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Do Benefit Corporations Represent a Policy Threat to Nonprofits?

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Abstract:
In the US and increasingly internationally as well, considerable efforts have been made in recent years to introduce new legal forms, such as the benefit corporation, at the local level as an additional structural option for social entrepreneurs. These efforts have been met with considerable apprehension on the part of nonprofit sector advocates, who perceive these new organizational forms as potential competition. This paper investigates whether the benefit corporation is in fact a likely competitive threat to nonprofits. Presenting the findings of an early uptake study, it reviews the early experience with the state-level introduction of the benefit corporation in Maryland, the first state to adopt the new legal form.

Keywords: nonprofit legal structure, benefit corporation, hybrid organizations, social enterprise, Maryland

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1 Introduction

While nonprofits were long the predominant alternative to the traditional for-profit form, the social enterprise boom in recent years has led to a growing interest in hybridity and a proliferation of various new legal forms available to social entrepreneurs. Even the concept of a fourth sector comprised of "for-benefit enterprises" has been proposed (Sabeti 2011). Two principal forms of hybrids have emerged in the US: the L3C and the benefit corporation. While the L3C construct has been broadly questioned in the past (e. g. Callison and Vestal 2010; Kleinberger 2010) and its development has stalled in recent years, this paper focuses on the benefit corporation (BC). A principal player in its evolution has been the Pennsylvania-based B Lab, an organization whose mission is focused on "using the power of business as a force for good." B Lab pursues this mission by providing a certification for socially and environmentally-conscious businesses ("B Corps"), and separately, the introduction of benefit corporation statutes at the state level in the United States and increasingly globally.[1] Whereas the B Corps is no more than a voluntary certification, state statutes establish the BC as a formal legal form.

According to BC promoters, the new legal form is principally a solution to problems with the for-profit form, addressing issues in corporate law arising from the "shareholder primacy" doctrine, but it was not intended as an alternative to the nonprofit form. Yet, nonprofit scholars and advocates view BCs as a challenge, and a policy threat, to the sector, assuming that both pursue similar missions. Some of the literature accordingly tends to equate the public or social purposes of BCs and nonprofits. For example, Wilburn and Wilburn 2014, 14) hold that the BC form "provides social entrepreneurs with a path to growth that is not available under existing non-profit structures that do not allow long-term profit and rely on donations and grants." Rawhouser, Cummings and Crane (2015, 15) suggest that BCs and other hybrid legal constructs "draw properties from both profit-oriented legal forms … and purpose-oriented nonprofit legal forms (e. g. charitable and philanthropic organizations)." In the views of these scholars, BCs and other hybrids are then an alternate vehicle for the pursuit of charitable, nonprofit purposes. Policymakers likewise conflate BC and nonprofit purposes, fostering the perception of BCs as an alternative to nonprofits in promoting BC policies at the local level.

While the legal-conceptual literature is burgeoning on the topic, empirical evidence remains scarce. However, gaining a basic empirical understanding of what BCs do has potential consequences for public policy. As Vaughan and Arsenault (2018, 58) hold, "hybrid corporate structures are new enough that their implications are largely unknown. If organizations that would typically incorporate as a 501(c) become benefit corporations in large numbers, public tax coffers could be improved because fewer organizations have tax-exempt status."

The research question motivating this paper is accordingly whether entrepreneurs perceive the benefit corporation primarily as a mechanism to conduct socially-oriented proprietary businesses or as an alternate conduit for traditional nonprofit activities. If the former, nonprofits and their advocates need not be concerned about a competitive challenge to their support bases and funding prospects. If the latter, there would be a clear

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call for formulating an appropriate policy response to tackle the shortcomings of the nonprofit form that make alternatives such as BCs appealing.

In the following, I will briefly introduce the concept of the BC and how the introduction of this new legal form has been received by nonprofit scholars and advocates. This is followed by the presentation of findings of an early uptake study in Maryland that reviewed the corporate charters of newly-formed BCs and secondary sources in the first years after Maryland enacted its BC statutes. This allows an assessment of whether potential charities indeed chose BC status instead of the nonprofit form–the question raised by Vaughan and Arsneault (2018) and others (Smith 2014). I conclude with an outlook on where nonprofits and BCs could usefully intersect in the future.

