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Managing Law Firm Mergers

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MANAGING LAW FIRM MERGERS

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ABSTRACT

This dissertation explores the phenomenon of mergers and acquisitions (M&As), specifically, law firm M&As. M&As have been described as one of the most significant and powerful methods by which organizations grow. They can also be an important form of corporate development and strategic renewal. However, despite the long history and importance of M&As, research has yielded mainly equivocal results concerning what makes some succeed and others fail. Further, a number of researchers have called for more research on the managerial processes of M&As recognizing that the process of merging has been largely ignored by researchers. Therefore, the goal of this study was to examine the managerial processes involved in M&As and the basic research question that drove this research was: "What are the critical management tasks associated with effective pre and post merger management?"

The research employed an inductive approach, building knowledge from an iterative combination of empirical evidence and theory, and involved a four phase research design: conceptual development, pilot, theoretical replication, and analysis and explanatory phases. Ten law firm mergers, involving firms from across Canada, were studied in-depth. Mergers were chosen to represent three different levels of integration: preservation, absorption, and symbiosis.

The findings strongly support those researchers who have argued that M&A success and failure has more to do with the processes of merging than with the variables captured in prevailing performance-oriented studies. The results also challenge the treatment of M&As as relatively homogenous economic events. For example, size differences can be important and it was evident that there is quite a difference between "two whales mating and a whale swallowing a minnow." Further, "living together versus a long distance relationship" involves very different merger dynamics. Specific to law firms mergers was the critical importance of the need for good 'organizational fit' between firms, and the importance of strong leadership throughout the merger process. In particular, seven critical leadership behaviours associated with effective merger management are described. The research also contributes to the literature on professional service firms, and provides some normative prescriptions for practitioners.

ACKNOWLEDGEMENTS

"So Long, and Thanks For All The Fish"

(Adams, 1984)

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CHAPTER 1 - INTRODUCTION

This dissertation explores the phenomenon of mergers and acquisitions (M&As), specifically, law firm M&As. Despite the long history and importance of M&As, research has yielded largely only equivocal results concerning whether or not M&As are beneficial to society, and what makes some succeed and others fail (*e.g.*, Chatterjee, Lubatkin, Schweiger & Weber, 1992; Schweiger & Walsh, 1990). Further, a number of researchers have called for more research into the management processes surrounding M&As as opposed to the more content studies that have historically dominated the field (*e.g.*, Shanley & Correa, 1992; Walsh, 1989). Therefore, **the goal of this study is to examine the managerial processes involved in M&As** with a view to improving our understanding of why some M&As succeed and others fail.

This introductory chapter begins with some detailed background information on the importance of M&As, continues with a discussion of the need for research into the management processes specific to M&As and, then, proposes some relevant research questions. The chapter concludes with a brief description of the format of the dissertation.

1.1 Background on the Importance of Mergers and Acquisitions

M&As, A Pervasive Phenomenon

In principle, there are two methods of expansion available to corporations: internal development, and mergers and acquisitions (Hitt, Hoskisson & Ireland, 1990; Singh & Montgomery, 1987; Yip, 1982). In particular, M&As have been described as "one of the most significant and powerful methods by which firms do in fact grow" (Penrose, 1959, p.43). Further, M&As have been and continue to be a popular strategic option for corporations (Chatterjee, 1992; Datta, 1991; Lubatkin, 1983; Napier, 1989; Shrivastava, 1986). For example, in a 1988 survey by Booze, Allen and Hamilton, over 80 percent of a group of Chief Executive Officers who were interviewed in the United States, Europe, and Japan expected that their corporations would be participants in one or more M&As before the year 2000 (Bibler, 1989).

Additionally, M&As can be an important form of corporate development and strategic renewal. For example, Haspeslagh and Jemison (1991) comment that M&As:

> "have a unique potential to transform firms and to contribute to corporate renewal. They can help a firm review its market positions at a speed not achievable through internal development. They can provide an ability to gain all the benefits from combining assets and sharing capabilities in a way not obtainable through partnerships. More profoundly, however, **acquisitions can bring into a company capabilities the organization finds hard to develop, or they can provide the opportunity to leverage existing capabilities into much more significant positions**" (p.3).

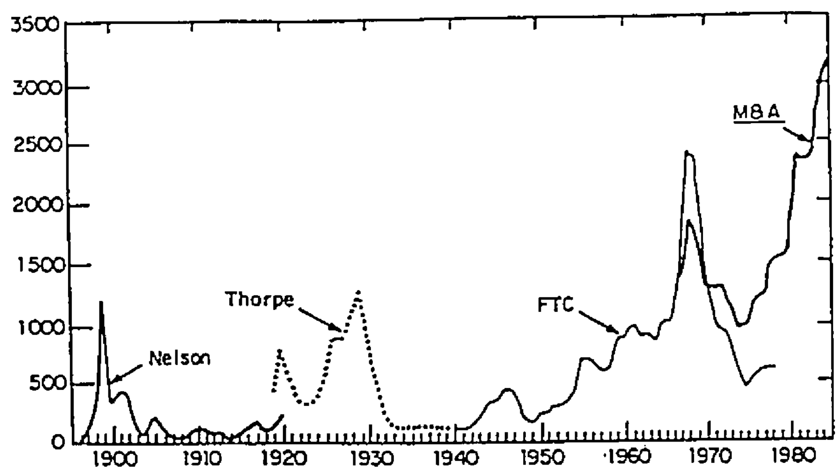
Historical Perspective on M&As

M&As, hostile or friendly, are not a recent phenomenon. Throughout history, humans have engaged in takeovers of one kind or another in order to overcome resource constraints and to expand. Indeed, takeovers were a common occurrence by the fourth century B.C., when Alexander the Great conquered all of Persia. Alexander, in turn, provided inspiration for Julius Caesar (100-44 B.C.) in his conquests of Gaul and Great Britain. In 1532, Niccolo Machiavelli published what may be considered as the first takeover manual -- The Prince. Indeed, by the time the robber barons of the 1870s and 1880s compelled companies in their way to sell out or be destroyed, takeovers were a popular strategy (Mayer, 1990).

