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NGO Accountability and Self Regulation

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# Ensuring credibility and effectiveness

## Designing compliance systems in CSO self-regulation

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### Executive Summary

Recent research by the One World Trust shows that self-regulation within civil society is more widespread than has previously been thought with over 350 initiatives currently in existence or development worldwide. In all regions of the world CSOs are coming together at sector and subsector level to define common standards and principles in a bid to encourage learning, protect the sector's political space and build public and donor trust. Yet while the emergence of initiatives such as codes of conducts and certification schemes is a positive development, the development of a set of common principles or framework alone is rarely enough to change the practices of organisations or provide a credible signal of quality. Mechanisms also need to be developed that provide monitoring and, where necessary, enforcement of the standards. In other words, a system for compliance is needed.

Drawing on the One World Trust's database on CSO self-regulation, this paper explores the different approaches that have been taken by initiatives to address the issue of compliance, the benefits and challenges associated with different arrangements, and the factors which shape their adoption. It shows that problematically, less than half of all of the CSO self-regulatory initiatives (47%) that currently exist worldwide have any element of a compliance system, and among the most common form of self-regulation – codes of conduct - this percentage drops to 27%. We argue that this raises important questions about the effectiveness and credibility of many CSO self-regulatory initiatives.

Given the interest in aid effectiveness and the global consultation that is underway through the Open Forum on CSO Effectiveness to generate agreement on a set of principles of quality and effectiveness for CSOs, we think this is a timely paper. For while developing a set of common principles is an important contribution to debate and practice on development effectiveness, to ensure they impact upon practice, incentives need to be created to encourage their uptake and adoption. In the absence of these the process runs the risk of producing inspiring words which have very little affect on how CSOs actually operate.

## **Introduction**

Recent research by the One World Trust has indicated that self-regulation within civil society is more widespread than has previously been thought with over 350 initiatives currently in existence or development worldwide<sup>1</sup>. It seems that in all regions of the world CSOs are coming together at sector and subsector level to define common standards and principles in a bid to improve practices, protect the sector's political space and build public and donor trust. While the emergence of initiatives such as codes of conducts and certification schemes is positive, agreement on a set of principles alone is rarely enough. Mechanisms also need to be developed that monitor if the principles are being met and, where necessary, sanction if they are not.

Drawing on the One World Trust's database on CSO self-regulation and existing literature on self-regulation both within the CSO and corporate sectors, this paper seeks to explore the different approaches to compliance, the benefits and challenges associated with different arrangements, and the factors which shape their adoption.

This is a timely paper given the global process that is underway through the Open Forum on CSO Effectiveness to stimulate discussion and agreement on a set of principles of quality and effectiveness for CSOs worldwide. For while developing principles can help create common understanding of good practice and set minimum standards on what constitutes effectiveness, to ensure these are implemented, CSOs need the incentives to use them. Whether in the corporate or the NGO sector, the research on self-regulation consistently shows that the impact of an initiative is heavily dependent on the existence of a compliance system. What form the compliance system takes will vary from context to context (and this paper outlines the different factors that may shape this) but there always needs to be mechanisms in place that push organisations to demonstrate how they are putting principles into practice.

The paper is structured in seven parts. Section one identifies some of the challenges inherent in using self-regulation as a tool to improve practice. Section two provides a review of the literature exploring the link between self-regulation, compliance and effectiveness. Section three unpacks the core components of a compliance system and presents a typology for understanding such systems. Drawing on the One World Trust database, section four looks at the use of different types of monitoring and sanctioning mechanisms used among CSO self-regulatory initiatives worldwide. Section five explores the benefits and challenges of different approaches to compliance. Section six identifies four key factors that shape the structure and approach of self-regulatory initiatives and their compliance systems more specifically. And finally, section seven offers some conclusions.

## **Challenges associated with self-regulation**

Over the past decades CSOs, in particular NGOs, have seen a significant change in their role and influence in society and politics. They are now major providers of essential services,

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<sup>1</sup> The results of the One World Trust's research into CSO self-regulation is available through an online database at <http://www.oneworldtrust.org/csoproject/>

influential advocates for marginalised groups and knowledgeable advisors on public policy. As such, they have become important players in national and international governance. However, with this newfound influence has come greater scrutiny of CSO activities. Worldwide, CSOs are facing growing pressure from governments, donors and the public to be more open about their funding sources, provide evidence of impact and demonstrate which groups they represent and how. While some are responding to these challenges by developing individual, organisational responses, others are coming together at national, regional and international levels to develop common norms and standards and encourage best practice. These range from codes of conduct/ ethics to certification schemes, information services to working groups. Sector level forms of cooperation and self-regulation are becoming an important means for CSOs to build public trust in the sector, prevent overly restrictive government legislation, and support the sharing of good practice and learning<sup>2</sup>. Yet while the emergence of self-regulatory initiatives within civil society is certainly a positive development, it does not automatically guarantee the sector's credibility or accountability. Self-regulation faces two main challenges. The first is that it is by definition voluntary. Unlike state regulation organisations can choose whether or not to engage with a self-regulatory initiative. Therefore, unless an initiative has wide support within a sector, its overall reach and impact may be limited. There are of course reputational incentives to engagement; being a member of a code of conduct for example, can provide a signal of quality to donors and help an organisation stand out in a crowded and competitive sector. Likewise, some donors require engagement with self-regulatory initiatives in order to access funding. In general however, in the absence of donors mandating membership, the ability of organisations to opt in or out of self-regulation can present a barrier to it raising standards across an entire sector. The second challenge is that in order to provide an effective signal of quality, a self-regulatory initiative needs to ensure that members comply with its provisions. Without this, organisations may join which are of poor quality and that undermine an initiative's credibility. The means through which self-regulatory initiatives ensure compliance with standards, and thus protect their credibility, is at the heart of this paper. With this focus in mind, the following section provides a review of the existing research on the relationship between self-regulation, compliance systems and effectiveness.