2 The Principal Rationale for the BC

B Lab's founding, its B Corps certification, and subsequent drive to push for BC statutes at the state level took its motivation from Unilever's hostile takeover of Ben & Jerry's and the realization that socially-responsible business practices and social aspects of corporate missions may not hold up in takeovers or generally to shareholder pressures in public corporations. Common lore holds that Ben & Jerry's founders felt legally compelled to sell to Unilever as the highest bidder, although their preference would have been for a lower bid that came with a commitment to continue their social business practices (Murray 2012b; Hiller 2013; Wilburn and Wilburn 2014). At issue were the legal doctrines of shareholder primacy and profit maximization that put corporate directors at risk of breach of fiduciary duty with decisions that prioritize social or stakeholder concerns over shareholder wealth maximization (Munch 2012; Murray 2012a,b; Hiller 2013; Wilburn and Wilburn 2014). However, the claim that corporate law would have required Ben & Jerry's sale to the highest bidder has faced significant legal questioning (Page and Katz 2012).

The basic concept of the benefit corporation is to safeguard corporate social mission objectives and to protect directors from shareholder law suits, when the corporation sacrifices profit maximization or shareholder value creation for the sake of pursuing social or environmental objectives. By requiring directors, by way of the corporate charter, to take general and specific public benefits into account when making business decisions, the fiduciary duties of corporate directors are not limited to financial objectives anymore and this allows them to pursue social objectives without fear of recrimination. As such, the benefit corporation is engineered as a specific solution to a perceived issue in corporate law. As the founder of Patagonia—a company that is another often-cited example of the need for BC status—noted on re-registering the company as a benefit corporation in California: "Benefit Corporation legislation creates the legal framework to enable mission-driven companies like Patagonia to stay mission-driven through succession, capital raises, and even changes in ownership, by institutionalizing the values, culture, processes, and high standards put in place by founding entrepreneurs" (quoted in Rawhouser et al., 2015, 14). Despite the willingness of BC promoters to buy into the principal rationale, the question of whether it addresses an actual legal problem remains up for debate (Blount and Offei-Danso 2012), as legal scholars contest the notion that fiduciary law forces a primacy of financial returns in the first place (Reiser and Dean 2017). Be that as it may, by encouraging social entrepreneurs to pursue social and financial returns simultaneously, the benefit corporation essentially emerged as a response to dissatisfaction with the for-profit form. To some observers, the benefit corporation "is currently the most effective vehicle through which social entrepreneurs can ensure their blended value goals are being considered and achieved" (Esposito 2012, 639); others find it particularly suitable for social and sustainable businesses (Brewer 2016).

The BC attempts to achieve that by establishing a for-profit corporate entity that has some broadly defined "general public benefit purpose" in its charter that directors are obligated to take into account and which obligates itself to external third-party review and transparency of its pursuit of the social mission aspects. These defining elements of the BC form are laid out in a model BC statute that states can chose to adopt.[2] Maryland was the first state to adopt the BC statute. Maryland's lead was followed by a major effort to get other state legislatures to follow suit. As early 2019, 34 states had adopted BC laws and another six had them under consideration.[3]

3 The Perceived Challenge to Nonprofits

Although rooted in issues with the for-profit form and designed as a for-profit entity, the push to spread BCs has drawn growing attention from both nonprofit analysts and advocates in recent years and is broadly perceived as a policy threat to the nonprofit sector. The reasons for this are manifold:

First, due to the vague definition of public purposes in BC statutes,[4] there is no clear dividing line between BC and charitable purposese, meaning that the benefit corporation principally also allows the pursuit of traditional nonprofit missions with for-profit means (Plerhoples 2016). As noted earlier, this fosters the perception that the BC can function as an alternative to nonprofits, although without tax exemption. As such, it presented itself as a welcome new option for social entretreneurs dissatisfied with the structural limitations of charitable nonprofits. Specifically, the nondistribution constraint makes the nonprofit form unappealing to social entrepreneurs interested in generating financial and social returns at the same time. Moreover, even if financial returns were not an issue, the traditional nonprofit form is often seen by social entrepreneurs "as too complicated, too restrictive, and over which they would have little or no control," as Schmidt (2010, 177) found in her study of early social hybrid adopters in Vermont (see also Munch 2012). As a result, "some proponents of the new social enterprise chafe against the strictures of the nonprofit form [pushing for new structures] that can better accommodate their socially driven business ventures" (Young, Salamon, and Grinsfelder 2012, 534). At the same time, the traditional nonprofit often gets demonized and dismissed by social enterprise supporters (see Child 2016).