M&As have been prevalent during this century as well. Figure 1.1 graphically presents the historical pattern of M&A activity from 1895 to 1985 in the United States (Golbe & White, 1988). Four peaks or 'waves' can be seen from this figure. The majority of M&As in the first wave, the Great Merger Wave of 1895-1904, were motivated by a desire on the part of the acquirers to obtain monopoly power (Stigler, 1950). This wave was brought to an end with the U.S. Supreme Court's antitrust decision in the Northern Securities case of 1904 (Bittlingmayer, 1985). M&As during the second wave, 1919-1929, were largely motivated by a desire for increased oligopolistic power. This wave ended with the start of the Depression in 1929. The third wave, 1966-1969, witnessed a large number of conglomerate M&As (Steiner, 1975). Finally, the fourth wave started in the early 1980s and has yet to end (Marchildon, 1991). For example, completed deals in 1994-1995 involved such diverse organizations as AT Kearney, Bank America Corporation, CAE Inc., Federated Department Stores, John Labatt Ltd., Johnson &

Johnson, IBM, Mutual Life of Canada, Novell Inc., SmithKline Beecham PLC, Toronto Dominion Bank, to name but a few. Indeed, it has been commented that "mergers are the trend with Canadian unions" (Jim Hunter, President of the Canadian Brotherhood of Railway, Transport and General Workers, Financial Post, January 26, 1994, p.3).

Figure 1.1. Annual Number of U.S. Mergers and Acquisitions 1895-1985



Annual number of mergers and acquisitions: Nelson series, Thorpe series, FTC "Broad" series, and *M&A* "Domestic" series

Source: Golbe & White, 1988, p.37.

Current M&A Activity

M&A activity in the U.S., in the last three months of 1994 set a quarterly record for dollar value of deals and pushed the full year of 1994 to the highest number of annual completions during the 1980s and 1990s, and reached the third highest dollar volume on record. There were 4,470 completed deals in 1994, involving a total value of US$ 268 billion. Indeed, it was noted that :

> "the [1994] figures reflect a remarkably broad and deep M&A market, running from highly publicized megadeals concentrated in a handful of fields, through hundreds of small [but greater than US$5 million, as smaller deals are not tracked] and

> medium transactions running across a wide cross-section of industries" (Mergers & Acquisitions, 1995, p.58).

Similarly, Canadian companies completed a record number of M&As in 1994 and "to a large extent activity was dominated by strategic buyers. Driven by the need to grow revenues and build core businesses, companies engineered transactions that would provide access to emerging markets and the latest technology" (Mergers & Acquisitions in Canada, 1995, p.1). There were in excess of 1,000 completed deals in 1994, involving a total value of Cdn$ 47 billion.

On a worldwide basis, in 1994, cross-border acquisition activity (where acquirer and acquired corporations are from different countries) continued to remain at high levels, both in terms of number and value of deals. In particular, international M&As involving Canada increased in 1994 over 1993, with Canadian companies investing more outside the country, $10 billion on 265 acquisitions, than foreign companies brought in, $8.2 billion on 162 acquisitions (Globe and Mail, 1995, January 18, p.B1). Indeed, with respect to the growth in M&A activity in the national and international marketplace, it has been commented that:

> "technological advances, globalization, industry consolidations, and corporate restructurings, and their acquisition follow-ons, along with countless less obvious forces, continued to underscore the efficacy of the merger and acquisition response to the constant changes in the business landscape" (Mergers & Acquisitions, 1995. p.58).

However, it should be noted that a limitation of much of the data collected on M&As is that a lower value limit is always set for inclusion of deals (Golbe & White, 1988). For example, the most current data is that of the periodical Mergers & Acquisitions which only includes deals of US$5 million or greater. Indeed, according to the Federal Trade Commission (FTC) approximately 60% of all M&A activity is never publicized or consists of small transactions (less than US$ 5 million) that no one tracks systematically. Therefore, the published data understates the number of M&As consummated and presents an inaccurate picture of the overall level of M&A activity (Pritchett, 1985). Also, it has been estimated that the number of M&As consummated is approximately only one-tenth of the number of M&As investigated (Shepherd, 1990).

1.2 Motivation for this Research

The Literature

The preceding discussion provides an indication of the pervasiveness of M&A activity. Indeed, M&As are now seen as a permanent structural part of the worldwide business environment (Business Week, 1988; Datta, 1991; Fortune, 1994 & 1995). However, despite the prevalence and long history of M&A activity, **many researchers and authors have commented on how little we know about what makes M&As succeed or fail** (*e.g.*, Datta, Grant & Rajagopalan, 1991; Goold & Luchs, 1993; Greenwood, Hinings & Brown, 1994; Schweiger & Walsh, 1990).