## **Self-regulation, compliance systems and effectiveness: a review of the literature**

Economic Club Theory provides a general theory as to why compliance systems are important for effective self-regulation. Proponents of this theory argue that clubs form within society to provide members with excludable benefits (not available to non-members) in exchange for club costs (i.e. membership fees). Club benefits have to be sufficient to justify the cost of membership and often take the form of providing a recognizable indicator of quality, or 'brand' which separates members from non-members (Gugerty and Prakash 2008, p. 33). However, in *The Logic of Collective Action* (1965) Mancur Olson argues that club members have perverse incentives to shirk their responsibility to uphold club standards and are prone to free-riding (receiving club benefits, without paying the costs). This can in turn

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<sup>2</sup> For more information on the drivers and benefits of self-regulation see Warren, S & Lloyd, R. (2009)

undermine the credibility of the club and decrease the benefits experienced by all other club members. Both Olson (1965) and Harding (1968) argue that in order to prevent free-riding a club must put up barriers to poor-performers becoming members (in King and Lennox, 2000 p700) and that monitoring and sanctioning mechanisms are an important means of achieving this.

The arguments of Economic Club Theory have been applied in several studies into specific self-regulatory schemes. While many of these were conducted in the corporate sector, there are important lessons that can be applied to the emerging field of CSO self-regulation. Lennox and Nash (2003) for example, compared four environmental self-regulatory initiatives in the chemical, textile and paper and pulp industries and found that firms that polluted less were more likely to participate in the Sustainable Forest initiative, which has monitoring and sanctioning mechanisms. Conversely, more polluting firms were more likely to participate in Responsible Care, which has no monitoring or sanctioning mechanisms (p. 352). Lennox and Nash saw this as evidence that compliance mechanisms are important in discouraging poor-performing / high polluting companies that might 'free-ride' from joining (p. 353). Rivera, de Leon and Koerber (2006) measured the environmental performance of 110 ski-resorts that are members of the Sustainable Slopes programme, a code of conduct that has no monitoring system and no sanctions for non-compliance with standards. They found that, over five years, there was no correlation between membership of Sustainable Slopes, and higher overall environmental performance (p. 212). Similar to Lennox and Nash they argued that in the absence of compliance mechanisms, members have little motivation to achieve the standards set by the code. King and Lennox (2000) came to analogous conclusions through their analysis of the environmental performance of 3,606 chemical manufacturing facilities in the United States, of which a third are members of Responsible Care. They found that the environmental performance of members of the initiative did not improve at a higher rate than those of non-members (p. 712): they suggest that this is due to the initiative's lack of sanctions, which means membership is open to opportunistic, poor-performing companies (p. 713).

While there are considerably fewer studies available on self-regulation in the NGO sector, the literature that does exist suggests similar conclusions to that of the corporate sector. Beckkers (2003) for example found that the Centraal Bureau Fondsenwerving in the Netherlands - a certification initiative that provides NGOs with a seal of approval if they comply with standards of good governance and financial management - improved the level of public trust in the organisations which possessed it (p. 603.) The author suggests that the awarding of a seal by an independent body was a majority factor in this as it strengthened the perceived credibility of the initiative. Dale (2005) in his review of 22 NGO self-regulatory initiatives, found that the single most important factor in creating an effective initiative is the enforceability of sanctions, followed by the ability to remove accreditation, particularly if accreditation is required for an organisation to access funding (p. 47-8). Similarly, Gugerty (2009) in her study of 32 non-profit self-regulatory initiatives from around the world, found that key factors in determining an initiative's ability to provide a credible 'signal of quality' to stakeholders such as donors were whether it has a certification process and would publicly disclose findings from its assessments (p. 264).

It seems whether in the NGO or corporate sectors the research into self-regulation points to the same conclusions: providing a reliable and credible signal of quality is contingent on an initiative ensuring members meet its standards, and excluding those that seek to enjoy the

benefits of membership without investing the necessary resources, and that key to this is having in place a system of monitoring and sanctioning compliance.

With this in mind, the remainder of the paper seeks to better understand the types of compliance systems that exist among civil society self-regulatory initiatives worldwide, the benefits and challenges associated with their use and the factors which shape their development. Before this however, we will first unpack the different components of a compliance system.

**What is a compliance system?**

A compliance system is the set of mechanisms, processes and procedures that support the implementation of a self-regulatory initiative standards and/or principles and protects its overall credibility. It is made up of two components: a monitoring function and a sanctioning mechanism (see **Table 1**).

**Monitoring function**

There are two approaches to monitoring: proactive, which involve organisations actively monitoring their compliance with principles or standards; and reactive, in which monitoring takes place only when there is reason to believe there has been non-compliance. A number of initiatives combine both, but for the sake of clarity we will look at each separately.

**A proactive approach to monitoring compliance**

As **Table 1** indicates there are three ways of proactively monitoring compliance. The first is

