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"The Road is Long"
Merger Masterclass

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Many managing partners regard the delivery of a successful merger as their gold-standard achievement. In one act they see themselves able to demonstrate, for the entire world to see, that their firm is going places, has ambition, and is prepared to move decisively and determinedly to achieve its goals. It puts their business on the commercial map and sends a positive message to clients and staff, while at the same time firing a warning shot across the bows of competitors. All in all, delivering a merger is the sine qua non for many a law firm leader. It has also proved to be a consistently elusive goal, and for some, indeed, a Rubicon they wished they had never crossed.

Here we will consider a number of the opportunities and threats that may typically arise and how they need to be addressed.

At what cost?

In the highly-charged atmosphere that surrounds any merger negotiation there is a danger that a mindset emerges in which 'getting the deal done' overrides all other considerations. The emotional and resource investment of the negotiating teams, combined with the strong psychological desire not to fail having come so far, can mean that compromises are made and concessions granted. In the cold light of day, not all of these will appear wholly rational.

In the same vein, a host of business case assumptions will be made that pander too much to wishful thinking and not enough to the commercial realities of the merged firm's challenges and market position. These run the risk of being overly positive when considering the synergies that need to be realised, and not pessimistic enough in evaluating more negative risk scenarios in terms of both their probability and impact.

Add advisors who are increasingly working on a heavily contingent basis to this heady mix, and the forces compelling the management teams to 'sort these things out post-merger' can be irresistible. However, this is never a wise option and will often mire the new firm in months, if not years, of post-merger angst.

It is commonplace to hear statistics relating to merger success (or failure) recounted with aplomb by managing partners and consultants, as if they stand aloof from the failures of others to capitalise on their opportunities. The implication, of course, is that where others have failed, they will succeed.

Great mergers are not about doing deals! Of course, structuring the deal correctly is important, but this should be regarded as necessary rather than sufficient. In the final reckoning, successful mergers are not delivered through an academic treatise, no matter how compelling, nor by the sheer force of personality of the negotiators, but because they fulfil clear strategic objectives and are delivered through the hard yards of focused and determined implementation.

Getting the strategy right

The strategic logic underpinning any merger is of fundamental importance. The strategy need not be overly sophisticated but it must be founded in reality and supported by some testing of the assumptions on which it is based.

However, it is also clear that a purely cognitive rationale cannot realise the benefits of any union. What is required is a well thought through implementation plan, which builds on the core principles of change management – a raised sense of urgency, a well-communicated vision and broad empowerment to act.

It is vital to articulate a clear rationale as to why the merger makes sense from a number of perspectives – market; client; competitive; synergies and savings, to name but a few.

It should never be forgotten that a merger is simply a means of fulfilling clear strategic objectives. Consequently, the benefits of any proposed union should be stated in these terms. It also follows that tactical or opportunistic rationales should generally be discounted. For example, a merger should not be a means of uniting two smaller underperforming firms into a single, larger underperforming one. Neither should it be regarded by one of the parties as a simple ‘safe harbour’ option in challenging times, but one which has no strategic logic or emotional buy-in in the longer term.

Catalyst for enduring change

A successful merger creates something better than either party could have realised on its own. This must be something enduring rather than transient. Implicit in the process is business transformation and the proactive management of change. It is the role of the leader to set out this vision for the future.

Smart leaders recognise they are engaged in a change process and use recognised approaches, such as that promulgated by John Kotter in Leading Change, to navigate their firms through the choppy waters they will almost inevitably encounter.

Working with what you have

In such deliberations the key question for leaders to consider is ‘what will need to change and how will we bring about these transformations?’ It should never be forgotten that the same people, with their strengths and limitations, will exist in the new business as in its antecedents.

For example, the financially important but notoriously difficult partners who were not team players and refused to cross-sell other services in their antecedent organisations will remain in the merged firm. In itself the merger will not change this situation. However, it may allow the new firm to put in place values, performance management and reward systems that make such behaviour unacceptable. Of course, the firm will also need the resolve to follow through on the implications of these new systems for those who do not wish to change.

What this means in reality is that the partners in question will do one of three things – modify their approach to adapt to the new firm, 'go underground' and hope not to be identified or leave for other pastures where such behaviour will be more tolerated. Experience suggests that the majority will choose the second option, perhaps hoping that the zeal of post-merger good intentions will diminish over time.