There is, however, one consistent finding of M&A researchers: in more than half of all M&As, the acquirer never earned a return greater than it would have received from other investment activities with similar levels of risk (Lubatkin, 1983). Business Week cover articles (1985, 1988, & 1990) concluded that as many as two thirds of the M&As it tracked had failed to increase shareholder value. Similarly, a study carried out by McKinsey & Company showed that, in over two thirds of corporate M&As that they examined, acquirers never earned as much as they would have earned by investing in bank certificates (Bastien, 1987). After studying the M&A strategies of "33 large, prestigious U.S. companies over the 1950-1986 period," Porter (1987) found that "most companies have dissipated instead of created shareholder value" (p.43). He further commented that:

> "only the lawyers, investment bankers, and original sellers have prospered in most of the acquisitions, not the shareholders [of the acquiring company]" (p.46).

Apart from this negative view of M&As, there is very little consensus in the literature about how and why some M&As succeed and others fail (*e.g.*, Buono, Bowditch, & Lewis, 1985; Napier, 1989). There is some consensus that both the planning and implementation stages of M&As are generally under-managed (*e.g.*, Jemison & Sitkin, 1986), and that the high failure rate of M&As is due to poor merger management which results in intended M&A benefits not being realized (*e.g.*, Haspeslagh & Jemison, 1991).

However, M&A process research is largely anecdotal, descriptive, and fragmentary in nature, and lacks an adequate conceptual framework with which to consider the M&A

process in its entirety. This situation may be because the literature on M&As spans a number of disciplines and few attempts have been made to integrate what is known (Schweiger & Walsh, 1990). Indeed, it has been noted that **"in many respect, theoretical understanding of mergers is in its infancy"** (Greenwood, Hinings & Brown, 1994, p.255) and that considerably more research into the management processes surrounding M&A is needed (*e.g.*, Walsh, 1989). Indeed, based on their in-depth case research of 20 acquisitions, Haspeslagh and Jemison (1991) stated that:

> "acquisition success and failure had more to do with the processes of decision making and integration than with the variables captured in ... prevailing performance-oriented studies" (p.280).

Indeed, from a research perspective, it has been noted that **"the process [of merging] has been ignored"** (Nahavandi & Malekzadeh, 1988, p.87). Acknowledging these views, this study will focus on examining the process aspect of M&As, both pre and post merger.

The Author

This paper is also motivated by the author's first-hand experiences in a number of M&As. I gained this experience over the course of seven years while employed in a number of different managerial positions in a number of different industries. These included: two years as group management accountant with the corporate headquarters of a multinational manufacturer, wholesaler and retailer of ladies fashion outerwear; three years as manager in the corporate finance department of Peat Marwick Consultants; and two years as investments manager of a venture capital company. Table 1.1 presents some background information on 11 of these M&As and my role in each.

It should be noted that these 11 cases include only those instances where I had a substantial involvement. There were a number of other M&As in which I had a more limited involvement and which I have not include in Table 1.1. Also, I was involved in a number of other organizational situations which exhibited similar dynamics to M&As. For example, I was operations manager for two clothing manufacturers (1,100 and 650 employees, respectively) while they were in receivership, an experience which might be viewed as the most hostile of hostile takeovers. These experiences will be drawn on to enrich the development of the M&A Research Framework presented in Chapter 3.

Table 1.1. Description of the Author's Direct M&A Experience

Industry	Role in M&A
Distribution - clothing	Change agent
Manufacturing - clothing	Change agent
Financial services - stockbroking	Change agent
Manufacturing - liqueur	Company director
Manufacturing - linens	Company director
Manufacturing - security systems	Company director
Manufacturing - engineering	Company director
Distribution - automobiles	Consultant to M&A negotiations
Services - security systems	Consultant to M&A negotiations
Manufacturing - food products	Consultant to M&A negotiations
Services - travel	Consultant to M&A negotiations

Based on these experiences, I was eager to examine M&As in order to help understand what managerial processes help to differentiate between M&A success and failure.

1.3 Research Questions

Identifying the critical management tasks surrounding both the pre and post merger stages of M&As is considered an important prelude to advancing our theoretical understanding of M&As (Napier, 1989). Consequently, the following research questions were put forward to guide this research.

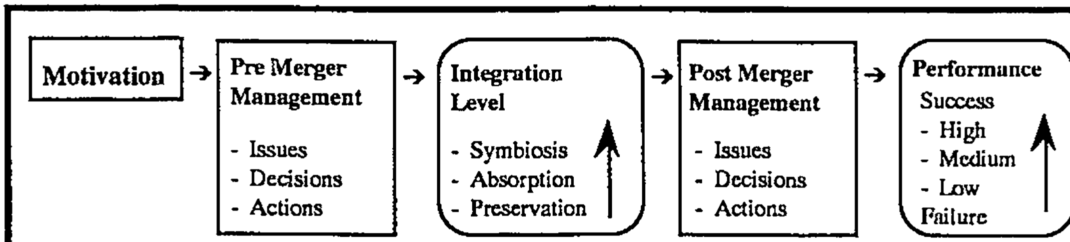
(1) What are the critical management tasks (*e.g.,* issues, decisions, and actions) associated with pre merger management?

(2) What are the critical management tasks (*e.g.,* issues, decisions, and actions) associated with post merger management?

(3) Does management of pre merger tasks impact post merger management and, if so, how?