<b>Table 1: Components of a compliance system</b>			
<b>Monitoring function</b>			<b>Sanctioning mechanism</b>
<b>Approach</b>	<b>Method of assessment</b>	<b>Source of assessment data</b>	
<b>Proactive monitoring</b>	Self-assessment	Desk based	Recommendations for corrective action made, but kept confidential
	Peer assessment	Interviews / surveys / field visits	Recommendation for corrective action made and disclosed publicly
	Third party assessment	Both	Financial penalty imposed
<b>Reactive monitoring</b>	Complaints procedure	Depends on nature of complaint	Membership suspension / expulsion
			Expulsion publicised

through self-assessment. This involves members periodically conducting an assessment of their implementation of principles, identifying areas of compliance, non-compliance and detailing the corrective actions needed. In most cases this self-assessment is kept confidential and used as a basis for discussion between the body administering the initiative

and the member. In some instances however it may also be made public, thus adding greater pressure on the organisation to put in place corrective action. The data used for a self-assessment may vary; in most cases it is based on a desk review and amounts to analysing documentation on existing policies and procedures, in some cases however, primary data is collected through interviews with operational staff and key stakeholders. Members of the Standards for Foundation Practice in Slovakia run by the Slovak Donors Forum, for example, annually submit a report demonstrating compliance to established standards in areas such as governance, grant-making, evaluation and communications. In each area members rate themselves along a scale from: legally compliant, to exhibiting good practice, to demonstrating excellence. Likewise, the ISEAL Alliance Code of Good Practice for Setting Social and Environmental Standards, which aims to strengthen the credibility of standard setters, monitors its members' compliance with the Code every three years by requiring them to complete a self-assessment that evaluates their compliance with standards. The results of the self-assessment are then reviewed by both peers and the ISEAL Board of Directors.

The second approach to proactively monitoring compliance is through peer assessments. This involves members of an initiative periodically reviewing each others' compliance and providing recommendations for improvement. Again, the data source for such a review can be desk based, field based or a mixture of both. For example, the European Fundraising Association Certification – a program that provides access to high-quality fundraising training - has formed a Board of fundraising institutes based in Europe, who are responsible for assessing and accrediting applications of peer organizations. The Code of Ethical Conduct of the National Association of Development NGOs in Uruguay also peer assesses their members. A Monitoring Commission made up of NGOs is responsible for ensuring implementation of the standards and for assessing signatories' compliance; it also establishes deadlines for implementation and resolves disputes between signatories and external parties.

Lastly, monitoring can take place through third-party assessments. These involve an external body reviewing compliance and making independent recommendations for improvement. In many cases, the conclusions of the external reviewer will determine if a certificate is awarded to the organisation or not. Such assessments are often very in-depth and based on data drawn from desk review, interviews with staff and visits to field sites. They are akin to an audit. For example The New Philanthropy Capital, a UK-based initiative, provides a Charity Analysis service for NGOs. They conduct desk and field based research, assessing the charity against criteria such as their ability to adapt and innovate, their use of resources, and the extent to which they are results-driven. The findings are made publicly available on the New Philanthropy Capital website. Likewise, the DZI Donation Seal, developed by the German Central Institute for Social Issues certifies organisations in financial transparency, operational efficiency and good governance and conducts an annual desk assessment of its members' compliance with standards. In 2008 DZI actually removed the Seal from the German Committee of UNICEF because of concerns over funding mismanagement<sup>3</sup>. Interestingly, there are a few initiatives that consult with the beneficiaries of an NGO as part of their third-party assessment process. Of the initiatives reviewed, only the Humanitarian

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<sup>3</sup> <http://www.spiegel.de/international/germany/0,1518,536587,00.html>

Accountability Partnership (HAP) and the NGO Quality Assurance Mechanism in Uganda (see **Box 1**) do this. Given that beneficiaries can provide a unique perspective on an organisation's performance (some might argue the only perspective that really matters) the absence of their views in the certification processes of most initiatives is a notable weakness.

### **A reactive approach to monitoring compliance**

A compliance system may also rely on a reactive approach to monitoring. This involves the initiative investigating a member when it has been alerted to a case of potential non-compliance. In order for this to happen in a consistent way many initiatives have a formal procedure that allow stakeholders to submit complaints against a member, and for the administering body to investigate. In the case of the Humanitarian Accountability Partnership (HAP), which certifies organisations against the Standard in Humanitarian Accountability and Quality Management, this procedure involves HAP forwarding any complaints it receives to the agencies concerned. The Standing Complaints Committee of the HAP Board then reviews the complaints and the agencies' response. Similarly, the Code of Conduct of the Botswana Council of NGOs (BOCONGO) uses an NGO Task Force, consisting of seven elected NGO representatives, to handle complaints against its members, and advise on any subsequent action that needs to be taken by the NGO to rectify the problem.

To strengthen their compliance systems, some initiatives use both proactive and reactive monitoring. The Cambodian NGO Good Practice Project Certification System for example has a complaints procedure that is complemented by a peer-assessment process, and the Palestinian NGO's Code of Conduct has a self-assessment process, which is supplemented by a complaints procedure.

### **Sanctioning mechanisms**

While monitoring mechanisms are important in supporting the implementation of self-regulation, they are unlikely to guarantee compliance on their own. The reality is that not all members of an initiative will be equally committed to its implementation. Some organisations will be happy receiving the reputational benefits of participating without committing the necessary resources to ensuring compliance. In order to tackle this problem, and in turn protect the credibility of an initiative, a number of self-regulatory schemes have developed mechanisms for sanctioning non-compliance.

**Table 1** outlines the five main types of sanctioning mechanism; each puts a progressively higher penalty on the organisation for non-compliance. In many initiatives these represent different steps in an escalation process where sanctions are progressively increased if a member proves unresponsive.

The softest form of sanctioning is simply a recommendation for corrective action. This involves the body administering the initiative issuing a member with recommendations for improvement based on a self, peer or third party assessment or the outcome of a complaints

#### **Box 1: Promoting communities' feedback: QuAM's Public and Beneficiary Vetting**

The NGO Quality Assurance Mechanism (QuAM) in Uganda proactively seeks, as part of the certification process, the views of NGO networks, the general public and the communities with which the applicant NGO works. Public vetting is done by informing such stakeholders that the candidate is seeking certification and by soliciting their views within an average timeframe of a month, either at a meeting at the local sub-county, through written comments or by interviewing whomever the Committee deems appropriate.

investigation. These identify specific steps that a member needs to take to comply with an initiative's principles and often provide a timeframe within which these need to happen. For example, with the Tanzanian NGO Code of Ethics, its Ethics Committee provides advice and recommendations to member NGOs based on the outcomes of their individual self-assessments. Where necessary the Council issues warnings to NGOs indicating poor performance.

