you hear about are really on the software components that are accessory to blockchain. For example, a smart contract that might have a bug in it, or a wallet or some sort of offline storage mechanism, they may have a vulnerability, but the core of blockchain protocol is highly secure.

Ted: Right. As those that are in leadership or those who are management in philanthropic organizations grow to understand what blockchain is, grow to see how the technology could be applied, there's a growing curiosity. I think that makes sense. There's certainly is a lot that is being looked at and attempted in the for profit space. I think arguably cryptocurrencies are one of the best applications that have been actually implemented. There are others for profit, but very few non-profits that you can really point to that have broad application, that have shown any sort of scale or enterprise activity in the broader philanthropic community. Talk about this notion of blockchain coming to the nonprofit sector, blockchain for good, if you will. Why has

this maybe not been adapted or has not found a measure of success on the same pace that we've seen in some sectors of the for profit?

Jeffrey: I think that the-- there is a slow path towards implementation, but there are a lot of issues to be resolved first. One area that I spend a lot of my time in is the legal and regulatory area. As people think of new business cases and new applications, it typically raises questions, how does the law based on traditional business operation not for profit or for profit apply in the blockchain world. That's an obstacle in some cases. How does a tax treatment work if you're dealing with cryptocurrency? What's the appropriate tax treatment, the reputational issues?

People are familiar with some of the west credible or more the dark side of some of the early application in bitcoin, and so people are worried about the reputation as a charity, will they somehow be tainted if they're associated with cryptocurrency or blockchain.

The other thing is that the-- most charities aren't setup to be technology companies, and so it's important that a charity find the right technology partner. At this point, I think if there are many situations where the technology partners and the charities have different interests at stake, and so that's hard to find it a meeting the minds. There's a lot of volatility in the cryptocurrency space, and so that's also an inherent risk.

Generally, the accountability issues have a lot of charities' concern. How do you actually deal with the risks associated with cryptocurrency and what the donor is going to think? In reality, blockchain could provide an answer to that problem down the road as well.

Ted: In general, I think there's a general feeling that one of the areas that could benefit most is the notion of transparency. You mentioned technology partners, but it's not inexpensive to organize and to support a blockchain network or the use of blockchain-like technology. There's an awful lot of computer power, which is expensive, particularly at the high degree of security, that you would want to demand if there's going to be internet transparency. Is that an issue that needs to really be squarely put up with?

Jeffrey: Yes. I think the technology behind blockchain is likely best provided by a technology partner, a partner that knows technology and that's what they do everyday. The costs are high although as these platforms emerge, the costs get spread across the different applications, and it's not a case that a charity would need a dedicated application. They just need a platform for which their activities will be conducted across. The opportunity is there, but transparency in transactions offers perhaps the biggest opportunity for charities, because blockchain will allow donors to see exactly where their donation is going, how is it used, what expenses were associated with it, what the tax treatment might be. It gives a lot of visibility and actually brings the donor and the beneficiary closer together and actually could eliminate some of the redundancy or inefficiency in the process.

Ted: Having a technology partner and are there widely available technology partners looking to take on nonprofit programs at this point?

Jeffrey: There have been a number of initiatives. On the commercial side, there is organizations like IBM, they have a big technology platform that they make available. Then there are a number of other, I would categorize them more as start ups, but they are involved in building platforms for nonprofits. A company called BitGive, for example, it has something called GiveTrack, which is a public ledger blockchain system for donation. There are different initiatives ongoing.

Ted: Are there broadly available or would you say that these are in the test phase and not probably available to charities that are looking to blockchain?

Jeffrey: I think there's a lot in the test phase. Whether you're talking about charities or even in commercial application, much of the activity involved in blockchain is still at trial or in pilot phases. I think that overtime, there will be large scale applications available for charities, but I think it's going to take sometime for all the issues to be worked out.

Ted: We're going to take a very, quick break and when we come back, we're going to start taking a look at, what is the level of risk? In utilizing this technology, where does regulation fit in these overall discussions? What about security and protecting donor reputation and charity reputation in being involved in such use of technology? We'll be right back.