Further, based on the literature review, it would appear that there is consensus among M&A researchers about the need to move away from secondary, cross sectional, large data base, and content type research, to a more in-depth examination of the process aspects of M&As. Therefore, a case research approach was chosen for this study (*e.g.*, Parkhe, 1993; Yin, 1989). Also, many researchers have criticized past M&A research efforts for not recognizing the complexity of M&As and have argued that research samples should be more homogeneous in nature (*e.g.*, Halpern, 1983; Napier, 1989). Consequently, professional service firms and, in particular, law firms were chosen for the research sample as this choice controlled for a number of important variables surrounding M&As, for example: (1) from an industry perspective they represent an homogeneous sample; (2) they all had a similar organizational form, that is, professional partnership; (3) in all cases the approach was friendly; (4) different levels of integration were evident across the population; (5) the mergers took place within a similar time frame from an economic cycle perspective; and (6) the timing of 'merger mania' in the legal profession, 1989-1990, allowed for a sufficient post merger time period to assess the performance outcomes of the mergers. 10 law firm mergers were studied in-depth. Figure 1.2 presents an overview of the research questions and approach.

Figure 1.2. Merger Management: Critical Management Tasks



Symbiosis (n = 2): refers to mergers involving firms of similar size coming together in shared offices, forming a new firm which represents a mixture of the two individual firms.

Absorption (n = 3): refers to mergers involving two firms that come together in shared offices, but where there is a size differential between the firms in terms of professional staff of at least 2:1.

Preservation (n = 5): refers to mergers involving two firms that are located in different cities and which involve limited integration.

1.4 Organization of the Dissertation

This dissertation is organized in a relatively standard fashion. In Chapter 2 the M&A literature from the relevant management disciplines of industrial/organization (I/O) economics, financial economics, strategic management, and organizational behaviour is reviewed, and a summary of the key consistent findings is presented. Chapter 3 conceptually synthesizes this literature to produce a M&A Research Framework, the 5 Ps of M&As, in order to help understand some of the more critical aspects of the M&A process. Each of the 5 Ps (purpose, posture, position, process, and performance) is further divided into its major sub-parts.

Chapter 4 outlines the research methodology which is an in-depth case based research approach, examining 10 law firm mergers chosen so as to represent three different levels of integration (symbiosis, absorption, and preservation). This design type is referred to as an 'embedded multiple case design' (Yin, 1989). The term 'embedded' refers to the use of multiple units of analysis (or informants) within each case, with multiple cases chosen in order to fully examine the effect of differing levels of integration on merger management processes. The existence of alternative levels of integration is, in turn, labelled a 'nonequivalent, dependent variables design' approach (*e.g.*, Cook & Campbell, 1979; Yin, 1989). Considering that the research sample is law firms, the literature on professional service firms will be reviewed in Chapter 5.

Chapters 6, 7, and 8 present the separate results for each of the three integration levels. Chapter 9 follows with a comparison across the three integration types. These results strongly support those researchers who have called for more research into the process aspects of M&As, and provide some critical insights into the complexity of M&A management processes and, specifically, why some M&As succeed and others fail.

Finally, Chapter 10 concludes with a discussion of some of the key contributions, a caveat about limitations, and recommendations for future research.

CHAPTER 2 - THE CRESCENTS: REVIEW OF M&A LITERATURE

The M&A literature is extensive and spans a number of disciplinary boundaries (Marchildon, 1991). This review will primarily consider the M&A research found in the following four disciplines: industrial/organization (I/O) economics, financial economics, strategic management, and organizational behaviour. Additional M&A research of a more technical nature found in such areas as law, accounting, and taxation will not be reviewed (*e.g.*, Bibler, 1989; Scharf, 1971).

This review is intended to highlight the **major findings** of M&A research in each of the four disciplines, detailing contributions and limitations of each of these areas of study. Additionally, when considering M&As it is also necessary to review the literature on diversification as M&As are one possible route to diversification (internal growth being the other). Therefore, findings from diversification research will also be referred to where applicable. It is hoped that by taking an interdisciplinary approach to examining what is known about M&As and what questions remain unanswered it will be possible to lay a foundation for the development of an integrating framework for understanding the M&A process. This framework will be developed in Chapter 3.

At a general level, it should be noted that many authors have commented that M&A research has tended to focus on economic, financial and strategic aspects of M&As, to the exclusion of human and process aspects (*e.g.*, Astrachan, 1990; Bastien, 1987; Nahavandi & Malekzadeh, 1988).

2.1 Industrial/Organization Economics

One reason M&As are of interest to I/O economists is that any merger between two firms, particularly firms in the same market, represents a move toward increased concentration in that market and a change in the structure of the market (*e.g.*, Bain & Qualls, 1987; Ravenscraft, 1983; Reitzes & Levy, 1995). However, academic economic research has been described as focusing more on theoretical analysis as opposed to empirical analysis. Indeed, Wassily Leontief, a past president of the American Economic Association and Nobel Laureate, commented that economists have "developed a nearly irresistible predilection for deductive reasoning" (Morgan, 1988, p.159). This bias is evident in the I/O literature on M&As. There is a large of body of literature dealing with theoretical aspects of M&As, for example, merger motives and potential economies. The empirical literature of relevance to M&As is largely concentrated on two main questions:

(1) from an industry structure perspective does industry affect performance, that is, do industry factors have greater impact on the performance of firms than firm specific factors? and

(2) from an industry conduct perspective does involvement in M&As affect firms' performance, that is, do M&As have a positive or negative impact on the performance of firms involved in M&As?

Indeed, these are two theoretically and managerially relevant questions which will be discussed in turn.