In most cases the recommendations made by the body administering an initiative to the member organisations are kept confidential, but there are cases where they are publicly disclosed. This tends to happen when an initiative involves a third party agency that is rating organisations against criteria and publicly disclosing the score so as to inform the public and private donors. The Five Star Rating System developed by Ministry Watch, a charity that profiles Christian church and para-church ministries in USA is a case in point. It was created to help researchers and donors assess a non-profit organization's financial performance and it scores ministries on data covering fund acquisition, resource allocation and how the organization uses its asset base to further its operations. The six ratios used in the 5 Star Ratings system utilize information from an organization's IRS Form 990 or audited financial statements. Ministries are benchmarked against each other and Donor Alerts on Christian ministries not meeting at least one of the core standards are published widely. Disclosing areas for improvement puts additional (reputational) pressure on organisations to address deficiencies.

Another type of enforcement mechanism involves imposing financial penalties. In cases where a member is failing to implement principles, the body administering the initiative may have the authority to impose a fine. The Code of Conduct for Somali NGO Networks, for example, can recommend sanctioning of a particular staff member or can impose fines on the organisation concerned.

The strongest form of sanctioning is suspension of membership, followed by expulsion. In initiatives that use such a mechanism, a member will have its membership suspended until it addresses areas of non-compliance. After a set period of time however, if an organization remains unresponsive, membership will be revoked. The Central Bureau on Fundraising Development Certificate Scheme in the Netherlands, the NGO Coordination Code of Conduct in Spain and the Australian Council for International Development Code of Conduct, among others, not only expel non-compliant members but also announce the expulsion publicly. Others such as the Canadian Ethical Fundraising and Financial Accountability Code and the Governance and Responsible Management Label for Foundations and Associations in France prefer to simply remove the non-compliant organisation without publicising it.

### **Compliance systems for CSO self-regulation: current patterns**

In this section we present an overview of the different types of compliance systems used among CSO self-regulatory initiatives worldwide and provide insights into some of the most prevalent arrangements. Drawing on the data in the One World Trust database on CSO self-



regulation a total of 263 initiatives have been analysed<sup>4</sup>. Of these, 123 (47%) have some component of a compliance system. For the sake of clarity we will look at the compliance systems for codes of conduct and certification schemes separately.

### **Codes of Conduct**

The most salient finding from the research is that while code of conducts are by far the most common form of self-regulation, only 41 out of the 149 identified (27.5%) have elements of a compliance system. This means that the overwhelming majority (72.5%) have no way of monitoring or enforcing adherence to the standards and principles they set. This raises significant questions about the effectiveness of many of the existing codes in improving practice amongst CSOs and providing a credible signal of quality to stakeholder such as donors and the public.

Among the codes of conduct with a compliance system, complaints procedures are the most common monitoring mechanism, used by 37 initiatives. Self-assessment is the next most common, used by 15 initiatives, followed by independent, third-party auditing (5 initiatives) and peer assessment (2 initiatives).

Significantly, most codes of conduct have no sanctioning mechanisms (113). This means that in the majority of cases there are no provisions for punishing members that persistently fail to comply with a code's principles. Again, this points towards a serious deficiency in the compliance systems of most codes of conduct.

The majority of codes that have a compliance system use a combination of monitoring and sanctioning mechanisms. The most common arrangements is to have a complaints procedure along side a mechanism for expelling members (used in 17 codes of conduct). For example, with the Fundraising Standards Board Self-Regulatory Scheme in the UK, the body administering the initiative investigates complaints against its members that are raised by external stakeholders, and works with the NGO in question to resolve the dispute. If the complaint is upheld by the FRSB, the Board may demand an apology from the charity, and that the offending fundraising material or strategy is withdrawn. In extreme cases, where these demands are not met, the FRSB reserves the right to suspend the charity's membership. The other most common arrangement is where an organisation assesses themselves against the code of conduct, but a complaints procedure is also used to monitor compliance (also used by 17 codes of conduct). The Slovenska Filantropija (Slovenian Philanthropy) Code of Conduct for Organized Voluntary Work is one such example. To monitor compliance members self-assess themselves against the code, however, if anyone feels that a member organisation is not complying with the principles, they can raise their concerns with the Slovenska Filantropija complaints board.

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<sup>4</sup> From the 365 initiatives that feature in the One World Trust' database on CSO self-regulation we only analyse initiatives which are codes of conduct or certification schemes. We have excluded initiatives that are information services and working groups (two other types of CSO self-regulation) as these have been established to enhance transparency and encourage good practices but do not set rules for behaviour. In this regard, they do not aspire to develop compliance systems. As a result the total number of initiatives analysed is 263.

## **Certification Schemes**

Given the nature of certification schemes, it is unsurprising that all of the 82 initiatives identified through our research have elements of a compliance system. In contrast with codes of conduct, the most common form of monitoring mechanism for certification schemes is third party monitoring: 60 initiatives (74%) use third party monitoring, either by itself, or in combination with other monitoring mechanisms (see below). Only 6 certification schemes (7%) require organisations to conduct a self-assessment of their compliance and only one relies exclusively on a complaints procedure to monitor its signatories' performance.

More than half of the certification schemes analysed (47) threaten non-compliant members with sanctions, such as suspension or expulsion, although only nine (11%) reserve the right to publicize the suspension. In terms of sanctioning mechanisms, all certification schemes have a de facto means of penalizing members that fail to comply with its standards, as they can refuse to renew an organisations certification once it expires. However, our research shows that 35 certification schemes (43%) have no mechanisms in place to impose sanctions, if bad practise occurs during the certified period.

