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By Dr. Christoph Bieri

When should you lay openly the cards on the table? Secrecy in the M&A process

In the M&A process, one of the most complex questions for the seller is when to make what information available to the prospective buyer. As a rule, the seller wants to disclose as little as possible until completion of the sale; if disclosures are made, they are made as late as possible. In this way, the seller wants to protect the target from misuse of the information by the prospective buyer that no confidentiality statement can fully prevent.

At the beginning of the process, prospective buyers need all information which may influence the offering price (positive and negative). If the initial information correctly reflects the economic potential and risks of the target, the prospective buyer has little possibility to push down the price later in the process with reference to new knowledge gained from due diligence. A deep understanding about the strategies and markets of the target and prospective buyers enables to appropriately describe the target in the so-called "Information Memorandum" without endangering it through unnecessary disclosures.

In Due Diligence – to which only the most attractive prospective buyers are admitted - the seller is interested in showing everything in order to prevent later warranty claims. However, a deal can still fall through even after Due Diligence; for this reason, disclosures have to be scrutinized for their potential to cause damage even at this stage.

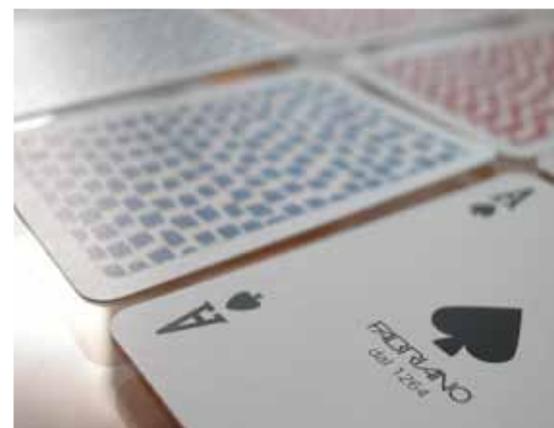
In a well-organized process, the project leader, together with the client, defines a Disclosure Plan. This plan sets out what information will be disclosed and when. In doing so, it is important to always keep the prospective buyer's per-

spective in mind. What does the buyer need to establish the offering price? What should only be told or shown in Due Diligence? How could someone do damage in the case of misuse?

The Disclosure Plan will consider the following aspects in particular:

Legal disclosure limitations. Certain information may never be disclosed for legal reasons, not even in Due Diligence. Due to anti-trust legislation, this may in certain situations concern customer names and sales conditions. As a rule, legal restrictions also apply to information which, if disclosed, could damage the privacy rights of third parties, e.g. the salaries of individual employees at lower levels.

Non-protectable trade secrets. Depending on the target, the disclosure of certain trade secrets could endanger the existence of the target



in the event of misuse. Some examples are mathematical algorithms (which cannot be patented), customer data and cost calculation information.

Aggregation. Generally, it is recommended that sensitive information be aggregated to a reasonable degree for the information memorandum and for Due Diligence. This is a time-consuming



process and requires sufficient experience. For larger quantitative data sets (e.g. time series of sales data), it is advisable to create a data cube which can be "sliced" in different ways in the course of due diligence and can also be updated during an extended process. In this way, one can create all the analyses that the prospective buyers request without giving him access to the raw data and keeping the workload of data preparation manageable.

Disclosure mechanisms. In practice, prospective buyers know the legal disclosure limitations. Data subject to these limitations and other highly sensitive information are typically withheld until

the end of the process. In the Disclosure Plan, a suitable disclosure mechanism is established. For example, the buyer may have the information inspected in a fiduciary capacity by a consultant who has obligated him/herself to secrecy; alternatively, the information may be first disclosed after signing the contract, and the buyer can then only withdraw from the deal under clearly defined conditions.

The control of the information flow in the M&A process is a central task of project management. An in-depth understanding of the target and the prospective buyer, a systematic approach, and also creativity and experience are indispensable.

Guidelines for Disclosure in the M&A process:

- Differentiate genuine need for information on behalf of the prospective buyer from "spying"
- Aggregate sensitive raw data - reproducible
- Develop creative mechanisms for highly sensitive data ('Poison cabinet')
- Observe legal framework conditions

China launches acquisition initiative in the SME sector

Recently, the Department of Commerce of the People's Republic of China (MOFCOM) asked medium-sized Chinese companies (with sales in the area of \$200 million–\$3 billion) to place investments in Western economies and specifically identified 156 companies in this process. InterChina, our Chinese IMAP-Partner, visited and qualified all of these companies over three months, and invited 40 of them to the global IMAP meeting, which took place in Beijing from March 29 – April 1. In a kind of "speed dating", these companies discussed their M&A objectives for acquisitions, minority shareholding and joint ventures with IMAP members from the preferred countries. Kurmann Partners met seven of these companies in Beijing and is actively pursuing several projects which resulted from these meetings.

