MERGERS AND ACQUISITIONS: A REVIEW OF EPISODE, FAILURE AND SUCCESS NEW MANTRA

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Abstract:
Collaborations, strategic alliances, powerful partnerships will strengthen the economy. Encouragements from Governments through legislations and tax concessions will further strengthen mergers and acquisitions. This study focuses on factors for the failure of mergers and acquisitions globally and more particularly in India and to review the success mantra for effective implementation of mergers and acquisitions. This research paper is conceptual in nature. The studies undertaken guide the management and persons involved not to fail to understand the reasons for pre and post merger failures. Understanding culture, training of managers to develop change agents, communication to stake holders, building targets, developing a new culture, leader to lead, careful planning and implementation at each stage of mergers make merger successful.

Key Words: Mergers and Acquisitions, Implementation, Failure & Success, Mantra

Introduction

The mergers and acquisition play a significant role in the industrial sector of any economy. "Some people run the race on their own without purposes. Running by individual takes time. Collaborations and strategic alliances make the race winning" Peter Drucker. It is neither capital nor knowledge, but the ability to form powerful partnership. All over the world record number of mergers and acquisitions deals takes place throughout the year. Mergers and acquisitions result in privatization of the public undertakings in Europe, North America, China, Brazil which indicates that the trend towards rapid growth of private Equity Funds. Winning depends on ability to understand the entities to merger implement and succeed. Government of India brought section 2 (IB) and 72A under the Income-Tax Act in order to encourage mergers, acquisitions and demerger of companies. Capital gain on transfer of properties, exchange of shares and debentures by Transferor to Transferee Company are exempted provided certain conditions are fulfilled mainly to attract mergers and acquisitions of companies to strengthen the economy. Between 2007 and 2009 Indian companies established 143 dealings related to merger in the US ranges between $0.8 million and $1,005 million(Joint report on 'Direct investments in the US by Indian enterprises', Ernst & Young and FCCI).The Indian companies have moved from horizontal, vertical, hostile merger to strategic mergers not only in India but also globally. After liberalization of Indian economy to global, the strategic mergers and conducive environments help Indian companies to meet global challenges through mergers and acquisitions.

Objective of the study

The present paper mainly focuses on the following major objectives:

1. To Study different waves of mergers and their impacts on the economy,
2. To study the factors for the failure of mergers and acquisitions and
3. To review the success mantra for effective implementation of Mergers and acquisitions.

Materials and Methods

Tools for data collection

The data required for the study have been collected from various secondary sources such as research articles from journals, working papers, web sites.

Research type

Conceptual in nature

Limitations

1. **Major data have been collected from secondary sources; there is a possibility for the manipulation of data.**
2. **The paper focuses only on Mergers and acquisitions, failure and success factors.**

Discussion and results

Mergers and acquisition has a great history in the USA rather than in India. The waves of mergers are divided and analyzed by dividing them into different periods.

The First Wave of Merger And Acquisitions: 1897-1904: Most of the mergers are horizontal Mergers which indirectly created monopolistic Market structure. Mega merger between US Steel and Carnegie Steel. It has also helped to exploit the economies of scale. Small regional firms become national firms. The US President Theodore Roosevelt and President William Taft made a crack down on Large Monopolies by bringing the Anti Trust Act. Due to Stock Market crash in 1904 many banks were combined into Federal Reserve System.

The Second Wave (1916-1929): During this period Oligopolies industrial structure was created. Industries like primary metals, petroleum products, food products, chemicals are prominent industry prone for mergers and acquisitions. Heavy manufacturing industries and product extension merger like IBM and General Foods, vertical mergers in the mining and metal industries were part of this period. Between 1926 and 1930 there were 4600 mergers took place. As a result of which between 1919 and 1930- 12,000 manufacturing, mining, public utility and banking firms disappeared.
In this period rail transportation, motor vehicle transportation became national market. Radios in homes, entertainment enhanced the competition, mass merchandising, national brand advertising. Investment Bankers played a vital role in the first two phases of mergers. Due to the Second World War small firms merged with larger firms and in fact, those mergers were small.