Among certification schemes, the most common means of ensuring compliance is the use of just third-party monitoring (in 23 certification schemes, or 28%). For example, The Co-operation Committee for Cambodia offers certification against its Code of Ethical Principles and Minimum Standards for NGOs in Cambodia. NGOs submit documentation to the CCC, and undergo a field visit when applying for the certificate. Certification is valid for three years: applicants that do not meet the standards go through a capacity building programme, and can then apply again. The next most common arrangement involves the use of a third party monitoring alongside a complaints handling system and the threat of sanctions (22 cases, or 27%). One such example is the Investing in Volunteers Standard in the U.K. This is a certified standard for organisations which involve volunteers in their work, and covers all areas of volunteer involvement, from selection and equal opportunities to training and support. The certification process begins with the organisation conducting a self-assessment of their performance, which is then verified by an external third-party assessor. A complaints board reviews any complaints against certified members. If an organisation is deemed to not be meeting the standards, they are given recommendations for improvement, which must be fulfilled within a specific timescale, or else certification is removed.

## The benefits and challenges of different compliance systems

While we have argued that compliance systems are key to strengthening the credibility and ensuring the effectiveness of self-regulatory initiatives, the institutional design of a code of conduct or certification scheme needs to be understood within the context in which it is developed. An initiative must weigh up the relative benefits and challenges of including various compliance mechanisms in light of a number of factors, such as the resources that are available to develop and administer a self-regulatory initiative and the level of coordination and collaboration within the CSO sector.

<b>Table 2: Benefits and challenges of different monitoring and sanctioning mechanisms</b>			
	<b>Type</b>	<b>Benefits</b>	<b>Challenges</b>
<b>Monitoring mechanisms</b>	Self-assessment	<ul style="list-style-type: none"> <li>• Encourages ownership of the assessment process</li> <li>• Less costly than peer and third party assessments.</li> </ul>	<ul style="list-style-type: none"> <li>• Ensuring that organisations are truthful about themselves</li> <li>• Integrity of assessment may be questioned by external stakeholders</li> </ul>
	Peer-assessment	<ul style="list-style-type: none"> <li>• More independent process than self-assessment</li> <li>• Encourages organisations to share their experiences and learning with each other</li> </ul>	<ul style="list-style-type: none"> <li>• Members may be reluctant to criticise their peers</li> <li>• Assessing organisations need to be willing to commit the necessary time and resources</li> <li>• Requires strong foundation of trust between organisations.</li> <li>• Assessment is only meaningful between similar organisations</li> </ul>
	Third-party assessment	<ul style="list-style-type: none"> <li>• Greater credibility from an independent assessment</li> <li>• External assessment can identify issues that are difficult for those internal to an organisation to see</li> </ul>	<ul style="list-style-type: none"> <li>• The process of assessment can be costly</li> <li>• Being granted a certificate can lull an organisation into a false sense of security</li> </ul>
	Complaints procedure	<ul style="list-style-type: none"> <li>• Relatively low cost to set up and run</li> </ul>	<ul style="list-style-type: none"> <li>• Only reveals cases of non-compliance when reported</li> <li>• Public/stakeholders need to be aware of complaints procedure</li> </ul>
<b>Sanctioning mechanisms</b>	Confidential recommendations	<ul style="list-style-type: none"> <li>• Allows member to rectify mistakes, build on learning process</li> </ul>	<ul style="list-style-type: none"> <li>• Members may ignore recommendations</li> </ul>
	Recommendations made and disclosed publicly	<ul style="list-style-type: none"> <li>• Encourages members to act on recommendations by creating public pressure</li> </ul>	<ul style="list-style-type: none"> <li>• May undermine public confidence in the sector</li> </ul>
	Financial penalty	<ul style="list-style-type: none"> <li>• Acts as a strong deterrent to non-compliance</li> </ul>	<ul style="list-style-type: none"> <li>• Will only be effective if penalty cost exceeds benefits of free-riding</li> </ul>
	Membership suspension / expulsion	<ul style="list-style-type: none"> <li>• Acts as a deterrent to free riding</li> <li>• Removes poor performing members from initiative</li> </ul>	<ul style="list-style-type: none"> <li>• Seen as too extreme by member organisations</li> </ul>
	Expulsion publicised	<ul style="list-style-type: none"> <li>• Demonstrates stringency of the initiative to the public</li> </ul>	<ul style="list-style-type: none"> <li>• May undermine public confidence in the sector</li> </ul>

For example, while an external observer may see the absence of a monitoring mechanism for a code of conduct in country X as evidence that it is ineffective, the sector may have until recently been highly fragmented; the development of the code may therefore be seen as a

major accomplishment, and members may be very committed to implementing its provisions. This is not to say that in the future monitoring mechanisms should not be developed, but at this moment and time relying on a commitment from signatories might be the most appropriate approach for improving performance. As the principles become more widely understood and accepted, monitoring and enforcement mechanisms can be developed. The following section therefore, offers an analysis of the benefits and challenges associated with different monitoring and sanctioning mechanisms. A summary of this discussion can be found in **Table 2**.

### ***Self-assessment***

A key advantage of using self-assessment mechanisms to monitor compliance with principles and standards is that it helps foster ownership of the process and buy-in to the final results. Review processes such as third party assessments that rely entirely on persons external to an organisation passing judgement and making recommendations can lead to solutions being proposed that are not entirely appropriate to the organisation or that fail to appreciate how an organisation works. While in many cases, we would argue, this drawback is often more perception than reality, it can nonetheless undermine how the process is viewed internally and thus if the recommendations gain traction.

At the same time, an obvious challenge to self-assessments is ensuring that the evaluation process is sufficiently rigorous and credible in the eyes of external audiences. Unless organisations approach the exercise with a commitment to improvement and to being honest, self-assessments can descend into simple tick box exercises in which there is little critical reflection. One way of overcoming this is by using external facilitators to lead the self-assessment. They can help probe and push organisations to think more critically about how they are doing and demonstrate compliance. Another is for a self-regulatory initiative to mandate the disclosure of a self-assessment; this puts pressure on organisations to act upon the findings. However, if organisations know the results are going to be made public it can also discourage open and honest reflection. A possible way around this is to disclose an abbreviated version of the self-assessment that only outlines the action plan for improvement.