Industry Effect

At the market or industry level of analysis there is an on-going debate within the I/O literature as to the impact of industry on firm profitability both in general and, from our perspective, with respect to firms involved in M&As. Based on their analysis of Rumelt's (1974) data, Bettis and Hall (1982) concluded that there was no statistically significant difference in performance between related and unrelated diversification strategies. However, based on Rumelt's specific research sample, selection of industry or industries in which to participate appeared to be more important. This view is consistent with Schmalensee (1985) who, using 1975 data from the Line of Business Program of the U.S. FTC[1], found that:

1. industry effects existed and were important (accounted for 20% of variance in business unit profitability - 80% of variance was unrelated to industry or market share effects);
2. no corporate effects were found, that is, knowing a corporation's profitability in one market told us nothing about its likely profitability in a second market; and

[1] Data set contained 1,775 observations on business units operated by 456 firms in 242 of the 261 FTC manufacturing industries. FTC industry categories generally correspond to a three or four digit SIC industry (see Ravenscraft, 1983, for a full description of FTC Line of Business Program).

3. market share effects accounted for only a negligible fraction of the variance (0.63%) in business-unit rates of return.

However, following on from Schmalensee but based on four years (1974-1977) of Line of Business data, Rumelt (1991) found some more detailed results. Rumelt's and Schmalensee's findings are presented in Table 2.1.

Table 2.1. Rumelt and Schmalensee Comparison

Source of Variance	Rumelt	Schmalensee
	(% of total variance by source)	
CORPORATE	0.80	x
Industry	8.28	x
Industry-Year	7.84	x
ALL INDUSTRY	16.12	19.46
Share	x	0.63
Share-Industry Covariance	x	-0.62
Business-Unit	46.38	x
Business-Unit-Year	36.70	x
ALL INTRA-INDUSTRY	83.08	80.54
TOTAL	100.00	100.00

(x = component not estimated; totals may not add to 100 due to rounding)
Source Rumelt, 1991, p.179.

The industry/industry-year and business-unit/business-unit-year components represent a partitioning of the industry and intra-industry effects into their stable and year-to-year components, respectively. As such, we can see that stable industry effects accounted for 8% of the total variance and stable business-unit effects accounted for 46% of the variance, according to Rumelt. These findings support the view that industry does have an effect on business unit performance but that business-unit effects are almost six times larger. In addition, industry-year and business-unit-year variances indicate that economic cycle effects also impact firm performance.

Diversification Effect

Porter (1987) studied the 1950 to 1986 diversification histories of 33 large diversified U.S. corporations, chosen at random from many broad sectors of the economy. He highlighted the problematic nature of using shareholder returns (stock price appreciation plus dividends) as a performance measure and, consequently, used the number of acquisitions retained as an indicator of the performance of acquisition strategies:

> "**Linking shareholder value quantitatively to diversification performance only works if you compare the shareholder value that might have been without diversification.** Because such a comparison is virtually impossible to make, my own measure of diversification - the number of units retained by the company - seems to be as good an indicator as any of the contribution of diversification to corporate performance ... the underlying assumption is that a company will generally not divest or close down a successful business except in a comparatively few special cases" (p.45,47, emphasis added).

Porter found that by January 1987 the 33 sampled corporations had divested an average of 53% (spread was 17% to 87%) of 2,021 acquisitions made in "new industries" (his definition includes both related and unrelated acquisitions) between 1950 and 1980. The average divestment rate of unrelated acquisitions was 74% (spread was 40% to 100%). Porter concluded that, on average, most companies had dissipated shareholder value through their acquisition strategies rather than created shareholder value.

In one of the more comprehensive studies of M&As, Ravenscraft and Scherer (1987) analyzed FTC Line of Business surveys covering a maximum of 471 U.S. industrial corporations that made 75% of all manufacturing and mineral company acquisitions, by asset value, between 1950 and 1976. The sampled companies encompassed 4,409 individual manufacturing lines of business, and were involved in nearly 6,000 acquisitions consummated between 1950 and 1976. This study found that for the acquired businesses the "operating efficiency fell on average following merger" (p.204) and analysis of the financial returns of the merged companies indicated "that the average acquisition, if not downright unprofitable, was not highly profitable" (p.207). Further, the effect of a market for corporate control was not apparent as most acquired firms were already well managed and not obviously in need of improvement. The hoped for 'synergies' typically did not develop and the improved funding from the 'internal capital market' within conglomerate firms did not emerge strongly. It should be noted that the M&As of this period were "preponderantly conglomerate" (Scherer, 1988, p.76).

In a related piece of research, Ravenscraft and Scherer (1989) using data on 2,732 lines of business for the years 1957-1977 found that acquired companies were extraordinarily profitable pre-merger, indicating no support for the 'inefficient management displacement' hypothesis. Additionally, on average the acquired units' profitability declined after the merger. Further, when the acquired companies were divided into the four merger type categories of horizontal, related, vertical, and pure conglomerate, it was found that on average all types experienced profitability declines with no significant differences in the level of decline between types.

Alberts and Varaiya (1989) found that it was highly unlikely that acquiring companies would be "able to recapture their premiums, let alone create sustainable increments of value for themselves" (p.134). Specifically, with a sample of 137 acquisitions made between 1976-1984, they compared the rates of return that these companies made in the year prior to acquisition with the average rate of return of a sample of other companies operating in the same industry and found that there was no significant difference in returns. In other words, the 137 acquisitions were not turnaround or mismanagement situations but profitable companies. They then calculated the "uniform annual equivalent" (UAE) return required to recapture the premium paid on acquisition and compared this to the average returns for the relevant industry. They found that the acquiring companies would need to:

> "have turned their acquirees from companies that had been normally profitable ... into companies somewhere in the 85th to 95th percentile range for all companies. It is difficult to believe that these acquiring companies in fact have achieved (or can achieve) on average such transformations" (p.144-145).