The Third Wave (1965-1969): Merger activity reached its highest level during this period due to booming of economy. Most of the mergers are conglomerate mergers. Federal government adopted a stronger antitrust enforcement both with horizontal and vertical merger. Due to which diversification strategy was followed by industries. Management principles were applied in industries. Management graduates were employed to manage conglomerate mergers. There were 6000 mergers during this period which leads to 25000 firms disappeared. Investment Bankers do not finance most of these mergers.
There was Equity financing to meet mergers. There were boom in stock market prices. Many conglomerate mergers failed. For example, the Revlon and cosmetic entered into health care and failed and suffered in cosmetic industry.

The Fourth Wave (1974-1989): There was a recession in 1974-75. There were hostile mergers during this period. In the first step, target on company's board of directors. If the board accepts, it is considered friendly, and if it opposes it, it is deemed to be hostile. The great mergers such as Oil companies amount to 21.6% of dollar values of merger and acquisitions during this period. Due to deregulations of drug, medical equipment, airline industries opted for merger. Investment bankers played an aggressive role. M&A advisory services became a lucrative source of income for investment bankers and developed innovation in acquisition techniques.

The Fifth Wave-1992- 2007: Once again there was increased activity in mega mergers in 1992 which are considered as strategic mergers and equity based. They were technological changes and deregulated. Majority of them are related to banking, telecommunications entertainment and media industries. High growth in banking sectors in 1990 as banks grew greater than central banks. Banks fund M&A rather than new ventures. Competitions are declined and globalization was the order of the day. Mergers are not confined to US companies. Some of the US companies were acquired by non-US companies.

Table showing the number of mergers over the period

Year	Number of mergers
1981	2395
1989	2366
1990	2074
2001	7528

Source: CFA, Indian Publication on Mergers and Acquisitions

In the year 1981 there were 2395 mergers and acquisitions. It had increased to 7528 in the year 2001.

Mergers and Acquisitions- Global Scenario

The merger waves in the USA has slowly spread over to South East Asia and created a reverse trend in mergers and acquisitions. Asian companies have acquired US and European companies. It also indicates that Asian economy becomes stronger and has capacity and ability manage foreign companies.

In China, Coca-Cola's bid for Juice maker Huiyuan was rejected due to the Chinese Anit-Monopoly law in 2008.Local government can be an obstacle to some deals particularly to protect labour intensive industries. Midea acquisition of Little Swan, a washing machine maker in Wuxi, led to labour strike due to firing of workers, the local government put pressure on the acquirer. Chinese companies completed 110 cross-border deals in 2011; more than half were foreign-funded deals. But behind each success acquisition, there are many more failures (Clare Chen, an analyst at Zero2IPO).

Chinese companies abroad have the world's highest failure rates even though the volume of foreign transaction is obviously increasing but it's worth nothing. Deficit of management talent at China's companies is one of the reasons for failure of TCL's joint venture with Thomson Electronics, then the world's largest manufacturer of television. Thomson people did not respect the Chinese at all and the result was disaster in merger and lost monetarily. Chinese companies look at the merger as strategy to strengthen brand and technology. The Chinese leading car company Geely chose to remain a passive shareholder after acquiring Volvo. After acquiring IBM's PC division by Lenova, a computer maker from China moved its headquarters to South Carolina(USA). It is believed that there is a huge management gap between Chinese Companies and Western Companies irrespective of the monetary strength. Lie rightly said , "no matter how much money you have, you are still a student in front of the Western companies".

Mergers & Acquisitions in India

Due to license era unrelated diversification, , friendly takeover, conglomerate merger and hostile bids by buying equity shares are some the types of mergers in India in the last 40 years. For Example Swaraj Paul made an attempt to raid on Escorts Ltd and DCM Ltd but the attempt failed to succeed. The Hindujas followed negative technique and took over Ashok Leyland and Ennore Foundaries. Chhabria Group acquired stake in Shaw Wallace, Dunlop India and Falcon Tyres Goenka group from Calcutta(Kolkata) took over Ceat tyres, the Oberoi-Pleasant hotels of Rane group, Tata Tea acquired 50% of the equity shares of Consolidated Coffee Ltd from resident shareholders in 1989 are some of the hostile mergers. Hindustan Computers, Hindustan Reprographic, Hindustan Telecommunications and Indian Software Ltd. were merged to form HCL Ltd. TATA and Corus(Steel),Ranbaxy and Daiichi (Pharma), Global Trust Bank and Oriental Bank of Commerce (banking),HDFC and Centurian Bank of Punjab(banking), Indian Airlines and Air India(Airlines), Indian Oil and Russian Oil Company, Kingfishers Air and Air-Deccan, TATA acquired Land Rover and Ford Icon from Ford, National Carriers Air India And Indian Airlines, Lord Krishna Bank and Centurion Bank and Vodafone and Hutchison Essar are some of the mergers in recent times.