### ***Peer-assessment***

An advantage of using peer assessments to monitor compliance with principles is that it offers a process that is more independent than self-assessments. This can help to strengthen the credibility of the review process in the eyes of stakeholders such as donors and the public. Having peer agencies review and evaluate each other can also help facilitate learning and sharing between organisations. As agencies assess each other they can pick up good practices that can be applied back in their own organisations and make recommendations based on what has worked well for them.

A key challenge to making peer reviews function effectively, however, is that peers, knowing that they are also to be assessed, may not be sufficiently critical. This can lead to questions over the credibility and rigor of the assessment from external audiences. Similarly, the process requires time and resources (developing a common framework for review, conducting the assessments, developing recommendations and discussing the findings), and the agencies involved may not be willing to commit what is necessary to ensure a credible and rigorous assessment. A further prerequisite for peer assessments to work is that

participating organisations trust each other and are willing to open themselves up to external scrutiny. In environments where there is strong competition for donor funds, and a lack of collaboration, this may not be the case. Lastly, to work effectively, the agencies involved in the peer review need to be chosen carefully and have sufficient aspects in common (eg structure, type of activities, size etc). In the absence of this, the recommendations may lack the necessary contextual understanding and the peer learning might be less meaningful.

**Third-party assessment**

**Box 3: Cross-sector partnerships: the Pakistan Center for Philanthropy (PCP) NPO Certification**

The PCP’s NPO certification aims to promote good governance, financial transparency and efficient programme delivery in the non profit sector in Pakistan and, by doing so, increase opportunities for credible CSOs to access resources and work more effectively. The programme involves a thorough evaluation of CSOs on internal governance, financial management and programme delivery, and is funded by the Pakistani government. This allows the PCP to only charge a nominal fee to the applicant, which covers around ten percent of the costs. The fee varies, depending on the size of the CSO defined on the basis of its financial receipts for the last three years. The partnership with the government began when PCP was approached in 2001 for recommendations on ways to develop a more conducive environment for civil society. Based on this an improved fiscal and regulatory framework was developed and collaborative work between the State and civil society was agreed to facilitate tax benefits as well as corporate, individual, diaspora and international giving. Since, then stable government funding has allowed the PCP to avoid putting excessive costs on its members, and to expand its work to include capacity building.

The most obvious benefit of third party assessment is that it provides an entirely independent assessment of an organisation’s compliance with standards. In environments where public trust in the sector is low and where donors want a strong signal to differentiate between organisations, the development of such a compliance system might be a necessity (see below). Furthermore, similar to peer assessments, allowing an actor that is independent of organisational politics and culture to assess an organisation can provide some refreshing objectivity and lead to new insights and solutions.

But as with all monitoring methodologies there are challenges to using third party assessments. The first issue is resources; third party certification requires sufficient financial and human resources both from the side of the implementing agency to conduct the reviews in a credible and effective way, and from the organisation applying for certification to pay for the review in the first instance, and then any subsequent review processes. In more resource constrained civil societies, this can pose a significant barrier. That said, a number of third party certification initiatives have developed innovative approaches to try

and overcome resource constraints. The Pakistan Center for Philanthropy (PCP) for example, has been able to secure state funding for its certification scheme (see **Box 3**). While of course this may not be appropriate in every context, it has allowed PCP to charge only a nominal fee from organizations that seek certification. The Philippines Council for NGO Certification on the other hand uses volunteers from within the CSO community to undertake the assessment process (see **Box 4**). The challenge of this approach, however, is ensuring that the assessors / auditors are well trained, rigorous and applying the same assessment methodology to all organisations.

### ***Complaints procedures***

A core advantage of complaints mechanisms is that they are less resource intensive than the more proactive monitoring mechanisms such as self, peer or third party assessment; this is probably why our research has found them to be the most favoured approach to monitoring compliance among codes of conduct (see above). However complaints mechanisms have their limitations; most notably, they do not encourage members to actively review their compliance, monitor performance and in turn develop action plans for improvement. In this regard they simply uncover instances of non-compliance rather than drive continuous improvement. The effectiveness of complaints procedures also hinges on stakeholders being aware of their existence and the accessibility of the mechanism itself. Evidence from our research suggests that very few initiatives have an outreach strategy in place to communicate and encourage the public to make use of their complaints procedures. One of the few exceptions is BOCONGO in Botswana, which assigns responsibility to a body called the Task Force to create awareness of the Code of Conduct and the channels available for complaints. The Task Force is also responsible for receiving and hearing complaints from stakeholders, and recommending action to be taken by the NGO.

### ***Sanctioning mechanisms***

The first step in dealing with organisations that are non-compliant with an initiative's standards is often to provide them confidential advice on where they need to improve and recommendations for achieving this. This approach has the benefit of allowing the organisation to rectify its behaviour - particularly important if the non-compliance was unintentional – and also helps support ongoing learning. At the same time, simply providing recommendations without any means for follow up if they are ignored may not be sufficiently strong to change an organisation's behaviour. Publicising the recommendations may go some way towards addressing this, as it puts additional reputational pressure on the organisation to implement corrective action. It can also help demonstrate the stringency of the initiative to external audiences. Yet, publicising recommendations can also undermine public confidence in the sector by raising awareness of the weaknesses of organisations. The threat of suspension from an initiative can serve as a strong deterrent against free-riding, if the benefits of membership are sufficiently desirable eg if membership is required to access funding. It also has the advantage of removing poor-performers from the “club” which can help strengthen the overall credibility of the initiative. Depending on how frequently an initiative is willing to suspend or expel members however, the existence of such sanctioning mechanism may be seen as too risky by some organisations and could discourage them from joining. It also depends on if the expulsion is implemented only once all other avenues such as recommendations have been exhausted. Lastly a fine can be a powerful mechanism for discouraging free riding, but it will only be effective if it is sufficiently high to outweigh the financial benefits to be gained from non-compliance.