Secondly, in the policy practice, BCs often get conflated with, or even explicitly pitched against, nonprofits by BC promoters. For example, rather than referring to Ben & Jerry or Patagonia-like socially-responsible business missions, current US Congressman and then-Maryland State Senator Jamie Raskin envisioned that these organizations would essentially adopt traditional charitable purposes "like bringing a local river back to life, providing affordable housing, facilitating animal adoptions or promoting adult literacy" (Raskin 2011). Raskin was the legislative sponsor of the Maryland benefit corporation bill and therefore the first policymaker to shepherd the benefit corporation into law. Another local policymaker was more explicit about it. The BC represents a "new business model for nonprofits" that frees "socially minded entrepreneurs [from being] bound by the old nonprofit structure," argued then-interim Councilmember Sekou Biddle in a *Washington Post Commentary* (Biddle 2011) while introducing the benefit corporation legislation in the Council of the District of Columbia.

In its *Legislative Guide*, B Lab itself portrays the BC factually as an alternative to nonprofits as much as for-profits:

> Traditionally, entrepreneurs had to choose between for-profit entities and 501(c)3 [sic] designated nonprofit entities. Each path has its pros and cons, but neither is ideal for entrepreneurs aiming to reconcile financial, social, and environmental goals ... 501(c)3 nonprofit organizations are not structured to sell a product or service. Their intended purpose is to instead fill a gap in government services—not turn a profit—and accordingly depend on funding from endowments and donations (Barnes, Woulfe, and Worsham n.d.: 7).

Policy rhetoric thus contributes to the creation of "a muddy middle where it is increasingly difficult to separate, for example, a nonprofit from a business enterprise" (Andersson and Never 2014, 1).

Accordingly, there has been growing concern within the nonprofit sector that the new hybrid forms will evolve into a new source of competition, going head to head with traditional charities in competing for funds including the attention of impact investors (Rawhauser et al. 2015). If so, the pursuit of charitable activities by benefit corporations could, as one analyst fears, lead to potential "nonprofit displacement" (Plerhoples 2016). Another similarly considers "the increased competition that the sector faces from for-profit and hybrid social enterprises" a major challenge; and while "the extent to which these forms will become prevalent in providing solutions to societal problems [remains to be seen,] they will be a part of the discussion for which nonprofits will need an answer" (Never 2016). The recent conversion of California's Alliant International University from nonprofit to benefit corporation status may well remain an outlier rather than "the latest adaptation in higher education's ongoing evolution" (Cox 2016, 761), but it demonstrates the benefit corporation's potential to encroach on traditional nonprofit territory. Such an encroachment would accelerate "if the federal government allows money spent on social benefit to be tax deductible" (Wilburn and Wilburn 2014, 19). Independent Sector therefore opposes the granting of any tax advantages to any of the new hybrid forms.[5]

In sum, although the benefit corporation was a response to problems with the for-profit form, it arguably also morphed into a potential solution to problems with the nonprofit form. Alicia Plerhoples (2016, 21), based on her analysis of the initial experience with a related concept in Delaware, accordinly points out that "regardless of the original intentions of its sponsors, the public benefit corporation statute has altered the landscape of entity selection, offering not just an alternative to for-profit corporations but also an alternative to charitable organizations." As Smith (2014, 501) notes, whether the new hybrid models "are a solution for the capital and structural limitations of nonprofits or simply a very restricted market niche and a faddish strategy to social problems" becomes an important research question.

To answer this question, or to gauge any policy implications or the need for policy responses, it is first necessary to establish some baseline data on what the BC form is actually used for: Do entrepreneurs predominantly use BCs to establish socially-responsible businesses or to pursue nonprofiy missions with other means? Although BC laws have spread to now 34 states, there have not been any published state-level empirical studies to address this question so far, but one: Plerhoples, 2014 study in Delaware. As state-level experiences can be idiosyncratic,[6] additional data are needed to inform the growing policy interest and discussion.