In 1997 Sun Pharmaceuticals, signed merger deal with Israeli major, Tara Pharmaceuticals which included an option agreement but Tara postponed the deal to avoid merger process and agreement failed.

Vodafone acquired Hutch outside India but luckily the Supreme Court rejected the contention of the Income Tax department to pay a fine of around Rs.15,000 crores. The recent mergers are strategic mergers. The leading mergers since 2006 are telecom sector. BFSI, Metals & Ores and Oil & Gas Sectors follow the suit.

Failure Factors Of Mergers And Acquisitions

Most mergers fail at the execution stage itself. The two cultures do not get along easily at an early stage of mergers but two talented minds are heading for the door. There are such instances, such as the marriage of HP and Compaq that are troubled from the start. More than two-thirds of transactions that fail do so at an early stage of execution. Daimler Chrysler, for example, neglected early on to establish a proper set of guiding principles based on strategic intent of merger, and misfired to align the leadership and integrate the cultures of the two organizations.

There are no set of rules for the implementation and success story of merging. Merging companies fail to develop a set of rules linked to the merger's strategic intent. Perfection may not be possible, but these set of rules will assure that all decisions drive the combined entity in the same direction. Ground rules for planning provide nuts-and-bolts guidance for how the planning teams should act as they begin to put the face of the merged entity in black and white. These rules should help for how decisions are to be made and how conflicts should be resolved.

Post-close transition plans can be lacking due to the daunting complexity of any integration such as the culture of the companies, a resistance to share information and top-down accountability and unwillingness to follow a methodical decision timeline.

All relevant stakeholder groups—both internal and external—must receive communication about the transaction, early and often. Management must strive to understand how these groups view the deal and how they might react to changes such as new pricing, vendors' elimination and adjustments in service and personnel.

Historical experience 1: Hp and Compaq: When Carly Fiorina was appointed CEO of Hewlett-Packard in 1999, it marked many firsts: the first outsider, the first woman, the first non-engineer, and the youngest person ever to head HP in its 60-year history. Six decades later, Walter Hewlett, an HP board member, votes "Yes" to the merger but immediately starts a campaign to stop it. With the support of other family members and the Packard Family Foundation, which in total own 18% of HP shares, the normally reserved Hewlett leads a fight that nearly puts an end to the highly publicized merger. In the end Fiorina wins, after receiving last-minute support from Deutsche Bank. Perhaps all would have proceeded smoothly if Fiorina had considered the concerns of the families before proceeding. They did, after-all, have large financial and emotional stakes in the company. The challenge of leadership when attempting to regenerate a highly regarded corporation is the significance of corporate culture in organizational transitions.

Historical experience 2: In India, Capt. Gopinath of Deccan aviation said that the merger of King Fisher and Air Deccan has to be approved not only by the two boards, but also by the independent directors, institutional investors and other shareholders. The four independent Directors on the Air Deccan board include former tennis star Mr. Vijay Amritraj, Prof Thiru Narayan from Indian Institute of Management, and Mr. A.K. Ganguly, former Managing Director, Nabisco, Malaysia.

Historical Experience 3: For the first time in its history, the President and Secretary of the ECIL Employees Union (EU) and the President and Secretary of the Officers Association (OA) were invited to join the Corporate Management Committee (CMC) of ECIL. They were invited to participate in deliberations of the committee comprising the Chairman and Managing Director, Functional Directors, Executive Directors and Heads of the Strategic Business Units (SBUs)-transparency levels rarely seen in any organisation. A `Mukha-Mukhi (face to face)' scheme was launched to enable direct communication between employees and the Chairman and Managing Director.

No Holistic Approach

Management must set aggressive targets from the start both for cost savings and revenue growth. Majority of companies tend to focus on one or the other—but neglect to place adequate emphasis on both.

Lack Of Financial Bench Mark

We have seen merging companies build detailed integration plans only to stop short of driving them into the combined entity's operating financials in a clearly identifiable manner. Short memory of Institutions and the plans are often redone. Integration plan should help in financial benchmarks which can track such plan of action.