Completed projects

In April and May in the current 2nd quarter, IMAP completed 15 transactions. Noteworthy transactions in which IMAP advised the sellers include the sale of the Danish company **Produkter**, a manufacturer of custom-made window blind systems, to the global market leader **Hunter Douglas** with operational headquarters in the Netherlands as well as the sale of the Software Suite "**Critical Test Results**" of **American IMCO Technologies** to **Amcom Software**, a sister company of **USA Mobility** specialized in hospital communications solutions for critical areas. On the buying side, IMAP represented the German company **RENA**, a leading supplier in the solar industry, in a complex transaction to acquire the German waste water treatment plant construction firm **Stulz H+E; TBC Corporation**, the leading American NYSE listed marketer of car replacement tyres for the acquisition of **Midas** (also NYSE-listed), a worldwide leading operator and franchiser of Auto Service Centers, for a price of roughly \$310 million (including debts and pension obligations).

Pre-advice Kurmann Partners Autumn Event

Topic: "**Erfolgsfaktoren und Stolpersteine bei der Integration von Akquisitionen**" (Success Factors and Stumbling Blocks during post-merger integration). The event will take place on **October 31, 2012** beginning at 6:00 PM in the Convention Point of the SIX Swiss Exchange in Zürich and will be concluded by an aperitif party. Please reserve the date today.

Ongoing projects

Selected sales projects which we provide guidance for are:

GE-AT-CH	Developer and distributor of personal care and perfume products with good distribution at the relevant retailers.
GE-AT-CH	European market leading company offering a mobile device independent software for the optimization of business processes which can be integrated into all major ERP systems. EBITDA around CHF 1 million.
LATAM, ME	Large pharmaceutical contract production company with long-term delivery contracts.
South-East-Europe	Decontamination and waste management for industrial sites, facilities and contaminated soils from PCB oils and other hazardous materials. EBITDA in the range of € 1.1 million.

Our customers are interested in acquisition possibilities in these areas

CH, GE	Manufacturers of machine tools and subsystems with leading technology.
GE, AT	Manufacturers of precision tools incl. hard metal processing for demanding markets such as machine building, automotive engineering, and medical technology.
CH, EU	Specialized component manufacturers with strong growth and high profitability in laboratory automation and sensor technology.
CH, EU, LATAM	Pharmaceutical products (Rx, OTC, Nutraceuticals) or manufacturers/distributors).
CH, EU	Manufacturers of diagnostic devices or surgical instruments in ophthalmology.
CH	We are looking for companies with sales of 10 to several hundred million in various industries for management buy-ins.

What is your company worth?

As a simple, rough method for assessment of a company's worth ("enterprise value", i.e., including financial debt), so-called market multiples can be used. For Swiss companies, lower taxes and cost of capital generally lead to higher multiples than abroad. At the same time, it should be noted that specific niches of the relatively broad industry categories listed below can differ substantially and that a professionally-led sales process can yield prices which significantly exceed these published market multiples.

Industry	Size Category							
	Turnover <€50m				Turnover €50m to 250m			
	EBIT-multiple		Turnover-multiple		EBIT-multiple		Turnover-multiple	
	from	to	from	to	from	to	from	to
Consulting Services	5,4	7,3	0,56	0,95	6,3	8,4	0,64	1,13
Software	6,0	8,0	0,67	1,05	6,7	8,4	0,73	1,14
Telecommunications	5,5	7,6	0,60	0,99	5,7	7,8	0,69	1,13
Media	5,8	7,7	0,60	1,11	6,5	8,1	0,75	1,37
Trade and E-Commerce	5,0	7,6	0,49	0,94	5,9	8,3	0,55	1,04
Transportation, Logistics and Tourism	5,0	7,1	0,51	0,98	5,6	7,8	0,59	1,06
Electrical Engineering and Electronics	5,0	6,9	0,51	0,98	5,5	7,6	0,63	1,00
Vehicle Construction and Accessories	5,0	6,7	0,40	0,72	5,4	7,3	0,44	0,82
Machine and Plant Construction	5,5	7,1	0,49	0,77	5,3	7,6	0,50	0,96
Chemical Industry and Cosmetics	5,7	7,9	0,53	0,85	6,3	8,5	0,62	0,99
Pharmaceuticals	5,8	8,5	0,72	1,26	6,7	9,3	0,73	1,74
Textile and Clothing	4,6	6,2	0,43	0,65	5,2	6,9	0,51	0,76
Food and Alcohol/Tobacco	5,2	7,2	0,46	0,88	5,7	7,9	0,54	0,98
Gas, Electricity, Water	5,3	7,9	0,56	0,91	6,1	8,5	0,67	1,04
Environmental Technology and Renewable Energy Sources	5,6	7,9	0,57	1,05	6,4	8,8	0,69	1,24
Construction and Craft	3,8	5,3	0,36	0,57	4,4	5,7	0,43	0,66

Source: FINANCE Magazine, March/April 2012. More on multiples at www.finance-magazin.de.



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About us

Kurmann Partners is an independent M&A and strategy consulting firm, specialized in medium-sized companies. We structure and direct the process for the sale of companies, develop and implement growth through acquisitions, and consult on value-enhancing strategies.

Since 1987, we have conducted more than 100 transactions, most of them across borders. As the exclusive Swiss member of IMAP, the largest organization of independent M&A companies worldwide and with over 400 consultants in 30 countries, we have local resources, contacts, and knowledge at our disposal worldwide. All of our partners have their own company experience and can, for this reason, also develop practical solutions even in complex and demanding situations, and implement them together with the customer.

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**We create
and realize value
for our clients.**

