

The Station Acquisition Process: First Time Buyer

Station trading activity has exploded as a result of deregulation. A review of the acquisition process may be helpful, particularly for the buyer looking to acquire his or her first station.

The first step is to assemble (or reassemble) your acquisition and due diligence team. The participants may come from within the company; outsource to fill in the gaps. At the minimum, you need an FCC attorney, an engineer, a CPA for tax advice, and someone to provide financial analysis and valuation work. Your C.F.O. can serve in this latter capacity although time constraints often result in the use of qualified station brokers and consultants. A first-time buyer would do well to read anything he or she can find on the subject in addition to attending industry seminars (NAB, Paul Kagan, state broadcasting conventions, etc.).

Prepare a business plan, even if it serves only to outline the types of station opportunities you are seeking. It will be helpful in generating "deal flow," critical in a hot, seller's market. It also serves to focus your thinking on your acquisition strategy and therefore on the growth opportunities presenting the best "fit."

Consider retaining a broker to work on your behalf. Traditionally, brokers have served the seller's interest (and unfortunately, a few, the broker's interest alone). Their goal was to structure the price and terms solely to the seller's benefit. Recent years have seen a marked increase in buyer representation (as has also occurred in real estate). A broker serving the interests of a buyer can 1) assist you in developing your business plan 2) research markets to isolate a target list, 3) identify station purchase opportunities (many, if not most of which are not necessarily "for sale") and contact the owner(s), 4) estimate station values, 5) structure and arrange financing, 6) assist with the due diligence process, and 7) negotiate and help close the purchase. Large companies may rely upon investment banking firms to perform these functions. Without regard to who actually performs the work, an organized acquisition process will yield the best results. It is helpful to work with a firm that maintains a detailed database of markets and stations if the information is not readily available in-house.

If you are building a team for the first time, ask colleagues who have been through the process for referrals. Interview the candidates for both technical expertise and communication skills. Check references. Look at their recent transactions. Above all, the "chemistry" must be right. FCC attorneys are generally good referral sources for broker/consultants and broadcast engineering professionals. Insist that each team member provide analysis

expertise together with the ability to interpret results and make good recommendations. Those actually involved with the negotiations must understand finance and negotiating.

Proper evaluation of a station opportunity is critical. Mistakes are costly and can be fatal. Due diligence must be completed with great care. Each deal must be evaluated within the parameters of your company's strategy: 1) Is it the right market size? 2) Does it fit with the rest of the group? 3) are there adequate resources (financial and human) to grow and develop the facility? 4) What is the competitive environment and can we win? 5) Are there opportunities to add additional stations within the market?

Tax implications must be considered, particularly if the acquisition is for stock instead of assets. Can the deal be financed so as to allow a sufficient return on the equity invested (increased leverage increases the yield to investors, but it also increases the risk)?

Research the market on the web, but spend time there as well. Visit some retailers and the local Chamber. Is a nearby military base under consideration for closure? Are major companies downsizing? How's the local real estate market? Why?

A thorough analysis of the station's ratings and overall competitive posture is a must. Can the station meet your expectations? Spend money on research if there is any doubt.

The due diligence stage should include an exhaustive review of each of the contracts and leases to be assumed (with particular attention paid to those material to the station's operation). A list of the fixed assets should be secured and checked during an on-site inspection (and again immediately prior to closing). Your consulting engineer should verify that all equipment is operating within specs and in compliance with FCC rules. Find out what additional capital expenditures might be needed in the future. It is also a good idea to have your engineer sweep the market for move-in opportunities which may have escaped notice but which could alter the competitive landscape.

If real property is involved in the deal, insist on favorable results from a Phase I environmental audit. Even if you don't, your lender probably will.

Scrutinize the seller's financial statements. While an audit is usually impractical, check the deposit records against sales. Evaluate the receivables, particularly the aging. What percent is over 90 days? Why? Look for expense trends and unusual items.

Are ASCAP and BMI being accrued properly? Are payroll taxes current? Spot-check specific line items (e.g. review twelve months of utility bills). Are the payables reasonably current? If not, why not?

Review each compensation plan for each employee. Are there any lawsuits against the company? Any threatened? Are there union activities? Audit the public file and have your FCC attorney check on the station at the Commission. Are there any E.E.O. problems which might crop up during the transfer process? How is the station's recording keeping? A lien search should also be conducted prior to closing.

These are only a sampling of due diligence items intended to prompt further questioning. However, they underscore the importance of using qualified advisors throughout the process. Above all, follow this sage advice: "Never fall in love with something which can't love you back." The best deal may be the one you walk away from.

The ideal acquisition planning process addresses each of the following steps:

- 1) Build your team.
- 2) Formulate a plan.
- 3) Have your equity in place (and a good idea where your debt will come from).
- 4) Build "deal flow" (and communicate religiously with those providing that flow).
- 5) Perform exhaustive due diligence.
- 6) Carefully negotiate the Letter of Intent and Asset (or Stock) Purchase Agreement.
- 7) Close the transaction with no (unfavorable) surprises.

A first-time buyer could spend a year or two before getting a deal closed. It is not a process for the faint of heart. Even experienced acquirers would do well to rethink the basics to ensure that no weak links have surfaced. A well-oiled acquisition team and a comprehensive set of internal processes and procedures will pay huge rewards.

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