It is important that the management team is aware of where these mavericks exist and engages with them directly to provide every opportunity for change to take place. It is not enough to turn a blind eye, as this simply suggests to the rest of the firm that two sets of rules exist.

Of course, if the leadership team judges that the financial impact of the departure of these mavericks on the business would be intolerable, the scope or extent of any change process may need to be modified. This is a judgment that is best made pre-merger, and indeed before any commitment has been made.

Culture and clients

An important part of the logistical success of any merger is the creation of a common infrastructure platform and the achievement of operational efficiency improvements. Depending on the nature and size of the merging firms, this exercise can take a number of guises, from one firm adopting the systems of another wholesale, through a 'knitting together' of similar systems to the nettle being grasped to reshape the approach of the new firm completely, by creating a third way.

A merger will also be an opportunity to consolidate suppliers, negotiate revised terms and take advantage of the advice of procurement professionals to lower costs where possible (without adversely affecting service delivery). These one-off cost savings are important in counter-balancing the inevitable increased costs in year one of a merger – costs arising from system convergence, human resource re-engineering and the adoption of a new brand identity, together with the launching of that brand into the marketplace.

This very important work has the potential to be a huge distraction for the leadership team, taking them away from issues of more strategic importance. Such a situation must be avoided. Nominate an individual with responsibility for backoffice integration, provide a clear remit and reporting line back to the board, and allow the support departments to get on it. The leadership team must focus on effecting change and developing client opportunities.

Unlocking the merger dividend

There is wisdom in the old adage: 'nothing breeds success like success'. Indeed, for many firms competing in the same weight class (with similar brand positions, resources and service profiles) the difference between the high-achieving organisation and the also-ran can often come down to a few simple things: clear vision, inspiring leadership, doing the simple things well and self belief. The last of these is built, in no small measure, by the confidence that flows from experiencing the success of one's actions.

Any merger proposal should identify a small number of achievements that will signal success. The most straightforward will often focus on growth in revenues and profits. Of course these are lagging indicators, but there will be a number of others that should also be considered as earlier signs of movement in the right direction. They could include an increase in the range of services sold to key clients (including those that have only come onto the client's radar as a result of the expanded service range of the new firm) – or improvements in the range and quality of tender opportunities in which the firm is invited to participate, for example.

Demonstrably delivering the merger dividend is crucial, not just for the immediate benefits it brings, but also because of the motivation it provides for those within the firm and the halo effect it conveys to the market in illustrating progress and success.

Communicate, communicate, communicate

There are (at least) three important constituencies or audiences to whom the firm must address its communications – its clients, its markets and its people.

Clients need to understand why the merger makes sense for them. What will the key benefits of using the new firm be, and how will these benefits be delivered without an increase in costs?

The market at large, both within target client sectors and through the profession itself, represents a very important audience.

Finally, the firm's people represent both a key communications audience and an asset to be deployed to ensure that the firm's strategic logic is widely understood.

The firm must seize the agenda, as any communications vacuum will be filled by conjecture, the grapevine, the unhelpful innuendo of competitors and the worst fears conjured up in the minds of each of these audiences.

Hitting the ground running

We've all heard about President Obama's first 90 days, the three-month window in which most commentators expected him to be able to press forward with his most radical measures. In my experience, the good news is that the management team has more time than this to put its imprimatur on the new business. The bad news is that the window only extends to six months. This is the timeframe within which the high impact actions must take place.

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Decisions made and implemented in the period immediately postmerger will be a catalyst for change. The six-month period provides an opportunity for changing culture, working practices, business models and client interactions. This is when those in the newly merged firm will be more receptive to change before ‘business as usual’ is perceived to have resumed.

What this means in practice is that ‘doing the deal’ should not mark a deep intake of breath and a signal to relax, but rather should be the starting gun for a period of intense activity to ensure the foundations are in place, and the materials available, to build the new firm from the point at which the new nameplate is fixed to the door.

It’s clear that making a merger happen requires both a strong strategic logic and a focused and determined implementation. Delivering on both fronts is challenging, but the reward for the firm is a stronger market position, improved client relationships, a stronger employer brand and greater commercial success.

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Hedley Consulting advises the leadership teams of professional service firms on business development and change strategies that deliver immediate and sustainable improvements in business performance.