4 The Early Experience with the Public Benefit Corporation in Maryland

To gain a sense of what purposes benefit corporations are being used for at the grassroots level, I examined the organizations that registered as benefit corporations in Maryland between 2010 and 2013. This study adds to the small body of similar early uptake studies in other states, such as Talley's examination of benefit and flexible purpose corporations in the year of their introduction in California in 2012 (Talley 2012; Finfrock. and Talley 2014), which did not focus on corporate missions; and Plerhoples (2014) study of public benefit corporations within the first three months of the statute's enactment in Delaware in 2013.

Maryland was the first state to adopt a BC statute, signed into law in April 2010 and in effect since October 1, 2010. Based on the B-Corp model legislation (see FN 2), the MD benefit corporation law is pretty standard, that is essentially the same as the model statutes enacted subsequently in nearly three dozen other states. Maryland also followed up with a second law, introducing a benefit LLC in addition to the BC, approved by the governor in May 2011 and effective since June 2011. This was somewhat less standard, but it extends liability protections to managing partners and the marketing advantages of the benefit corporations to smaller social businesses that do not incorporate for tax reasons (Sheehan 2011).

As of early summer 2013, at least 50 business entities could be identified that had registered between October 2010 and end of May 2013 under the two relevant acts. Of these, 18 were benefit corporations and 32 benefit LLCs. Similar to the later experience in California (Finfrock. and Talley 2014), the initial uptake was very slow, averaging about 1.6 new benefit corporations and 3.2 new benefit LLCs per quarter over the first 2 and ½ years (Figure 1). The fact that benefit LLCs were established at twice the rate of benefit corporations suggests that the greater legal complexity and federal income tax implications of the corporate form may be another contributing factor to slow initial uptake observed elsewhere (ibid.).

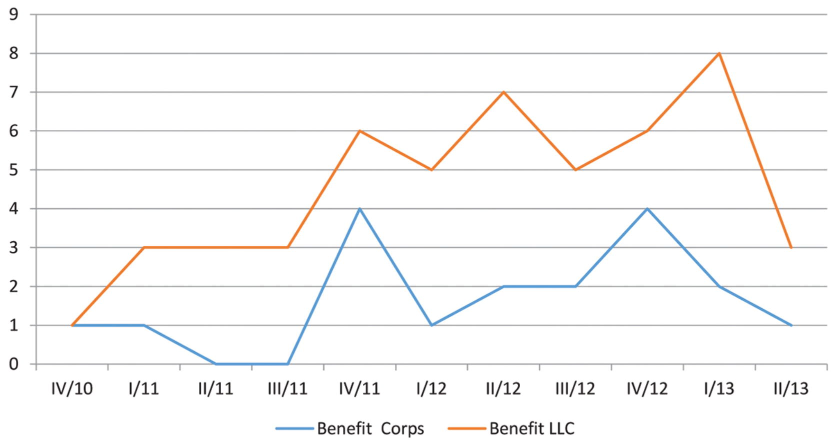

Figure 1: New Benefit Corporation and LLC Establishments in Maryland, by quarter, 2010–2013.
Source: own data.

Maryland benefit businesses are active in a range of industries, showing some diversity in the entrepreneurial impetus. As shown in Figure 2, the by far largest share of these organizations provide a variety of business services, comprising mostly consulting companies. Retail, technology, education, energy, and development and individual and community services also draw interest, with variation in the mix of benefit corporations and LLCs across the fields. Comparing the data to Plerhoples (2014) findings of the early public benefit corporations in Delaware shows some similarities and differences. She also found in a high share of professional services (31 %), including consulting, a roughly comparable share in education (11 %), somewhat lower shares in retail (11 %), technology (11 %) and energy (4 %). Healthcare (9 %), employment (4 %) and food and agriculture (5 %) were industries that were represented in Delaware, but not in Maryland.