### **Key factors shaping a compliance system**

Reflecting on the above discussion, four key factors can be identified that shape and influence the design of a compliance system: available resources, the nature of the relationship between civil society and the state, public trust in the sector, and trust and collaboration within the sector (see **Diagram 1**). As an organisation seeks to design a new

code of conduct or certification scheme, or revise and improve an existing one, these can provide a useful framework for deciding which approach to take.

**Available resources**

The more components a compliance system consists of, the more expensive it will be to administer. Mechanisms such as third-party assessment are costly to implement. Certification schemes usually require prospective organizations to pay an application fee to cover the audit process. Even self-assessment based initiatives, although in relative terms less expensive, if done well, still require organizations to make staff and financial resources available to review and collect internal data. Such costs can create barriers, both for the bodies developing compliance mechanisms, and for prospective organisations, if they have to bear the cost of monitoring. The form a compliance system takes will be shaped both by the resources that the organisation(s) initiating the scheme have at their disposal and the resources of potential participating agencies.

**State – civil society relations**

The political context also shapes the form a compliance system takes. In some countries such as Uganda, Colombia or Ethiopia, civil society organizations have developed self-regulation in reaction to threats or actions by the government to introduce restrictive legislation. In these circumstances any initiative that is developed by the sector has to be seen as credible in the eyes of the government or it will not have its desired impact. It therefore has to provide a strong signal that state regulation is not necessary and that the sector is self-policing. In such circumstances developing strong compliance mechanisms may be a political necessity.

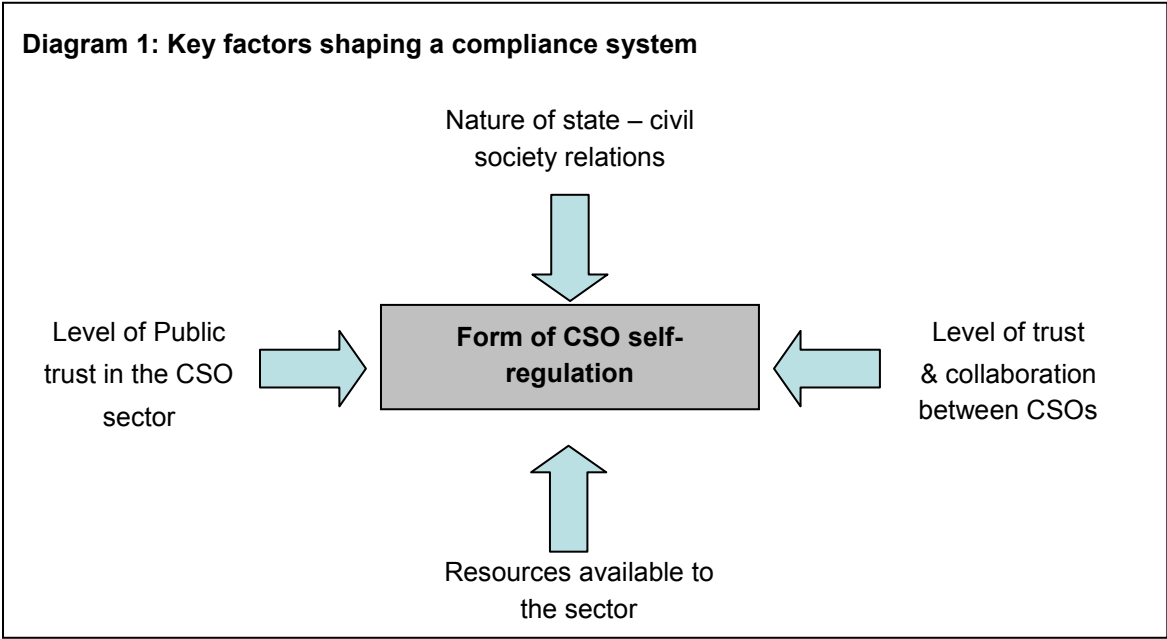
Take the example of Uganda; faced with a government that was increasingly hostile to the sector and threatening restrictive legislation, and a public that questioned the credibility and legitimacy of civil society organisations, the approach taken by DENIVA and others to self-regulation had to be seen as credible and rigorous. The NGO Quality Assurance Mechanism (QuAM) therefore combines a self-assessment, which is then verified through a peer review of desk and field evidence. Once certification is granted, it is valid for two years, but can be revoked if the standards are breached in a way that may endanger the credibility of an NGO, or the sector in general.

In other contexts where the relationship between civil society and the state is more amicable, the incentives offered by government for the sector to self-regulate can shape the nature of

**Box 4: Volunteer auditors and graded fees: the Philippines Council for NGO Certification (PCNC)**

All applicants for certification by the PCNC are subject to a site visit lasting two days by three evaluators, usually two volunteers and one member of staff. PCNC is very aware that the degree to which their activities can be scaled up depends on how financially sustainable the organization is and whether the supply of volunteer evaluators is sufficient. So far, 1,147 volunteer evaluators have been trained. They are provided by NGOs which have become PCNC members and as such accept an obligation to provide evaluators, although this raises the issue of whether it will be feasible for small NGOs to meet this requirement. Volunteers are provided with training and there is periodic quality control. At present all NGOs are charged the same fee for certification. This covers the average cost of certifying an NGO within Manila, but not the cost for an NGO in a distant province. With no prospect of government contributions, PCNC is now considering grading fees; keeping the present level for smaller organizations but increasing fees for larger ones. Offering training in governance for the boards of member NGOs is another potential source of income for PCNC.

the compliance system. In a number of countries, the government makes access to funding or other benefits contingent on compliance with a particular set of standards developed by the sector: in these contexts strong third party certification schemes emerge. This is because in delegating state authority to a non-profit entity, or providing them with tax payers money, the governments wants reassurance that standards are being met. This is the case with the AusAid accreditation scheme in Australia, the Pakistan Center for Philanthropy Certification, the Philippine Council for NGO Certification, the Statement of Guiding Principles for Fundraising of the Irish Charities Tax Research Ltd and the Charity Council Code of Governance in Singapore.