I/O Economics Summary. I/O economics has contributed to our knowledge of M&As both at the theoretical level and at the empirical level. Empirically, business unit, industry, and economic cycle effects have been shown to account for variation in firm performance (e.g., Rumelt, 1991; Schmalensee, 1985) and consequently we can infer that these effects will also apply in M&A situations. More specifically, empirical research of M&As indicates that, on average, M&As do not improve acquired firm performance. Indeed, Caves (1989), based on his review, concluded that:

> **"Ex post ... mergers, not merely fail to warrant acquisition premia but actually reduce the real profitability of acquired business units"** (p.167, emphasis added).

Similarly, Ravenscraft and Scherer (1989) concluded their analysis by stating that:

> "the evidence mandates considerable skepticism toward the claim that mergers are on average efficiency-enhancing" (p.116).

2.2 Financial Economics

The dominant methodology employed by financial economists when examining M&As is the event study (see Brown & Warner, 1980 for a full review). Most M&A event studies focus on stock price movements during only a limited period around the first public announcement, that is, the date the target firm is 'put in play' (in the jargon of M&A participants and spectators), though some studies use the merger date. For example, Jensen and Ruback (1983) reviewed 13 M&A studies where the period over which the stock price activity was examined ranged from, the day before to the day after the offer announcement, to 40 trading days before to 20 trading days after the offer announcement.

Many papers have been written on how the announcement of a M&A (by inference) affects the normalized stock prices of target and acquiring firms. Fortunately, a number of recent reviews of this literature are available. In particular, there are four largely narrative reviews available (Copeland & Weston, 1988; Halpern, 1983; Jarrell, Brickley & Netter, 1988; and Jensen & Ruback, 1983) and one meta-analytical review (Datta, Narayanan & Pinches, 1992).

Many event studies have estimated the effects of M&As on the stock prices of the participating firms and while they are not always in full agreement, some generalizations can be made based upon the dominant patterns observed. For example, Halpern (1983) commented that the:

> "one consistent finding for all merger and takeover residual studies is the presence of large and significant positive abnormal returns and CAR's [cumulative abnormal market returns] for the target firm's shareholders regardless of the definition of the event date" (p.306).

Indeed, Caves (1989) noted that the "evidence from event studies on the efficiency of mergers is so extensive and consistent that a brief summary suffices" (pp.152-3). Table

2.2 presents a summary of a number of M&A researchers' summarized findings with respect to stock price changes, net of market wide price movements, for merger and tender offer acquisitions.

Table 2.2. Summary of Abnormal Returns for Merger and Tender Offer Studies

Study Type	Copeland & Weston %	Jensen & Ruback %	Jarrell *et al* %	Datta *et al* %
Merger studies:				
Acquiring firms	2-3[a]	0	ng	ng
Acquired firms	20	20	ng	ng
Tender offer studies:				
Acquiring firms	3-5	4	1-2	ng
Acquired firms	35	30	ng	ng
Mixed merger & tender offer studies:				
Acquiring firms	ng	ng	ng	0.4
Acquired firms	ng	ng	ng	21.8

[a] - not statistically significant; ng - not given.

Datta *et al.*, (1992) arrived at some more detailed conclusions based on their meta-analytical synthesis of 41 studies which comprised 409 estimates of wealth creation for both bidders and targets. They found that the capital market viewed cash financed acquisitions more favourably than stock financed ones, with shareholders in both bidder and target firms earning significantly lower returns in stock financed as opposed to cash financed acquisitions.

Additionally, returns to shareholders of bidding firms were found to be significantly affected by both the number of bids and the type of acquisition. Acquisitions which involved multiple bids had a negative effect on the returns to bidding firm shareholders indicating that the market viewed auction situations unfavourably, at least from the bidding firm's perspective. However, acquisitions of a non-conglomerate type provided a higher return to bidding firm shareholders, indicating that the market viewed such acquisitions more favourably than conglomerate type acquisitions, again from the perspective of shareholders of bidding firms.

When considering the abnormal returns earned by acquiring firms, it should be noted that there are a number of difficulties in measuring these returns. In particular, when a M&A is part of a planned strategic program on the part of the bidder, stock prices should adjust at the time of the announcement of the program as opposed to the announcement of a particular M&A. As such, a specific event which occurs as an implementation decision of a program should provide only a partial measure of the benefits to shareholders of these program decisions (Schipper & Thompson, 1983). Indeed, Jayaraman, Mandelker and Shasti's (1991) results suggest that the market anticipates an acquisition prior to the first announcement and, therefore, results will not necessarily reflect the full economic impact of the M&A.

A related problem is that share price run-ups have been shown to occur prior to formal announcement of corporate events. For example, a study by the Office of the Chief Economist (OCE) of the U.S. Securities and Exchange Commission of 172 successful tender offers found that, on average, a large and significant proportion (38.8%) of the total premium had occurred by the close of business the day before the offer announcement. These run-ups have been explained by the bidder's share foothold in the target, by media speculation, and by whether the bid is friendly or hostile (reported in Jarrell *et al.*, 1988). A further problem in measuring returns to bidders is that of relative size of bidders and targets. Bidders are generally much larger than target firms (Jensen & Ruback, 1983). Therefore, shareholder gains from a M&A, which may be large and significant for acquired firm shareholders, may not necessarily be so for shareholders of a larger acquiring firm.

Based on these various measurement problems, M&A studies which, on average, indicate small and/or insignificant returns to acquiring firm shareholders need to be interpreted cautiously as it is likely that they underestimate the bidder shareholders' premiums.