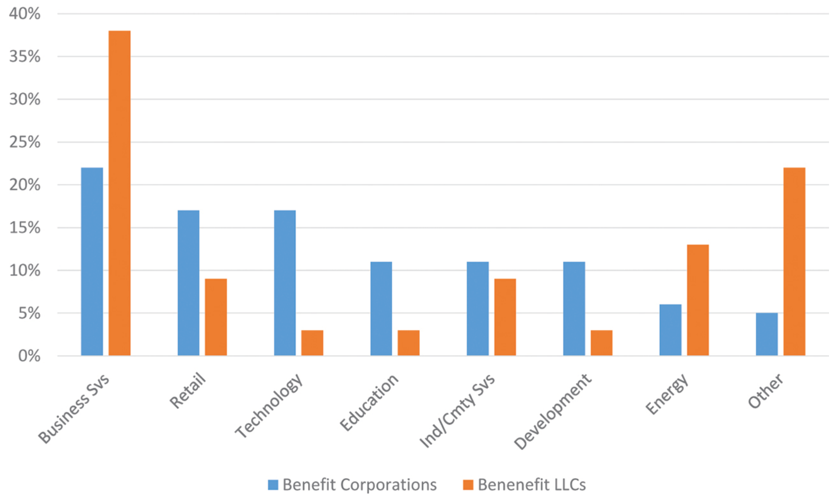

Figure 2: Maryland Benefit Corporations and LLCs, by industry, 2010–2013.
Source: own data.

To approach the main research question of whether entrepreneurs chose the BC option primarily to pursue socially-focused for-profit activities (in line with the basic BC concept) or to establish nonprofit-like ventures, I utilized Kim Alter's hybrid spectrum (cit. in Murdock, 2010) and similar frameworks (Mitchell, Kingston, and Goodall 2008; Fruchterman, 2011; Young and Lecy 2014; Young and Longhofer, 2016) as a heuristic devise to classify the Maryland BC universe along the different types of structures in the social enterprise continuum. To classify individual BCs, I reviewed the charter documents and available web resources (company websites, news reports, etc.). After briefly recounting the five major types of Alter's hybrid spectrum, I note a few examples to illustrate how the local BCs populate the range of the spectrum. I then give the frequencies of the five types among the early adopters of the BC and benefit company forms in Maryland.

I. Socially-responsible Businesses: regular businesses that have as add-on (secondary) benefits, such as deep commitment towards embedding social or environmental responsibility in their structures, cultures and business operations; the promotion of environmentally or socially desirable products and services; or the adoption of "Give back" mandates, usually in form of a set percentage of sales that will be donated to charitable causes or used to support non-business programs of their own.

II. Social Businesses: businesses that focus their primary activities (core business) on special constituents, especially underserved or disadvantaged populations, but are primarily intended to provide a livelihood for the entrepreneur by providing socially-focused services;

III. Social Enterprise I: enterprises that target special constituents, especially underserved or disadvantaged populations, by actively engaging their clients in the production of goods or services; or cooperative-type enterprises that give their clients or members voice in the management of the enterprise. In contrast to the social business, it is intended to improve the livelihoods of the client base.

IV. Revenue Generators for Nonprofits (or Social Enterprise II): business operations that are set up to generate income and support for a specific affiliated nonprofit.

V. Traditional Nonprofit Activities: socially-focused activities that are frequently associated with the non-profit sector.

The first Maryland benefit corporation to register under the law was a socially-responsible business: Big Bad Woof—an eco-friendly, organic and holistic pet supply store. Other examples in this category include the Allison Sosna Group benefit LLC (Chef Alli), a catering and health food business that also seeks to provide healthy food options in DC's public schools, and Solar Honey benefit LLC, a solar consulting and installation company that arranges solar power purchase agreements for their clients.

Otherwise, the entrepreneurial impetus was primarily with social business ventures, comprising a wide range of consulting companies offering technology, strategy, communications and other services either broadly or geared towards specialized client groups (eg, cooperatives, social enterprises, black or women entrepreneurs). Examples here include Blessing Buddies, a women-owned business, aimed at providing affordable house-cleaning and other non-medical support services primarily to the elderly and disabled on a sliding fee scale; and Ubuntu Future, a business consultancy working with female entrepreneurs on developing 'conscious brands.'

As these examples indicate and shown in Figure 3, four out of five of the entities that chose to register under the Maryland Benefit Corporation Act within the first three years of its enactment, where essentially small-scale businesses. On first sight, the majority of benefit business activity represents a socially-focused section of the business sector more than a real alternative to the nonprofit form as collective good provider. Many benefit businesses view the choice of legal form as a PR and marketing strategy (Borden 2011). For local nonprofits and charitably-minded entrepreneurs, by contrast, the benefit corporation did not appear to provide sufficient incentives to attract significant early adoption, raising the question of its potential to significantly change the boundaries between the market and nonprofit sectors. Based on the early evidence from Maryland, benefit corporations and companies do not appear to provide a significant competitive threat to traditional nonprofits and, on balance, rather seem to occupy commercial market niches.

