Finding opportunity in a buy sell negotiation with a monster platform

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This is not the car business of former generations. So much has changed in the last 25 years. The prevalence of the single-store owner has given way to a quite different retail structure. While the smaller dealers continue to play an important role, to a large extent, the retail system has transformed over the last several years to monster platforms that have gobbled up their competitors and continue to feast on the remaining dealers in their markets.

These groups range from the local or regional platforms to a growing number of equity funds, and, of course, the large public retail groups. To say that the playing field is no longer level is an understatement. How does one selling a store in today's environment negotiate with such formidable buyers? Consider how this could be opportunity for the target dealership.

Leveling the Field.

Firstly, no matter how you compare in size and resources to the buyer conglomerates, the negotiation always boils down to the basics:

- The value and desirability of your franchise(s);
- Your profitability;
- The quality of your organization; and

- The quality of your facility and location.

If you are running on all these cylinders, you will have the ability to negotiate a strong deal no matter who is on the other side of the table. Of course, the converse is also true.

Secondly, the target dealer can become star struck in such negotiations and allow the buyer group to control everything in the deal, including the timing, the structure, the protocol and, of course, the use of all the buyer's typically one-sided acquisition agreement forms and related documents.

You will hear the usual lines, such as "This is the only way we purchase a store" or "These forms are the only ones authorized by our Board". You are urged to maintain your ground, within reason, of course. There is give and take in all negotiations and these deals are no different. You are always entitled to negotiate the best price and terms possible under the circumstances.

Thirdly, you need to adjust your negotiation strategy from your past practices in traditional buy-sells. This includes both your negotiation team and your approach to the deal. Don't assume that your usual team of professionals are up to the task. Certainly, you want your long-stranding advisers involved, such as your lawyer and accountant.

However, it is advisable to consider the involvement of the most qualified industry experts, such as well-known buy-sell advisers who have experience in such deals and, perhaps, more importantly, credibility with the large buying groups. These include automotive brokers, accountants or lawyers. As the old saying does, don't bring a knife to a gunfight.

Your approach must entail a heightened scrutiny. You cannot assume that the buying group, no matter how large and consolidated (even the publics), will be well-received by your franchisor. The necessity of doing due diligence on your buyer still applies in this context.

Furthermore, you cannot give in to all the buyer's acquisition protocol. Here are some noteworthy areas of concern:

- The use of a Letter of Intent that can tie up your store for months because of so-called no-shop provisions and other troublesome terms.
- The implementation of a due diligence protocol that may disrupt your operations and create damaging leaks that your dealership is on the block to your employees, customers and competitors.
- The submission of the buy-sell to your franchisor before financial due diligence concludes, only to have the buyer ultimately walk from the deal since "the numbers did not work".

Any one, or a combination, of these can have damaging and long-term consequences.

There are, however, ways to mitigate these concerns with effective negotiations. The buyer will push back hard, but can be persuaded to adjust its protocol if approached correctly.

<u>An Opportunity Event</u>.

When the "big" deal develops, certain unique opportunities for the selling dealer may be available:

- In many cases, there may be an offer of employment for the outgoing owner(s), as well as his or her management team (in certain instances, family members). If there is one constant complaint among the larger groups, it is their inability to attract and retain talent. In the estimate of many, there is an unprecedented dearth of such talent in the industry today, perhaps because the younger workforce is looking at other industries. Whatever the reason, a buy-sell can present a lucrative employment opportunity that should be closely examined by the outgoing dealer who is not quite ready to "hang it up".

- Equity opportunities may also be available. This can be limited to the dealership included in the deal, or can also extend to the buyer's entire platform, including future acquisitions. This can be an enormous opportunity for the seller. Not only can he/she cash in on their long-term investment, but he/she can keep some chips on the table for future returns on that investment, and without the financial exposure that has created many sleepless nights for the dealer over the years. Of course, great care should be given to negotiating such arrangements.
- The buy-sell with the large group may even present an acquisition opportunity for the seller. The platform may be looking to divest one of its stores in your market or, perhaps, in the market of your next destination. It could also be a downsizing event so that you can sell but continue your dealer lifestyle. This is a lament that is heard many times:

I want to get out. I think that it is the right time. However, I am going to miss dealership operations, the camaraderie with my employees, other dealers and the factory people, the dealer trips, the NADA convention, etc.

The deal doesn't have to be an all-or-nothing scenario.

A buy-sell in today's consolidation era can present some unique challenges and, at the same time, some exciting opportunities. With the right approach to such deals, the former can be significantly mitigated, and the latter optimized.

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