Dennis Carey on How Boards and CEOs can Create More Value with M&A Post Merger

While the volume of global mergers and acquisitions has fallen, companies with strong balance sheets will continue to investigate opportunities as a tool of growth. Even in what appears to be a bear environment, mergers will endure as a logical, efficient and profitable strategy for many companies in the global economy.

Yet among the thousands of mergers, large and small, most of them register some degree of failure, either because the merger fell short of delivering on the promise of the transaction or the deal simply didn't work.

Politically correct terminology and newspaper headlines aside, mergers are virtually never "mergers of equals". Whether companies and boards are joining forces in a merger or acquisition, in actuality one organization is always overtaking the other. (Article author: Dennis Carey)

With governance increasingly in the spotlight, more companies, whether involved in a merger or not, will be paying greater attention to getting their boards in line with key recommendations from the stock exchanges, as well as shareholder and government groups. Keep in mind that the merger presents the leadership with the opportunity to improve the quality of the board.

Immediately after the merger, CEOs may have less control than they would like regarding the composition of their board. Because of the public face they must present for one reason or another, until they are over the hump of getting the merger approved and on its feet, the combined company is often a case of simply coming the two boards and its directors. (Copyright Dennis C Carey) The merger presents the opportunity for leaders to think ahead and actively shape the new board into one that reflects many of the best practices firmly associated with the protection of the shareholder interests as well as the most successful companies.

When it comes to a hostile takeover, where there doesn't have to be any public demonstration of cooperation and equality, many acquiring companies do what may in the short run appear most efficient by displacing the executives and directors of the acquired company with their own. (By Dennis Carey) As is often the case, however, the quick and easy solution may be short-sighted and mitigate against achieving longer-term objectives. Any company that wishes to boost morale as well as hold on to valuable management and board talent should carefully and systematically consider the resources in the company it is acquiring or merging with. Capable executives and directors are a valuable and scarce commodity; companies should think long and hard before cutting people loose for the sake of political expediency.

It's considered best practice to strictly limit insiders on boards and prohibit inside directors from serving on compensation and audit or governance committees. Such practices were intended to strengthen directors' identification with the shareholders, whose interests they represent. (Authored by Dennis Carey) However, during the giddy success of the late 1990s, there was a pack of newly minted e-commerce companies that defied much of the conventional wisdom on best practices because at the time the companies were achieving astounding gains for shareholders. One view was that the old rules did not apply to this new group. While returns were strong, that was fine. But after the Internet sector crashed and burned followed by the ensuing corporate scandals the attitudes about corporate governance and oversight changed dramatically.

Now there is greater emphasis than ever on creating transparency in the boardroom, hiring capable directors and adhering to corporate governance best practices. Finding and recruiting first-rate directors, however, is more difficult than ever before for several reasons. (Copyright Dennis C Carey) First, boards are generally getting smaller. The job of director has become much more demanding, forcing executives, particularly the traditional pool of board candidates, active CEOs to be increasingly selective about directorships they are willing to take on.

Despite the constraints and added difficulties of recruiting directors, those who can contribute in the boardroom are a vital resource. In view of recruiting directors in today's business climate, companies should seize the opportunity to enhance their board with talented senior executives on the boards of companies they may be acquiring or merging with. (By Mr. Carey) A merger is also an ideal time to generally take stock of the ongoing board's composition and practices and, to the extent possible, align the board with what are considered progressive and productive corporate governance guidelines.

Often the composition of the emerging company's board is spelled out in the merger agreement, which is often given short shrift and may have more to do with ratios and formulas. One of the biggest difficulties is the size. When boards become much larger than 10 or 15 directors, performance tapers off.

Assembling the board that will guide the merged companies requires as much thought and planning as the merger itself. Putting the board together shouldn't be an afterthought. The board and its operations in a post-merger era—its mission, size, principles and policies, have to be part of a formula that is pursued in advance of the close. It's the CEO's job to ensure that it is done properly. The merger team in a company can handle much of the

integration mechanics, but the board is a step above the level at which the merger team is operating and therefore must be negotiated by the CEO.

One element is to determine the type of individuals who should NOT be on a post-merger board, specifically, individuals whose current professional activities include giving advice or selling services to similar companies including investment bankers, accountants, and management consultants. Age is also a factor. If the company has a required retirement age, it must honor it regardless.

In addition, the CEO of the merged company should seek directors who represent a broad group of shareholders avoiding those who have narrowly drawn constituencies. Most importantly is the critical objective of building a board whose members will be able to contribute to the substantive discussions of the issues, strategies and environments that the company operates in. That is, to have directors whose personal backgrounds and personal career developments have been in the key functions of the business.

Companies should not overlook directors who might be right under their nose. In an environment where director talent is increasingly difficult to attract, don't automatically eschew capable directors on the board of a target company for an acquisition or merger. They can prove to be a valuable, available resource that may be a great asset to the new board.

In summary, mergers and acquisitions create an opportunity to strengthen the company's board. Astute leaders will seize the opportunity and recognize that capable directors are a scarce commodity and use the merger or acquisition as an opportunity to recruit them. This is also a chance to raise the bar and bring your board into line where gaps in best practices exist. Try to steer clear of a formulaic approach to filling the new company's board because you could be left with a legacy of underperforming directors. Put skills first and consider the experience you will need on the board and select directors accordingly. Remember to carefully assess talent and opportunity on the board of the acquired company.

Strong boards create strong companies. Use your opportunity wisely.

About the Author

Dennis C Carey is Senior Client Partner of Korn Ferry International where he is responsible for high-level CEO and corporate director recruitment. View Dennis Carey's bio for more information. Review books by Dennis Carey at Amazon.

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