Cultural Differences

Culture of a company can be identified through organizational structure and responsibility and accountability. There is a connection between group members shared language (method of understanding each other) and the way of representing the world and culture bringing disparate groups of people together as one company takes real and it is a critical aspect of any transaction (Schall 1983, Barley 1983, Hofstede 1984, Cremer 1993, laxear 1999). However, simply acknowledging the issue or handing it off to specialists may not solve the issues related to cultural differences.

Historical Experience:4 :In India, Kingfisher Airlines: Targets the well-heeled passenger and business traveler with promises of pampering customers with quality, full-flight service, while Air Deccan's vision is to empower every Indian to fly. Mixing everything in one company doesn't work. History is not on Mallya's side. Full-service carriers and low-cost carriers (LCC) belong to separate worlds, and their DNAs seldom match. Whenever they have tried to merge or work together under one umbrella, they have failed.

It happened when British Airways tied up with budget carrier Go, and when Delta Air acquired budget carrier Song. These two airlines have different cost bases and pricing strategies.

In the year 1994, Quaker Oats acquired Snapple Beverage Co. but, failed due to conflict between corporate cultures. Quaker had an extremely focused, mass-market working approach, whereas, Snapple focused on commercial and titled towards its distributors. Benz and Chrysler's merger failure is also due to cultural differences. Sprint and Nextel Communications is another example for cultural differences for failure. Sprint was bureaucratic and not much tuned to customer service, whereas, Nextel was entrepreneurial and customer oriented.

Communication

Management normally hesitates to share information and current regulations to employees and dependents before sharing such information to public. Rumors spread like wild fire which creates panic among employees and others who are dependent.

Difficult to understand the Indian Income tax and sales tax rules and regulations

There are tax experts and consultants to advise but failed to lead and guide mergers and acquisitions. Vodafone and Hutch merger were facing problems related to income tax, luckily, the Supreme Court of India cleared the hurdles. Sales tax regulations related to mergers and acquisitions differ from one state in India to another state in India. The companies land in paying sales tax twice/thrice if place of registration and the place of business situated in two or more States in India.

Right Person to Lead

Every company needs clear decision rights about who can change the agreed-upon plans, under what circumstances, and with what approvals. One key step is selecting the right person or people to lead the program integration team and track the plan's execution. In India, Air Deccan & Kingfisher airlines have decided to merge & create a new entity. Accenture, a management consulting firm, has recommended a merger of the companies for profitability & to cut costs. Mallya, the CEO of Kingfisher airline would have to be head of the company & Capt. Gopinath would be the vice chairman.

Historical Experience 5: Tata Pleases, Ford 'Disappoints' British Workers' Union: The head of Britain's largest workers union reiterated his support for Tata's acquisition of the luxury car brands Jaguar and Land Rover, but said he was disappointed by seller Ford's failure to retain a stake. Union officials would have liked to see Ford take a minority stake, as it did while selling off the luxury car Aston Martin to two Kuwaiti investment companies last year. Ford retained a $77 million stake in Aston Martin.

Historical Experience 6: Merger Of National Carriers Air India And Indian Airlines: It has been challenged in the Bombay High Court on the ground that it defies Parliament's intent to keep international and domestic carriers separate. The petition filed by Air India Cabin Crew Association (AICCA) also questions the Constitutional validity of section 620 of Companies Act, which empowers government to exempt any government company from provisions of the Act. Air India Limited and Indian Airlines Limited were created by a Parliamentary statute, and, therefore, without the Parliament's nod they cannot be amalgamated, the petition contended.

Historical experience 7: Merger of Lord Krishna Bank with Centurion Bank: The affidavit was filed in response to a writ petition filed before the Kerala High Court, in India, by a minority shareholder, challenging the merger and seeking to appoint inspectors to investigate the amalgamation scheme. Resolutions were moved one by one and arrangements were made for members/proxies to exercise their votes. The allegation that 65 per cent of the shares were held by a single entity was totally false. No person holding share in excess of ten per cent of the bank exercised voting rights in excess of 10 per cent. With the permission of the RBI, a person could hold more than 10 per cent of the share of a banking company but the right to exercise vote was restricted to 10 per cent of the total voting rights.

Historical experience 8: The French government pushed to make Sanofi and Aventis: Due to interference of French Government Sanofi and Aventis come together but French officials placed phone calls to executives at the Swiss company on at least three occasions warning that Novartis should stay away. Afraid that Aventis, based in Strasbourg, France, would fall into Swiss hands, the French government had leaned on Sanofi Chief Executive Jean-Francois Dehecq to raise Sanofi's bid to improve the chances of an all-French deal. France's intervention in the takeover battle, against the free-market principles espoused by the European Union, Yet, in recent years, it has broken the union's economic rules more than once, giving state aid to ailing French companies, letting its budget deficit grow and thus contravening a pact that underpins the euro, and getting involved in takeover battles.

