THIS WAY FORWARD

SMALL BUSINESS SOLUTIONS

When Corporate Cultures Collide

>>> *Learn how to mitigate the effects of culture on your joint ventures.*

By Ilana T. Pearl, Esq.

Mergers and joint ventures often fail due to incompatible corporate cultures. The competing cultures can result in voting deadlocks and operational inefficiencies as partners clash on key issues such as management, spending, employee relations, compliance or customer service. Repeated clashes drain the new venture's resources and strain relations between partners, ultimately causing the venture to fail.

Corporate Culture is Relevant to the Deal. The term "corporate culture" describes the outlook and approach of a company to key aspects of the business, such as treatment of employees, decision-making, public relations, legal compliance and finances. No two businesses operate alike. Therefore, when you combine forces with a partner, you need to do your research to make sure that the corporate cultures match. Cultural due diligence is especially important when you have no prior relationship with the potential partner, when your partner is from a different country or industry, or when the size or maturity of the businesses differ (such as when a start-up joins with an established company or a privately held family concern merges with a public company).

Any difference in culture can be a problem, depending upon your industry and core values. However, key cultural indicators to consider are: management style; accounting and recordkeeping practices; approach to fundraising and spending; and treatment of employees. If you are in a customer service industry, your prospective partner's customer service record is crucial. In a highly regulated industry, by contrast, its commitment to compliance should top your list.

> When the core values or operating practices of two businesses diverge, **the competing cultures can result in voting deadlocks.**

Conduct Due Diligence? Cultural due diligence requires interviews with parties involved with your potential partner, including executives, employees, customers and suppliers. If your potential partner has entered into prior joint ventures, also talk to those earlier partners to learn how convergent or divergent cultural assumptions contributed to those mergers' successes and failures. To ensure that you can ask the right questions of the right people, you will need to include a carefully crafted due diligence provision in your term sheet. You will also need a non-disclosure agreement so both sides feel comfortable revealing sensitive information about their values, vision and management style.

Online research is also important. Review press releases, newspaper articles, customer reviews and social media sites to understand how your potential partner presents itself to others in the community.

Options After Due Diligence? If your cultural differences are substantial, you can walk away from the deal. If they are less egregious, you can lessen the risk by strategically structuring management, governance and financial terms in your governing documents. Armed with information learned in diligence, you can craft terms that mitigate adverse effects of your differences and establish plans for diffusing tensions that may arise. NJB

About the Author

Ilana T. Pearl is Counsel at Schenck Price Smith & King, LLP, based in the firm's Florham Park office.