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food & drink

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THE BETTER BUTCHER
Master Purveyors provides beef to star restaurant clients.
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A GOOD EGG
Stiebrs Farms led the way in cage-free and organic egg production.
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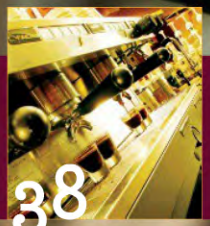
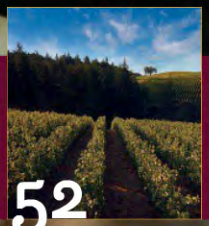
PLUS WHY EXACTLY IS YOUR BUSINESS USING GROUPON?

Real-World Strategies

A rushed M&A deal can easily go wrong. Take your time and avoid these six common pitfalls.

By Donald Snyder, Anant Patel, Warren Shulman and Farshad Yashar





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In today's climate of business consolidation, increased competition and regulatory changes, the food and beverage industry is facing some of its toughest challenges in years. A recent industry shift toward mergers and acquisitions (M&As) can expedite company growth and dramatically improve competitiveness.

In fact, in a recent industry survey, more than half of the respondents indicated that they anticipate a sale or merger of part or all of their company within five years. Although the food and beverage industry is enjoying modest gains in the face of the economic crisis, companies may find that an M&A is necessary or desirable to increase market penetration, expand developing lines, transform company identity or diversify investments.

Six Mistakes to Avoid

In the typical frenzy surrounding M&As, companies often place a premium on price and speed. This mentality, however, can increase the likelihood for problems and errors that can bring a deal to its knees. Companies that can avoid the following typical mistakes will find the transaction process easier and likely more profitable.

1. Failure to plan ahead. Quick-turnaround M&A transactions are a recipe for disaster. Experts agree that companies should plan for at least two, possibly three years to complete a successful deal at maximum value. During this time, it is important for owners to take careful measures to maximize the value of their companies to prospective strategic and financial buyers.

Attorney Joel Weinstein, partner with Greenberg Glusker, recommends using this time to identify the seller's weaknesses – whether they are profit margins, customer concentration or market trends – and prepare in advance to discuss them with potential buyers. "While this may be an uncomfortable conversation with a buyer, the seller can better address weaknesses before the buyer raises them as a result of due diligence, so the parties can focus on the value as a seller," Weinstein says.

2. Keeping inadequate records. Buyers seek an ideal situation of two years of audited financial statements from the target company. "The No. 1 holdup in 80 percent of my deals is lack of audited financials," says Roger O'Brien, managing partner with Finite Horizons LLC. Unaudited books can raise buyer doubts about the legitimacy of the numbers, delay transactions, reduce value and even prohibit financing. O'Brien advises potential sellers to perform audits and clear the books of personal expenses to ensure a smooth transaction.

3. Not investigating tax implications early on. This is the end of the golden era of taxes for private sellers. In addition to possible increased capital-gains tax rates, buyers can be surprised by hidden taxes that can impact the transaction by as much as 50 percent in fees and penalties. Further, international deals and differing corporate entities can impact and limit the transaction structure. O'Brien recommends that clients hold an S corporation status to avoid double taxation and facilitate a beneficial stock sale (versus a less-desirable asset sale). "You can't switch to an S corp today and sell tomorrow," O'Brien warns. Some transfers may take as long as 10 years.

4. Penny wise and pound foolish. Reducing income may seem like a good idea to reduce taxes in the short term. But reduced income can be a deterrent for buyers who are looking for steady income growth over the long term. Buyers look for healthy companies with a diversified customer base and strong income. In fact, the acquisition of a competitor can be an excellent offensive and defensive strategy for the buyer. Through an acquisition of a competitor for a leading seafood manufacturer, O'Brien says the company was able to "take a competitor off the streets" while taking on "some excellent management people."

5. Seller's disconnect. Owners often have a disconnect between the actual value of their company and the cash that they will receive at the end of the deal. Without careful projections early on, sellers may have unrealistic expectations about immediate income and possible deferred compensation in the form of earn-out agreements. "Sellers think they know how much they are going to net until they speak with a professional," O'Brien warns.

6. Struggling infrastructure. Buyers are looking for companies that are already successful. Nick Sternberg, partner with Creo Capital Partners, advises that a "well-run, well-managed, well-organized business by definition attracts more interest and better multiples." If a good management team isn't already in place, invest the time necessary to create a quality team.

Strategies for Success

Whether purchasing or being acquired, companies can take steps to create a win-win arrangement. Although no one ever sets out to make a bad deal, many well-intentioned owners have been part of M&A transactions that they later regretted. But by aligning with appropriate professionals, companies can avoid the classic M&A mistakes and reap the end-result of a transaction with maximum value for both the buyer and seller. **FD**

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