On the other hand, if we change our perspective and assume that the market for corporations is perfectly competitive, then contrary to the above discussion, we would not expect to see significant abnormal returns for bidding firms. In such a situation, where full information is available to all bidders, we would expect the price paid for a target to be bid up to reflect the target's true market value. Consequently, all gains would go to the shareholders of the target firm. Indeed, the only time a bidder could expect a greater than normal market return from a M&A would be when the bidder was in a position to create private and unique synergistic cash flows, and/or inimitable and unique synergistic cash flows, and/or unexpected synergistic cash flows (Barney, 1988). Therefore, based on this perspective we would view the generally small and non-significant returns to bidding firm shareholders as being the result of a perfectly competitive market for corporate control. Reality is probably a combination of these differing perspectives.

Financial Economics Summary. As stated by Caves (1989):

> "**Ex ante, mergers appear to create value for bidder and target together that is substantial relative to the premerger worth of the target firm.** That is, the financial markets appear to believe that bidders can wring a lot more value from the typical target's assets" (p.167, emphasis added).

Also, as acquiring firm shareholders do not appear to lose, the evidence suggests that M&As, on average, create value from a shareholders' perspective. Indeed, Jensen (1988) estimated that in the U.S. the:

> "gains to selling firm shareholders from merger and acquisition activity in the ten-year period 1977-86 total $346 billion (in 1986 US dollars). The gains to buying firm shareholders are harder to estimate, and no one to my knowledge has done so as yet, but my guess is that they will add at least another $50 billion to the total. These gains, to put them in perspective, equal 51 percent of the total cash dividends (valued in 1986 dollars) paid to investors by the entire corporate sector in the past decade" (p.21).

2.3 Strategic Management

Strategic management (SM) research on M&As has mostly focused on M&A strategy content issues as opposed to M&A strategy process issues (Porter, 1981). Process related aspects of M&As have received very limited attention (Datta, Grant & Rajagopalan, 1991). Indeed, Chatterjee and Wernerfelt (1991) reflected that "**perhaps the research question that has attracted the most attention in the strategic management discipline is the possible association between firm diversification and performance**" (p.33, emphasis added). Four main M&A

strategies have been identified in the literature: horizontal, vertical, concentric product and concentric market, and conglomerate. However, SM research has largely only examined M&As along the relatedness dimension, that is, related or unrelated (Kusewitt, 1985).

Pioneering research by Ansoff (1957, 1965) and Chandler (1962) outlined the motivations for corporate diversification and the general nature of diversified firms. Building on this work, Wrigley (1970) developed a classification scheme that recognized four major strategies of expansion/diversification. They were: (1) single product, where firms expanded by an increase in volume within the area of a clearly defined core skill; (2) dominant product, where 70% or more of output was accounted for by one product; (3) related product, where firms grow by expansion into new markets and/or new technologies, but rely on the original core skill to ensure that each new product adds strength to the existing products; and (4) unrelated product, where firms grow by expansion into new markets and new products, and require new core skills for each new product. Wrigley found a relationship between organizational structure and diversification category. As firms progressed along a diversification continuum from single product, to dominant product, to related product, to unrelated product, divisional level autonomy increased and corporate level involvement decreased.

Building on this body of work, Rumelt (1974) examined the relationship between diversification strategy, organizational structure, and economic performance. Rumelt expanded Wrigley's four groups to four major groups with nine minor groups. He found that firms were becoming more diversified during the period covered by his research, 1949-1969. Some specific findings were that:

> (1) among Dominant Business firms, the Dominant-Vertical group was low performing while the Dominant-Constrained was among the highest performing;
> (2) among Related Business firms, the Related-Constrained subgroup was high performing while the Related-Linked was average or slightly below average; and
> (3) among Unrelated Business firms, the Unrelated-Passive subgroup was among the poorest performing and the Acquisitive Conglomerates were average in profitability and substantially above average in growth ... the Dominant-Constrained and Related-Constrained were unquestionably the best overall performers, and both strategies are based upon the concept of controlled diversity (p.150).

Subsequent research investigating the relatedness hypothesis has supported (*e.g.*, Shelton, 1988: Singh & Montgomery, 1987), not confirmed (*e.g.*, Palepu, 1985), and contradicted Rumelt's findings. For example, Bettis and Hall (1982) based on their analysis of Rumelt's (1974) data concluded that there was no statistically significant difference in performance between related and unrelated diversification strategies when six pharmaceutical firms (included in the related constrained category) were excluded from the analysis. Also, they found no significant difference in performance between related constrained and related linked. Further, there have also been a number of studies that indicate that the convergent and predictive validity of Rumelt's categorization scheme is poor (*e.g.*, Chatterjee & Blocher, 1992; Sambharya & Hand, 1992).

Indeed, a number of other studies have also found no significant difference in profitability between related and unrelated diversification (*e.g.*, Bettis, 1981: Christensen & Montgomery, 1981). For example, in a study based upon a sample of 186 British manufacturing firms during the period 1972-1984, Grant and Jammine (1988) found that a related business strategy was not superior to an unrelated business strategy and the constrained diversification categories failed to outperform the linked diversification categories.

