DO PARTNERS HELP OR HINDER MERGERS?

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Ultimately, a merger between law firms will only go head if sufficient Partners from both firms vote for it. The merger will only be successful, and deliver the expected benefits, if sufficient Partners in the merged firm combine to help deliver these benefits and pro-actively support the achievement of client synergies, business development, operational enhancement, cost savings, and adoption of new systems and processes.

As owners of the individual businesses, and then the combined business, they are also key potential beneficiaries of the merger- through enhanced earnings, greater sustainability, better prospects, and a stronger, more dynamic pipeline of successors to whom to hand over the reins in the future and who will redeem their capital.

Why would partners support or seek to undermine or block a merger?

So why wouldn't they want to help? (The desire to help is not the same as the ability to help. The latter may require training, support, careful project planning etc- but will not happen without the former) There are steps that help prepare for a merger and to gain support for it, partners must buy-in to the benefits and vision of what the combined firms will look like. You must consider how to secure partner buy-in and how you will engage staff. What measures you will take to deal with and protect the firm against dissenting partners?

Look at your reasons for merging? A merger can be a means to achieve your strategic vision.

- Economic shock from Covid
- Carefully considered strategy to gain competitive advantage
- To diversify
- To enter new markets
- Re-action to market consolidation
- Economies of scale to have critical mass and give well rounded scale to clients
- To offer a better promotion route to staff who might otherwise consider leaving

Clients that we have worked with have gone through advanced planning necessary for a merger, this has quite often taken two years or more. They have had a clear idea of what they want to achieve and have shared with staff that they are looking to merge so rumours are stopped, and they are able to share the vision and how it will benefit everyone if the right merger partner is found. If this vision is not shared, then that lack of desire to help might be a consequence of either not being convinced about the potential benefits of the merger and/or that the benefits can be delivered. These might be called the “agnostics”, where “minds” or “hearts” have not yet been won.

Another group, which may overlap with the above group, may be those who favour the “status quo” as a “safe” option. The “status quo” is a very powerful force in any organisation- reflecting a fear of change designed to preserve people and organisations from rash moves. Unless the organisation is going to fail then they need a lot of convincing that the cost/benefits/risk of a merger are worth taking.

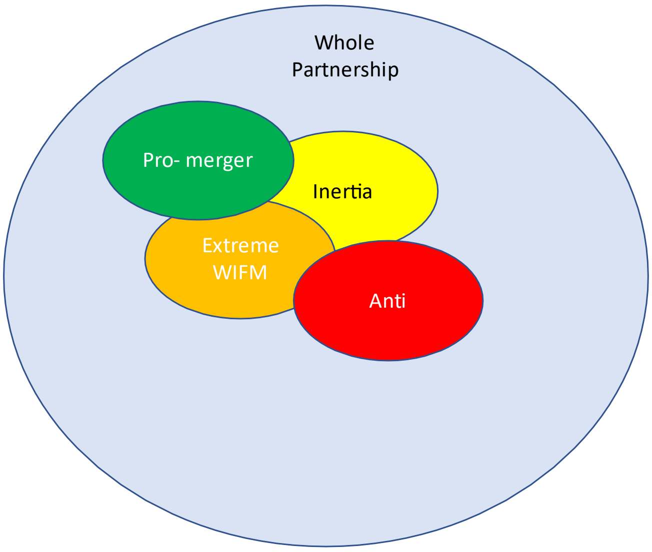
These two groups create inertia.

We then should consider the “anti”- group. They may be anti the merger for a range of reasons, including:

- they do not believe the case for merger has been strongly made
- they do not believe that it can be implemented to deliver the expected benefits
- they feel threatened by any merger
- they feel threatened by this particular merger
- they have identified what they think is a better option.

What about the “it depends WIFM” group (“what is in it for me”?) They will support it, or try to block it, unless they get something that they want, rather than accepting the overall benefit for the collective. The reality is that most people will consider that, of course. These are the extreme group of such people- who will use it as a power play to either leave or gain extra favourable terms for themselves.

And the final group are the supporters of the proposal. This might be considered as follows.



How might this impact behaviours and performance pre-merger?

Firstly, it can be seen that the Partnership may be, and indeed is likely to be fragmented at various stages in the process. Vigorous debate “behind closed doors” within the Partnership may reduce this fragmentation as the pros and cons are scrutinised and debated. However, it may also entrench this fragmentation, particularly if debate becomes highly emotional and things are said or written that are difficult to “undo”. This could lead to actual fragmentation or simply the construction of internal barriers that reduce the effectiveness or efficiency and harmony of the organisation going forward, whether it merges or not.

It can impact the way Partners behave with the rest of the firm. Leaks- deliberate or otherwise- can occur to seek to strengthen positions. General demeanour can be picked up by the rest of the firm, and a lot read into it- rightly or wrongly- with consequent effects. Similarly, an increase in the number of Partner meetings, or groups of Partners meeting behind closed doors may lead to conclusions being jumped to.