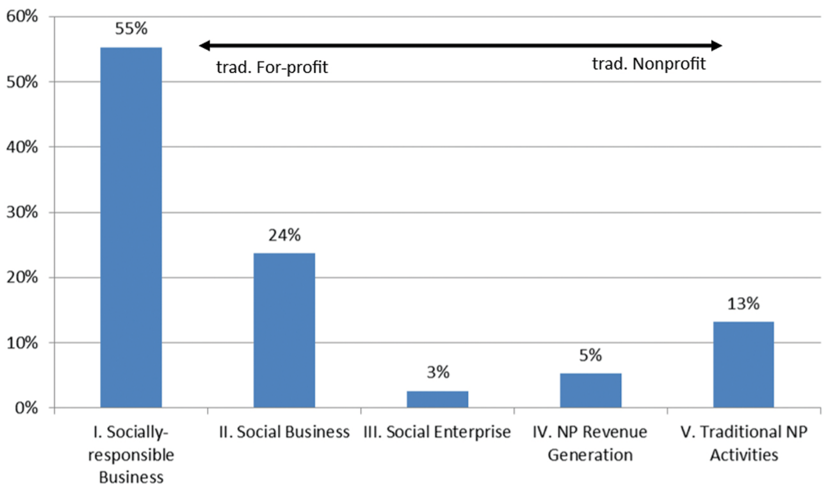

Figure 3: Maryland Benefit Corporations on a Continuum from For-profit to Nonprofit, 2013.
Source: own data.

This study adds to the findings of the other early uptake studies in California and Delaware. The California study (Finfrock. and Talley 2014) did not address the BC/nonprofit borderline, however, other than noting the opposition of nonprofits and nonprofit advocacy organizations as a possible reason for the slow initial uptake of flexible purpose and benefit corporations in that state. Plerhoples (2014), by contrast, also looked at BCs vis-à-vis nonprofits and found a higher share of public benefit corporations that alternatively could have taken the nonprofit form in Delaware: Public benefit corporations that could have been charities accounted for more than one third (35 %) of the early adopters there (compared to about one in five in Maryland).[7] In her subsequent analysis, Plerhoples (2016) points to the possibility of public benefit corporations displacing nonprofits as well as the potential pitfalls of pursuing what are principally charitable activities through these corporations. To address such problems, she proposes a "mandatory stakeholder-stockholder requirement for charitable public benefit corporations" to empower and engage stakeholders (p. 81).

5 Concluding Outlook

The introduction of the new hybrid forms has raised significant questions for nonprofit scholars: Are the new legal forms a valid alternative or do they merely occupy a "restricted market niche ... Do social entrepreneurs take advantage of these new rules, or are they continuing to use the nonprofit corporate form? How extensive is the conversion of organizations from the nonprofit form to these new hybrid entities" (Smith 2014, 1501)? Is the benefit corporation thus likely to outcompete nonprofits in their traditional areas of activity? While far from providing definitive answers, the early adoption experience of the benefit corporation in Maryland suggests that this might not be the case (at least as of yet) and that the nonprofit sector need not be overly concerned. Clearly, traditional Maryland nonprofits were not rushing to embrace the new legal form to escape the well-established shortcomings of being nonprofit. The considerable effort that went into convincing state legislatures to enact local laws energized the socially, environmentally and community-oriented niches of local markets, however, that see a competitive edge in the benefit corporation designation (Borden 2011). It might help a business like Big Bad Woof to stand out from the commercial pet supply competition, but it has not generated a new approach to "facilitating animal adoptions" (Raskin 2011) that would encroach on the Humane Society's territory. This is not to say that the benefit corporation has no broader merit, as there are a number of enclaves or niches of commercial and nonprofit activity that may well be served by the new approach, especially where entrepreneurs are interested in blended value and the nondistribution constraint outweighs the tax advantages of charitable nonprofits. An interesting Maryland example is the Oliver Grayson Holding benefit LLC, established to structure financing of a multi-use real estate development that would also house a National LGBT Museum (BusinessWire 2012). Furthermore, social enterprises that utilize actual businesses to train or rehabilitate their clients, variously referred to as social purpose (Young, Salamon, and Grinsfelder 2012) or work integration enterprises (Cooney 2016) might be another case in point. One nationally-prominent example of this type of social enterprise, the Greyston Bakery, was the first BC to register in New York in 2012.

