How to Measure Whether a Merger is Successful

The rapidly accelerating rate of consolidation in the legal profession continues to capture the attention and interest of lawyers everywhere. In recent months we have even seen an increase in the announcements of mergers in New York City. The question that we hear time and again from firms considering merger is whether these and other mergers have been successful. Some firms want empirical evidence of this success, or lack thereof, and look at areas such as increased profits, while others look for "telltale" signs such as partner defections. While these may be interesting, they cannot tell the whole story and can often lead to an incorrect conclusion. This article will define those success measures, although perhaps not in the black and white terms that some would like to see.
The first measure of success is the degree to which the merger has moved the combined firm toward achieving its strategic goals and objectives. It is important to understand that merger is not a strategy, but a means of implementing strategy. This difference is critical.

A firm's strategy must be driven by clients and practices. The likelihood of a successful merger is higher when firms have identified and agreed upon their long-range business goals and the steps necessary to achieve them. Each firm should be able to articulate why merger will help them achieve their long-term vision and improve on their ability to serve clients. Also, pursuing merger is usually much easier to sell to the partners when they understand it is part of the firm's strategic plan. If there is enthusiasm for the business rationale for the merger, it is much easier to overcome the structural and deal points that might otherwise derail the discussions.

Once the strategy has been defined and business goals have been clarified, a firm may find that a merger with the right partner would provide the combined firm the proper platform for achieving its goals and objectives. In some mergers, the strategic fit and expanded platform is obvious. In others, it may not be as obvious, but is often there. It is important to keep in mind that a merger may be the first step in implementing a strategy, and that ultimately success will come when the firms have integrated and can move forward as a single firm.

Economic Factors

The second type of merger success measures are economic ones, which are the most difficult to define. The corporate return on investment (ROI) measure really does not apply to law firm mergers. First, it is hard to quantify the investment, because law firms are not purchased. The investment might be the **merger integration** costs (e.g., technology), professional services relating to finding and negotiating the merger, opportunity costs for lawyer time spent on **merger discussions and implementation**, or some combination of these three things. It is also difficult to measure return because law firms do not show profits in the corporate sense. A law firm's profits are distributions to its partners, and it is hard to distinguish between the compensation portion and true profit. Finally, even if partner compensation and profits were clearly delineated, or if assumptions were made regarding "notional salaries" for the partners, it would still be difficult to distinguish merger-related performance from either market factors or internal factors unrelated to the merger.

A simple look at increases (or decreases) in average profits per partner is of less use than a ROI assessment. Again, merger performance and unrelated factors, such as the loss of a client due to their own merger, or the death of a key partner (which does happen), are hard to distinguish. Even if attempts are made to quantify the impact of factors unrelated to the merger, the average profits per partner can be affected by shifts in the partner population that wouldn't necessarily impact individual compensation levels.

Finally, in the short term (the first year or so), it is not uncommon for profits to be flat or down. This is not an accurate picture of **long-term opportunities** and success, as this is the time when the merger costs are being absorbed and integration is being achieved. Perhaps the best way to measure success from an economic perspective is to assess how the combined firm has done against pro forma projections of performance. In a well-planned merger, the firms will do a detailed pro forma projection based on realistic assumptions. This pro forma helps set the partners' expectations for the combined firm's performance.

Measure Change

A third measure of success is the degree to which the combined firm has changed. There must be change within the firm in order for a merger to be successful. If the merged firms maintain status quo, then the combined firm has probably not moved forward. Firms that take advantage of their merger will make both internal changes (e.g., changing compensation structure, changing the practice management structure) and external changes (realigning practice groups, evaluating client relationships). It is important for lawyers from both predecessor firms to work together, which requires flexibility and willingness to change.

Some lawyers may not be comfortable with the merger, and they may choose to practice elsewhere. In addition, some lawyers may not fit in the combined firm's vision and may be asked to leave. Therefore, the weight that outsiders place on partner departures post-merger may be misplaced. Lawyer departures may, in fact, be evidence of a merger that has been carefully structured and well-planned. It is difficult to quantify this measure or even provide any rules of thumb, because some firms would do well to shed 25 percent of their partners, while others would not want to lose even one. The corporate model is instructive in this respect. Corporations often spin-off business that do not meet profit expectations or the company's direction, regardless of whether or not they have done a merger. Most law firms do not follow this business model.

Client Base

A fourth measure of success is the additional clients or matters that the combined firm can attract. These are clients or matters that neither firm would have been able to attract independent of the merger. This is an external affirmation of the firm's strength and position in the market. It may be related to increased depth and the ability to handle larger matters, or increased breadth and the ability to provide additional services. One way to measure this is to look at the increase of work from existing clients. Of course, consideration should be given to market factors, such as a big case, which might skew the numbers.

A related measure is the client satisfaction. If clients are pleased with the quality of the merged firm's services, then the merger can be considered successful. One way to measure client satisfaction is through formal client satisfaction surveys and interviews, which can hopefully be compared to results in the predecessor firms.

Of course, many other measures of success are important to individuals and firms involved in mergers. It can be helpful, if somewhat risky, to set out success measures for a merger as a means of managing partner expectations. Firms that do not manage expectations by not putting success measures in place risk having the combined firm not meet the independent expectations of the partners--often an even riskier proposition.

For observers of the merger mania, it will continue to be difficult to extract hard data based on publicly-available information. In evaluating whether a merger makes sense for your firm, go back to your firm's long-term strategic plan, business goals and objectives to determine whether or not a merger would help achieve your goals. The first success measure, establishing a strategic plan with long-term goals and objectives, is really the most critical. If the firm's long-term strategic plan has been well thought out, and merger fits with the strategy, the other success measures will follow naturally.

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