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Ted: We're back here live with Jeffrey Neuburger. My apologies for a little bit of a voice over problem, my concern there. We did finally get to a reminder that our podcasts are always available, including this show which will immediately be placed into our podcast library available at cafamerica.org after we finish today's show.

Jeffrey, before we went on break, I just put out the issues of risk mitigation, regulatory compliance and reputation protection. Why don't we break that down? Let's start off with the notion of reputation protection. What managers and leaders in the philanthropic space should know about blockchain in terms of how it helps with protection of reputation, but also some of the pitfalls that they should be aware of, at least understanding what question should be asked before they commit.

Jeffrey: Like any new technology, there are a lot of people entering into the so called blockchain space. Most of them are really smart, ethical, exciting opportunities and good people involved. Of course, there are also people that see this as an opportunity to make some quick money and probably have not really thought through their business plans and their initiatives. I would encourage anybody who is thinking about partnering with a technology company, to really check their tyres, do their diligence, look at who the people are behind the company, both from a technical point of view and from a management point of view, as well as from an investment point of view. Who are the investors of the company? Because, it's really

important to connect with a company with a good reputation. It certainly could be an expensive and time consuming setback if you partner with the wrong company and of course, damaging to reputation.

Ted: That's right. CAF America has made its business to look at the broad sector of philanthropic use of blockchain. As you mentioned, there would have been a number of star start ups or interest that people have shown. There have been some testing that has not necessarily provided the fruits that was expected. The pace of use of blockchain, or distributed ledger, or smart contracts, seems to have slowed a bit. One of the things that we've noticed is that regulatory compliance becomes a really, big topic when we're talking to start up companies or companies that have been around for a while, they have some technology expertise looking in this area. There's almost a shock and surprise that there would be any regulations that would need to be followed in the philanthropic space. I think not on purpose, and certainly not maliciously, a number of companies approach this space as something that is regulatory free and find it surprising that there are long standing regulations in place. What's your experience then in that area and is regulatory compliance a big part of the questions that need to be asked before something is committed?

Jeffrey: Absolutely. You can find great technologists who have masterful understanding of the technology and even have a vision for the business, but because they may not necessarily be familiar with the business of philanthropy, they might not understand the regulatory requirements around it. It's important to really find out how well your technology partner understands that. In many cases, you might find that they're totally ignorant as to what the requirements are. Then, you really have to question whether you want to partner with that entity or you want to find somebody that is more familiar. Or if you want to educate the entity and get them up to speed on the requirements.

We see that, across the board in all applications, in all industries. Regulation cuts across many, many industries. Many of the technology partners out there are not really familiar with the regulations that apply to their applications.

Ted: In this case, particularly with the use of the internet, there's often cross-border issues. Certainly, that's a big topic for CAF America and philanthropists who may want to avail themselves of some of the purported benefits of blockchain and other related technologies, and assume that because this is internet based, it speeds the ability to transfer across borders, and of course, it can and it does.

However, there are a lot of regulations for moving funds outside of the United States that must be followed for philanthropic tax receded purposes, but also increasingly large number of regulations in countries around the world that would be the host countries of the charities that philanthropists may want to support. That often comes as a bit of a shock and a surprise to those who are very knowledgeable, as you mentioned on the technology, but maybe just missed the point that there would be any regulations involved.

Jeffrey: Right. As I'm sure you know, understanding the structure of those regulations across not only US but as you said, the countries receiving the donations to beneficiaries, that's a significant undertaking, and probably would involve quite a bit of legal advice. A lot of the companies that are out there providing these technology platforms just don't have the resources to master that at this point, so it is an issue.

Ted: I think you're right about that. That brings us to CAF America's third hour, which is risk mitigation. You just mentioned one way to lower the risk that's inherent to new technology and inherent to new initiatives, and that is to partner with those who are knowledgeable in this space.

Certainly CAF America being one for the vetting of the charities that may be the beneficiaries, certainly we are experts in the regulations both to move money outside of the US or Canada or the UK, but also to move it into more than 110 countries that need to be monitored on a regular basis, because regulations change very quickly, and often every year in many countries, so that needs to be monitored.