Additionally, the BC may also be a good option for some institutions that market forces are slowly pushing out of the business sector, such as independent bookstores, art house movie theaters, print media or even grocery stores in so-called food deserts (Chason 2018). In fact, the Curious Iguana bookstore was among the early adopters of the BC in Maryland (curiousiguana.com). But here too, social entrepreneurs might find the nonprofit form appealing as well if the pursuit of financial return is not of the essence: after closing in 2001 as a commercial movie theater, for example, the historic Avalon Theatre in Northwest Washington, DC was saved by a grassroots community initiative in 2003 and has since been operated as a nonprofit (www.theavalon.org/). Small poetry presses have been converting from for-profit to nonprofit status since the 1990s (Lobnitz 2015). A chain of small town newspapers and the *Tampa Bay Times* have come under nonprofit ownership (Nesmith 2016). In the most significant development in this particular respect, Philadelphia Media Network, parent of the *Philadelphia Inquirer*, was recently converted to a benefit corporation, as part of an effort to keep the newspaper sustainable. However, the conversion itself was not sufficient to ensure the paper's economic viability and involved complex further transactions, in which the new benefit corporation was donated to a charitable entity, which in turn belongs to the Philadelphia Foundation, a 501(c)(3) community foundation (Barbash 2016).

While the Maryland experience indicates that the vast majority of local benefit corporations and companies are established by entrepreneurs seeking some degree of blended value outside of the traditional fields of nonprofit activity, other evidence suggests that the BC form is being adopted outside its original scope and evolves into an alternative for nonprofits as much as for-profits (Plerhoples 2016). Moreover, large-scale cases like the *Philadelphia Inquirer* or Alliant International University– which has a charitable foundation with control over the mission as a part owner (Cox 2016)—suggest the possibility of greater intermingling of nonprofit and benefit corporation forms in subsidiary relationships.

What the advantages of benefit corporations are in such constructs remains to be seen, especially if financial return is not a prerogative. In such cases, other options might be desirable. Somewhat emphatically, McCambridge (2014, 1) notes: "We need not change form or tax status, nor make up new categories of organizations, to achieve hybridity; the potential for enormous flexibility is already written into nonprofits." Further exploring this flexibility while the benefit corporation concept is still being tested, may certainly prove a sensible approach for purposes within the traditional domains of charitable activity.

Notes

1 https://www.bcorporation.net/ B Lab has taken the approach to the international level, with Italy the first country outside the US to adopt a respective law.
2 http://benefitcorp.net/sites/default/files/Model%20benefit%20corp%20legislation%20_4_17_17.pdf BCs can voluntarily add additional more specific public purposes.
3 For updates, see http://benefitcorp.net/policymakers/state-by-state-status Some states opted to draft their own statutes introducing some modifications. Delaware, for example, enacted its own version of the benefit corporation, called the "public benefit corporation," that differs from the B Lab model act. California enacted two different options: BCs and flexible purpose corporations.
4 The model legislation defines general public benefit as: "A material positive impact on society and the environment, taken as a whole, from the business and operations of a benefit corporation assessed taking into account the impacts of the benefit corporation as reported against a third-party standard."
5 See https://www.independentsector.org/hybrid_position; also Hines, Horwitz, and Nichols (2010).
6 Rawhouser, Cummings, and Crane (2015), for example, attempt to determine state-level influences on the adoption of BC legislation. In addition, states differ in the way BCs are adopted. Maryland, like most other states, adopted the B Lab model legislation, but uniquely followed up with a second benefit LLC statute. California created a second alternative, the flexible purpose corporation, in addition to the BC. Delaware chose to write its own statute, creating a public benefit corporation.
7 Given the small numbers involved in both studies, it is important to avoid over-interpreting the difference. On the other hand, it is indicative of a need to continue similar work in additional states before more definitive conclusions can be drawn.

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