**Public trust in the sector**

Securing public trust is another factor which shapes an initiative’s approach to compliance. If the public’s trust in the sector is low, self-regulation must be seen to provide a level of rigor that ensures basic standards are met. In contexts where there is a deficit of public trust in the sector, a code of conduct with no form of compliance system will not be enough. In the Netherlands for example, there was growing public scepticism towards NGOs because of the incidence of fraudulent organisations raising funds from the public for bogus causes. As a result, the Centraal Bureau Fondsenwerving (The Central Bureau on Fundraising) developed its Seal of Approval to demonstrate to the public that an NGO is a worthy recipient of donations. Based on a third-party, field-based assessment the certificate lasts for three years, and if an organisation is found to have breached the standards, the Seal will be removed with public announcement. Crucially, public awareness of the Seal has been raised by a series of television adverts explaining its importance and function. A study of the CBF Seal of Approval by Beckkers (2003), has subsequently found that certified charities were felt to be more trustworthy by members of the public (p. 603), and also received higher levels of donations (p. 609). Similar factors drove the founders of Indian Confederation of NGOs (ICONGO) in India to establish the Omega Rating, a system of third party auditing of NGOs. Faced with rising scepticism towards the NGO sector in India, ICONGO felt that the only way



to start rebuilding public trust was through an initiative which emphasises third party verification (See Box 5.)

### ***Trust and collaboration within the CSO sector***

Self-regulation can also be shaped by the level of trust and collaboration that exists between CSOs themselves. Monitoring mechanisms require member organisations to willingly open themselves up to outside scrutiny, be this from the body administering the initiative, a peer organisation or a third party actor. Doing so requires that organisations trust the process and those involved. In an environment where there is strong competition between NGOs for funding exposing an organisation's weaknesses publicly, or even to a peer agency, could be used against it. Co-ordination within the sector can also be important. A CSO umbrella group/ association which has legitimacy within the sector can play a valuable role coordinating and leading the process of developing a self-regulatory initiative. In the absence of such a body, efforts at developing self-regulation may become fragmented.

#### **Box 5: ICONGO's Omega Rating**

In India there are now around 1.7m NGOs and the numbers are growing at an increasing rate. This growth has increased concerns about organisations emerging simply to take advantage of the funds available from private funders and tax benefits. The perception of corruption in NGOs has also diluted the effectiveness of the sector as a whole; the credibility of NGOs is at a low. The Indian Confederation of NGOs (ICONGO) is attempting to remedy this credibility deficit through the Omega Rating, a certification scheme which assesses financial management and human resources policy, particularly with regard to issues such as sexual harassment. To date it has audited 87 organisations and recently reduced the number of organisation it was certifying to maintain the integrity of the accreditation process: there are 4000 NGOs currently applying to be assessed. The Omega Rating is just one part of a 5-year programme of advocacy and lobbying to mainstream the idea of earning and standardising legitimacy and credibility for the NGO sector.

### **Conclusions**

The paper has outlined the different approaches that exist to monitor and enforce compliance with the principles and standards set by CSO self-regulatory initiatives and the benefits and challenges associated with these. It has shown that, problematically, less than half of all of the initiatives (47%) that currently exist worldwide have any element of a compliance system, and among the most common form of self-regulation – codes of conduct - this percentage drops to 27%.

Given the existing research on self-regulation both from the NGO and the corporate sectors, that points to the strong link between the existence of compliance systems and the effectiveness of self-regulation, these figures raise some significant questions about the ability of many existing CSO self-regulatory initiatives to improve practice with the sector or help build trust with the public and donors.

While designing a code through a highly consultative process will certainly help in encouraging its adoption, this is rarely enough; incentives and sometimes sanctions are also needed. Importantly we have shown that there are lots of options out there. The challenge is in finding the approach that is best suited to the context and that allows the initiative to meet the demands of different stakeholders.

CSO self-regulation is a rapidly developing field; efforts are underway through the Open Forum on CSO Effectiveness to define common principles of effectiveness and quality for CSOs worldwide, a growing number of initiatives are in development at both the national and

international level, and a number of donors are funding CSO self-regulatory initiatives as part of their efforts to build capacity and support an enabling environment for civil society to operate. It is crucial that in all of these areas of activity sufficient thought and resources are put into identifying what needs to happen after a set of principles, standards or framework are developed. For as our research and that of others has indicated, without systems for monitoring and where necessary enforcing compliance self-regulatory initiatives are unlikely to meaningfully influence an organisation's behaviours and practices.

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Civil society organisations (CSOs) are facing increasing pressure to demonstrate their accountability, legitimacy and effectiveness. In response, a growing number are coming together at national, regional and international level, to define common standards and promote good practice through codes of conduct, certification schemes, information services, working groups, self-assessment tools, and awards. However, CSOs, donors and other potential users are often unaware of their existence, what distinguishes one initiative from another, the strengths and weakness and gaps in existing self-regulation. This makes it difficult for organisations to make choices around which initiative best suits their needs, and to develop good practice. The One World Trust's CSO self-regulation initiatives project provides the first comprehensive inventory of such civil society self-regulation initiatives worldwide, offers additional analytical resources and related advisory services.

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