Then you mentioned earlier that certainly working with reputable companies that are attempting to create service operations, can both lower the risk but also you mentioned or it seemed that there may be an opportunity to partner to lower costs because the cost of entry to new technology is always higher than those who are using second and third generations of the same technology.

Draw that together in terms of your thoughts and that of your firm in terms of the right questions to ask again, and the right direction for risk mitigation.

Jeffrey: Again, it goes to the issue of the track record of the people involved and, their understanding of not only the risks that are associated with it, but their willingness to learn more about the risks that are associated, and the willingness to address and mitigate those risks. It's a situation that you're choosing a partner and if you're early in, you're choosing a partner that may not have been tested and vetted by others.

You really have to be very careful and do your diligence. Of course in a few years, as these applications mature, there'll be more of a track record and you'll have a better sense of which companies understand the risks and are prepared to address them.

Ted: Your firm, Proskauer, and you are the Co-Head of the technology media and telecommunications group, and head of the firm's blockchain group, and a member of the firm's privacy and security group. You certainly are a seasoned expert in this area. I would say that probably means that you've been around the bar, and a few times and you've seen things come and go, promises of technology that didn't quite pan out, or things that weren't seen as particularly promising but then became the next big thing.

How would you serve size up where blockchain sits for the nonprofit sector? We hear a lot and can read a lot about the for-profit sector, but I know you've had some time because you work

very clearly in the for-profit sector and advising and being an expert in this area, but because of that, you can see applications.

What's the time horizon, or what do you think the actual application for the average grant maker or foundation nonprofit looking to avail themselves of some of this technology, where is that window, where's that timeframe where this becomes the truly next big thing that's approachable by the average nonprofit?

Jeffrey: I think there are a number of experiments ongoing, the people who are getting up to speed, learning about the business of being a nonprofit. I have seen as you said technologies come and go. I've seen technologies hyped to be the next big thing and then they've fallen by the wayside. I actually personally do believe that blockchain as an infrastructure will change the way all businesses operate.

Cryptocurrency, in my mind, still needs to be developed further, and the regulatory landscape needs to be clear, but blockchain as a platform for a charity to accept donations and track and provide transparency as donors, I think that's common. I would say probably in two-plus years, you'll have offerings in the marketplace that will reduce costs, eliminate some of the redundancies that are in the system today, and actually provide a greater degree of transparency to donors and to recipients.

Ted: What should nonprofits be doing today as they continue to track this, as CAF America continues to track this and to provide education and information about this? Would you say the use of blockchain for good is something that should continue to be monitored and watched for the practical applications to emerge?

Jeffrey: I think that right now, depending on the particular charity, and how much they want to be involved in emerging technology, there are trials out there that people can get involved with. Assuming that's not the case, I think that the regulatory landscape is going to evolve and so that's should definitely be on the radar screen. Then keeping abreast of what's happening from a technology perspective and to the extent that charities have technology partners, that are large technology companies.

They should talk to their partners and find out what those partners are doing in the blockchain world and see how they're going to evolve. The other thing is that blockchain is not going to replace the infrastructure of a charity or any organization, blockchain is going to integrate with existing systems. That is why it would be helpful for charities who are thinking about blockchain down the road, to talk to their incumbent system providers now to find out what's on their roadmap in the blockchain world.

If they find that the roadmap is not satisfactory, if a technology company is not planning on using blockchain, the charity might want to look around and see who else is out there that could provide the same functionality because you wouldn't want to continue to invest with an incumbent technology provider, if at the end of the day, the technology provider is not going to be able to use blockchain as part of their solution.

Ted: Jeffrey Neuburger, Proskauer, thank you for being my guest here today. Solving the problems of transparency and the use of technology is no simple task for any nonprofit organization. You can count on CAF America to continue to bring you experts like Jeffrey Neuburger, who will help us understand these issues and stay abreast of their applications. Thank you again for being my guest here today, Jeffrey, and for all of you joining us here on the *CAF AMERICA Radio Network*.

Jeffrey: Thank you.

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