It can impact performance- both of the partners and the rest of the firm- which may have short term implications for the firm’s finances and Partners’ earnings, and thereby make the case for merger perhaps stronger but make the firm as a merger partner less attractive and/or its negotiating position less strong. The impact on performance may reflect either less time being available to spend on “business as usual”, and/or mental distraction and changes in motivation.

It can make Partners more defensive about their own roles and positions- either through “passive” aggression, or proactive aggression and assertion. “Power plays” can happen.

External leaks may occur, again inadvertently or deliberately, with the latter aimed at promoting a viewpoint or interest.

It is not just behaviour within the organisation that can have implications. Partner behaviour in meetings with Partners from the proposed merger partner can be significant. For example, those who are “anti” the merger (and often they may keep this hidden) may be rude or surly or just refuse to engage with the other side. Equally they may seek out those on the other side who are anti and share reasons why a merger should not go ahead. Those who are the extreme “WIFM” may start looking for allies within the other firm and start negotiating “sub-deals” to mutual benefit etc. Those who are very pro the transaction may build very strong links- which if the deal does not go ahead may persuade them to “change ships”. Those who are in the “inertia” group on both sides may find reasons to prevaricate and agree to a merger that involves little change (see further below). Another risk is that the meetings are superficial (“they seem nice”) and do not move into more in-depth relationship building and testing. Aligned to that can be that the “logic” side of the legal brain is fully engaged and the rationale for the merger debated and agreed (or not) but the (often less well developed) “emotional intelligence” side of the legal brain is not engaged, and cultural differences not picked up upon.

It can be seen therefore that the impact of Partners, and on Partners, of merger discussions can be fundamental prior to a merger and during discussions and due diligence and can be a key reason for a merger going ahead, or not. It needs a lot of thought and planning.

How might this impact behaviours post- merger?

So enough of the “inertia” and “extreme WIFM” Partners have been persuaded of the merits of the merger to vote it through. The deal has happened. Everyone gets deal euphoria and then relief that it has happened. The key parties driving the process are tired and need a rest- this process may have gone on for many months and the last few weeks and days, as any of your corporate finance partners will tell you, involve long drawn out, high intensity, days. The post euphoria “blues” kick in.

You have done all the internal and external communications, announced, and rolled out a new brand. You are now in a period of both “new” “Business as Usual”, plus integration to create the new firm- not just the two old firms “bolted together” (or not even “bolted together”.)

How might Partners help or hinder this?

A big risk is that the groups identified above re-emerge. The Extreme WIFMs may make a play for roles and/or remuneration. The hidden “antis” may then use a failure to achieve all the expected benefits and/or to the timescale expected to say, “I told you so” and then seek to undermine and replace the leadership- perhaps with themselves and effectively join the Extreme WIFM group. The “antis” and some of the “indifferent” in the “inertia” group may choose to leave/ be enticed away.

Those that were pro merger, or in the “inertia” group may find that it hasn’t worked out as they hoped or expected and decide to leave (they now have an appetite for change and the old “status quo” no longer exists).

Members of the “inertia” group may feel empowered and emboldened and step up to the plate and become agents for and of transformation.

Or inertia and a focus back to “business as usual”, chargeable hours, serving clients and “keeping their heads down” may become the dominant feeling and behaviour, and then the energy and leadership for integration and positive change diminishes or disappears, and the integration benefits reduce, disappear, or are delayed.

The quest for an “easy life” of “business as usual” may also lead to “denial” behaviour amongst Partners in terms of relationships with and conversation with employees about changes going on. “Of course, I didn’t vote for that part of the integration, I never thought they would do that, this new ICT system isn’t as good as the old one….” etc. This deflection behaviour can undermine integration and delivery of benefits across the whole firm, or within departments or teams. All the Partners are leaders and must be positive advocates and participants in the process- if not failure to integrate and delivery of the benefits can become a self- fulfilling prophecy.

How can you avoid these issues?

Leaders need to be visionary not operational in a merger. There are so many complexities in a merger you should not get drawn down into the detail. As leaders you should have a shared and deep understanding of why the two firms are coming together and emphasise that.

You need a Project Director and Project Team in place. To get a partner vote on everything is not feasible in a merger, a dedicated Project Director with the authority to act is essential. Managing Partners of the merging firms need to have a joint vision and purpose from day one. Your project Team will approach each issue that arises as a team. They will not be adversarial. They will understand what partner approval looks like, but it is not essential that everyone is 100% on board. If you have partners who constantly try and hold up the merger, are they acting in the best interests of the firm, when you have shared the benefits with them of what the merger can achieve?

Considerations for successful integration.

- Have a clear view of why you want to merge and have an overarching strategy.
- Cultural differences are not such that you cannot get it done.
- What is your value proposition and how will you create competitive advantage?
- Communicate at all levels across the firm and ensure that people can have difficult conversations.
- Leaders in both firms need to have a strong working relationship and they need to invest in that relationship.
- The time involved in any merger is enormous, so bring in a Project Director used to transformation to help.

If you would like to discuss this further, please call Anne Harnetty @ Jonson Beaumont Core 020 7350 0800