Victor O. Schinnerer & Company, Inc.

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NAVIGATING THE FUTURE

soundwaves

Information and Risk Management Ideas for Not-for-Profit Organizations

Navigating the Culture Wars

Plus Other Strategies for a Successful Merger

The merger of upstart America Online and publishing empire Time Warner was supposed to be the best thing since sliced bread and a sure-fire bet for investors and the U.S. economy. Now the marriage is over and the two newly separated companies are trying to reestablish their worth with investors.

Consolidation

While associated with the corporate world, consolidation impacts the nonprofit world as well. Here are a few examples of nonprofit mergers and mergers in process:

- The American Paper Institute (API) and the National Forest Products Institute (NFPI) merged more than a decade ago to become the American Forest and Paper Association.

- In 2001, the American Association of Health Plans and the Health Insurance Association of America morphed into America's Health Insurance Plans.

- And the *Washington Post*[1] reported late last year that the Grocery Manufacturers Association and the Food Products Association are in merger talks.

Legally speaking, a merger involves one company acquiring second. Like Sprint taking over Nextel—one survives and the other no longer exists. A consolidation, on the other hand, involves two entities, like API and NFPI, forming an entirely new organization. For the purposes of this article, the two terms are used interchangeably (and non-legally) to describe any upheaval that impacts dual organizations and their respective structures.

Why many mergers fail

Despite the continued popularity of consolidating forces, statistics show that a majority of mergers actually fail. A 2001 study by the International Labor Organization[2] found that two-thirds of mergers in the financial sector failed to achieve their objectives. The report said that all too often the benefits of greater size and efficiency risk being "nullified by increasing complexity and losses related to top-heavy organizations, while the difficulties of adequately blending cultural and other human factors in the integration of combined enterprises are often underestimated."

Mitchell Lee Marks, author of *Joining Forces: Making One Plus One Equal Three in Mergers and Acquisitions*, places the number even higher. He says that "75 percent of mergers fail to achieve their desired strategic or financial objective."

If your organization is thinking about joining forces with another nonprofit, should you take the plunge? And if you do, how can you succeed where the majority of such ventures fail?

One answer, says attorney John Harman, a principal in the law firm of Coggins, Harman, and Hewitt, is organizational compatibility. "You need to look at the mission, goals, structure, culture, membership policies and membership benefits," he says.

"Culture is critical," says Marks. "Interviews with executives who have gone through a merger say that the one area they under-managed was culture clash." He told ***Soundwaves*** that it is important to understand the current culture at each organization and to actively manage it. Perhaps employees at one organization have flexible working hours while those at the second are used to a rigid 9-to-5 schedule but can count on picking up their kids from daycare promptly at 5:30 p.m. Or perhaps everyone at the first nonprofit answers his or her own phone, while managers and senior-level staff at the second have assistants screening their calls.

Marks suggests that organizations undergoing a merger or acquisition undertake a culture audit in order to put their similarities and differences on the table. Once you have done that, Marks recommends communicating regularly with employees about the process in order to minimize (to the extent possible) their anxiety. After all, it's normal for people to be distracted from work because they're worried about their job security.

"Morale is often a factor," agrees Harman. "You are putting in place a completely different structure and people may be reporting in different ways to new people. There's also likely to be a completely different chain of command."

One strategy for communicating with uneasy employees, according to Marks, is to hold staff seminars to address differences in organizational cultures. "Workshops serve two purposes," says Marks. "One is symbolic: we feel your pain and want to help. The second is pragmatic: stress management techniques and strategies to get employees involved in the process."

Marks stresses that senior executives must make the time to join their staff at merger-related workshops. "If senior people aren't in the room, then why should I come?" he asks.

While addressing cultural distinctions is critical, it's important for nonprofits not to overlook other key factors as they pursue their courtship. These include operating, membership, financial, human resources, and tax status compatibility.

Working together

"Addressing operating compatibility," says Harman, "involves looking at the accounting policies and procedures of each organization, as well as their financial management and reporting structures." Governance is also a key element of operating capability. How are the boards of directors structured? How does each operate? Do they have committees? Most important, nonprofits need to discuss what type of structure will be implemented

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in the new organization. This could mean winners and losers—so it's important to sort everything out before you sign on the dotted line. Harman also highlights other compatibility issues that organizations looking to join forces need to address.

Membership Compatibility

"Organizations need to look at their respective membership bases and determine whether they can actually be put together," says Harman. "You have to look at the requirements for membership and the nature of the membership categories to make sure whatever you end up doing does not diminish the rights of any members." A company that has paid membership dues to a trade association in return for specific benefits, for example, has a legal right to expect those benefits not to change during the tenure of its membership.

Financial Compatibilty

What is the financial status of each organization? What are their liabilities? Things to consider include leases for office space, contracts with vendors, and even any pending lawsuits. *Judge Judy, Judge Joe Brown*, and other daytime small-claims court reality shows are full of ex-spouses and ex-friends who co-signed loans for people with bad debt. As an organization, you don't want to be caught with someone else's financial exposure unless you fully understand the implications to both your own reputation and your bottom line.

Tax Status Compatibility

Do both organizations hold the same category of tax-exempt status? "If you're going to merge or consolidate," says Harman, "you need to understand which type of tax-exempt status you're going to end up with." For example, a 501(c)3 organization can receive charitable contributions but has much stricter restraints in the lobbying arena than a 501(c)6 organization.

Human Resources Compatibilty

"You are almost always more efficient when you merge or consolidate operations," says Harman. As a result, you need to look closely at the staff at both organizations and negotiate who will stay and who will go. It's also important to look at the employee benefits, employment policies, and compensation packages, all of which will ultimately need to be harmonized. CEOs and executive directors, meanwhile, often have employment contracts, which might need to be restructured in order to complete a successful merger. Relocation could be a big issue if the two organizations are headquartered in different cities.

Finally, don't forget the basics. Review your bylaws and articles of incorporation to understand what restrictions they may place on dissolving or transforming the organization's status. You might have to amend your documents as part of the merger process. In addition, it's important that you understand and remain in compliance within your jurisdiction.

Sure, many mergers fail—but some succeed. So don't forget to address cultural differences and other areas of compatibility. While doing everything right is no guarantee that your organization will thrive, it certainly increases your odds of success.

Soundwaves *thanks Mitchell Lee Marks, author of* Joining Forces: Making One Plus One Equal Three in Mergers and Acquisitions, *for his assistance: Department on Management, San Francisco State University, San Francisco, CA 94114; tel.: 415-436-9066; email: MitchLM@aol.com.*

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