

## Prospective View from the Aquiree Company

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## Shareholders and Group Structure

- Shareholders expectation
- Their financial strength
- Look at Group structure to determine the part to be restructured

## Characteristic of Markets

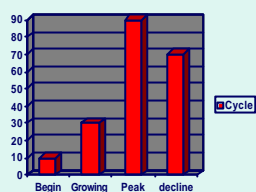
- Maturity
- Competitive environment
- Growth potential
- Market share

## Recent Developments and Challenges

- Macro areas – spot trends and changes in demographics, habits, economy etc
- Industry developments – consolidations, new entrants, costs, competitiveness
- Analysis by product line, across region, potential and obsolescence

## Way forward

- Important to note the part of the cycle the company is in.
- Look at it when complacency sets in
- Revenue growth slow or start to decline
- Management no longer hungry for business.



## Options

- Options going forward
  - Organic growth
  - Growth by strategic alliances
  - Divestment;
  - Status Quo

## Organic Growth (1)

- Normally the Company would have built up financial resources that enable it to grow organically
- Have to identify the potential area of growth
- Involve higher risks and return
- To assess management strength and its capability for growth

## Organic Growth (2)

- Demand for more capital
  - Call on shareholders
  - Issue new shares to outsiders
  - Increase Borrowing
  - reduce dividend payout

## Growth by Strategic Alliances(1)

- Strategic alliances with other industry players
- Benefits
  - Increase Growth prospect - necessary
  - Increase Profits and sharing infrastructure.
  - Lesser contribution of capital from existing shareholders
  - Achieve Economy of Scale

## Growth by Strategic Alliances(2)

- Limitations
  - Dilution of existing shareholders equity
  - Risk in sharing the infrastructures should the Alliance goes sour.
  - Boards and Management differences between the Entities- priorities,
  - Changes in equity and policies of Entities
  - Dilutions of Brands
  - Exit strategy for the existing shareholders (put and call options)

## Divestment

- Able to realise Assets true value via orderly divestment exercise to maximize valuation and enhance shareholder's value
- Strategies
  - Dress up business
  - Maximize awareness and publicity and
  - Create competitive bidding tension.

## Divestments(2)

- Look for possible target groups of buyers
  - New market entrants who want to grow in the region and can benefit from an strong incumbent strong infrastructure and capital base.
  - Existing trade players who want to grow through acquisition
  - Other non trade players who wants to develop a complimentary services to their own.

### Status Quo

- Re-examine the status quo option
  - Pros
  - Cons
  - Ask the question- where will we be in 5, 10 years time if we remain status quo.

### Execution risk

- No matter how good it looks, Peter's Principle always at work. i.e. what is the worst possible things that can go wrong, will go wrong.
- My own experience.
- It is important to plan before the execution to minimise such risk.

### Minimising Execution Risk

- This is where a good legal advise is paramount importance.
- A good legal advisor will try to anticipate what can go wrong and work backward.
- Do not compromise unless your client wish to do so. But it is your duty to warn him of the consequences of such action
- Experience count and very important

### Decisions made

- To divest entirely even though a piece meal divestment in theory would give a better value
- Shareholders constrains
- Tax implications

### Divestment process

- Go back to basic, cast your net wide.
- Create bidding tensions- increase value
- Other considerations beside value
- The track record of bidder
  - Financial strength
  - Reputation
  - Their chances of getting approval from relevant authorities.

### Face failure, start again

- In my case, divestment of the business was decided. Candidates chosen
- We had very good legal advice, a solid contract.
- The only way for it to fail was forces beyond buyers' control. The Authorities not approved the deal.
- The impossible happens
- We have to start again

### 2<sup>nd</sup> Attempt

- Much more difficult. Go through the elimination process
- A two track process
  - Track 1 – Previous bidders – some drop off
  - Track 2 - New bidders- beware of fishing
- Manage the authorities, shareholders, employees, customers and other stake holders. Directors have to be mindful of their legal liabilities

### Final agreement

- Share purchase agreements
- Options agreements
- Exit Deed Pool
- Compensation Deed Poll

### Share Purchase agreement

- Price and price adjustment mechanism
- Conditions precedent
- Deadlines
- Sellers representation and warranties
- Recourse and remedy actions

### Option Agreement

- Price and its adjustment
- Conditions precedent (CP)
- Deadlines
- Call and put option once CP satisfied
- Representation and Warranties
- Liability for claim for breach of warranties
- Quantum Max and Min, time limit
- Covenants and undertakings by 2 parties

### Exit Deed

- After SPA closed but OA terminated or acquirer did not proceed
- Conditions where acquirer must sell its stake, if majority sells

### Compensation Deed

- After SPA closed, action by aquiree to fulfill CP carried out
- Authorities not approved deal
- Compensation formula

### Legal advisor involvement

- Long negotiations
- Must involve early
- Constant changes
- Anticipate worst case scenarios
- After agreement signed, constant monitoring with check list
- Co ordinate with others to complete deal

**Thank You**  
for your attention.