Historical experience 9: Vodafone and Hutchison Essar : The Court has sent notices to the Hutchison Essar's Managing Director, Mr. Asim Ghosh, and the Chairman of Max Group, Mr. Analjit Singh. The two individuals hold 12 per cent of Hutchison Essar, which is the bone of contention. The stake is being held indirectly by the two individuals on behalf of Vodafone. The sale-breached India's Foreign Exchange Management Act and also the licensing conditions for providing telecommunications services in India.

Merger and Anti Trust Act

Merger may have hurdles not only from within the organization but also from Antitrust Act or even by the elected government officials. Standard Oil in USA faced Antitrust intervention in 19th and 20th century. Canadian Competition bureau reported that the Royal Bank of Canada and the Bank of Montreal merger would result in substantial lessening competition in 104 out of 204 local markets. The European commission turned down international merger proposal between Cannada's Alcan and France Pechiney and Switzerland's Algroup. The U.S district court found that Microsoft was guilty of natural monopoly by combining internet browser with its operating system. The remedy is that breakup of Micro-soft into smaller independent companies. Canadian government restricts holding more than 10% of shares by any one shareholder in a bank which restricts foreign entry through the acquisition of the scheduled bank. The internal growth within a firm might attract the Antitrust Act. Antitrust had impact on Coca-Cola's acquisition of Dr. Pepper, Philip Morris to sell its Seven-Up soft drink unit to Pepsi and Google tried to acquire Yahoo. In China, Coca-Cola's bid for Juice maker Huiyuan was rejected due to the Chinese Anti-Monopoly law in 2008.

Success Mantra Of Mergers And Acquisitions:

1. Execution-related failures can be avoided provided you need to establish a program integration team early in the process that can respond to the execution risks inherent in all transactions. For instance, managers at the middle level were sent to various Godrej sites for training so that they could have a firsthand experience of systems and practices and such managers were playing as change agents.
2. The first step taken in the restructuring process was to establish clear channels of communication with the employees. They have to depend on the intrinsic strengths of the company rather than the external helps.
3. The board and management should have separate counsel during mergers to ensure unbiased advice and fair representation of shareholders views.
4. Build your targets with some stretch and expect that your people will find a way to get there.
5. Management must set a vision, align leadership around the cultural integration and hold substantive events to give employees a chance to participate. Detailed plan of action and well articulated expectations of change in behavior to inter-connect the culture plan to the business goals.
6. With proper planning and attention to detail throughout the merger process—from determining strategic planning and direction, transaction design, and post merger integration require dynamic leader to lead, execute and integrate.

7. Tell employees what you can and what you can't tell them at the moment, why, and when you will be in a position to do so.
8. Training to employees before merger: One company may have entrepreneurial and risk taking style of functioning. Other company may have extreme authoritative and procedural orientation. Middle level managers were sent to various Godrej sites(An Indian Company) for training so that they could have a firsthand experience of systems and practices and such managers were playing as change agents.
9. Carefully give importance to rename, logo, colour, check in counter, check in staff, redesign of the reception, rebranding, consultancy firm and the leader to lead the Jumbo.
10. Insure your post merger legal battles in India. Even mergers happen between two entities outside India can attract Income tax in India if there is a remote link with Indian entities before or after mergers.

Conclusion

There are many reasons to fail but a few reasons to Success of a merged entity. Failures are not stepping stones to success with respect to mergers and acquisitions. Definitely, everyone understands that if new software fails by even by o.1%, the software fails by 100%. In the same way if merger is not successful by 100%, it is considered failure. The studies undertaken guide the management and persons involved not to fail to understand the reasons for pre and post merger failures. The government of India brought legislations under Income tax Act to encourage Indian companies to acquire companies outside India and multinationals taking over Indian companies by increasing foreign holdings in Indian companies such as insurance and telecommunication sectors. The acquiring company can set-off losses of the acquired company out of the operating profits earned and save tax. Understanding culture, training of managers to develop change agents, communication to stake holders, building targets, developing a new culture, leader to lead careful planning and implementation at each stage of mergers make merger successful.

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