Strategic Management Summary. A number of reviews of the empirical evidence on the performance implications of strategic fit or relatedness in M&As have concluded that the results are inconclusive and that the hypothesized superiority of related acquisition strategies over unrelated acquisition has not, as yet, been unequivocally supported (*e.g.*, Chatterjee & Lubatkin, 1990: Ramanujam & Varadarajan, 1989; Seth, 1990). For example, based on his review Datta (1991) commented that:

> "The considerable diversity in the findings of the above studies provides strong support to Jemison and Sitkin's (1986) contention that **strategic fit, while important, is not a sufficient condition for superior acquisition performance.** In other words, while relatedness indicates that potential synergistic benefits may be present, it will result in superior acquisition performance only if synergies can eventually be realized through effective post-acquisition integration" (p.283, emphasis added).

As a result, current thought in Strategic Management is moving away from the traditional related hypothesis. It is emphasizing the need for organizations to invest in unique and competitively superior resources or competencies, and to deploy them in product markets where they can be best used to create value (*e.g.*, Amit & Schoemaker, 1993; Cloois, Campbell, Goold, Haspeslagh & Singh, 1992; Goold & Luchs, 1993;

Harrison, Hitt, Hoskisson & Ireland, 1992; Peteraf, 1993). Furthermore, it is now being hypothesized that value creation in M&As may depend more on how these resources are managed rather than what the resources are and, in particular, how M&As are managed during the critical integration stage (*e.g.*, Chatterjee *et al.*, 1992; Datta *et al.*, 1991).

2.4 Organizational Behaviour

Considering the diversity of the Organizational Behaviour (OB) field, one should not be surprised to find that OB research on M&As is also diverse. Many researchers have commented that while considerable time and thought is usually given to the investigation, negotiation, and strategic and financial implications of M&As, comparatively little time is given to their implementation (*e.g.*, Marks & Mirvis, 1986a). Similarly, there is very little rigorous research that investigates implementation aspects of M&As (Datta *et al.*, 1992). Further, existing OB research on M&As has been described as anecdotal and fragmentary in nature (Schweiger & Walsh, 1990). Consequently, this review will only focus on studies of a more rigorous and generalizable nature and, for presentation purposes, will be grouped into the following areas:

- ➔ M&A decision making processes
- ➔ Employment issues
- ➔ Organizational structure implications
- ➔ Organizational culture impact
- ➔ Communication effects
- ➔ Human psychological implications

M&A Decision Making Processes

Each M&A decision is unique and, as few firms are involved in M&As on a routine basis, most management groups do not have much experience with such decisions (Mace & Montgomery, 1962). Additionally, M&As usually do not involve full disclosure of information and are associated with a great deal of uncertainty. As the CEO of an acquisitive pharmaceutical company commented:

> "It's a helluv . lot like buying a secondhand car. We try to do our homework, but the preacquisition analyses never tell us all we need to know about how the outfit has been run. It's like kicking the tires, looking under the hood, and driving

> around the block. You're probably going to have a tough time seeing the things the seller doesn't want you to see. Negotiations are the same whether you're buying a car or a company. That other guy is going to highlight the positives while concealing or downplaying problems. **Every company we have bought since I became CEO has given us some nasty surprises"** (Pritchett, 1985, p.6, emphasis added).

Duhaime and Schwenk (1985) discussed four managerial decision making processes that can be problematic in M&A situations: (1) reasoning by analogy, which can be too simplified; (2) managers suffering from an illusion of control, which can lead them to overestimate their power over the eventual outcome of a M&A; (3) escalating commitment, which can develop over the often pressurized, lengthy and difficult M&A evaluation and negotiation process; and (4) single outcome calculation, which can develop from the shared beliefs of managers with respect to a particular M&A. Such beliefs, which may develop early in the M&A process, are often never subsequently challenged or questioned even in the event of contradictory evidence coming to light.

Similarly, Jemison and Sitkin (1986) highlight four key impediments connected with the M&A process: (1) activity segmentation, where division of labour from an efficiency perspective may lead to poor integration from an effectiveness perspective; (2) escalating momentum, similar to escalating commitment discussed previously; (3) expectation ambiguity with respect to the M&A (*e.g.*, purpose, acquirer/acquiree relations, future plans, *etc.*) can lead to conflict between acquirer and acquiree management teams which, in turn, may negatively impact the outcome of the M&A; and (4) management system misapplication, which may arise where the acquirer blindly and, often arrogantly, applies their own management systems to the acquired firm.

Additionally, and perhaps more importantly, many researchers have commented on the lack of attention paid during the pre M&A decision making stage to post M&A problems. In general, there is an over-emphasis on M&A planning and execution, and an under-emphasis on factors relating to M&A implementation (*e.g.*, Leighton & Tod, 1969).

All these problems and dynamics can be found in the Burrough and Helyar (1991) account of the US$ 25 billion acquisition by Kohlberg Kravis Roberts and Company (KKR) of RJR Nabisco in 1989. For example, George Roberts of KKR commented just 36 hours before bids were due: "How much do we really know about this company?" Burrough and Helyar describe the situation, as follows:

> "It was a somber group that Kravis gathered in his office Friday morning. The same thoughts were on everyone's mind. Here it was, **the biggest bid in history**, and what did they really know about RJR Nabisco? **They hadn't visited the factories, hadn't talked with more than a handful of executives. All they had was a pile of annual reports, government filings, and stacks of white computer runs -- all of which they had lost confidence in**" (p.395, emphasis added).

In summary, M&A decisions are generally: non-routine, complex, surrounded by ambiguity, involve restricted access to information, lack structure, and provide a fertile ground for dysfunctional decision making behaviour.

Employment Issues

Research on employment issues may be divided into two areas: (1) that of the effect of M&As on wages and employment, and (2) their effect on management turnover and compensation. Brown and Medoff (1988) examined the impact of M&As on the wages and employment of workers in a comprehensive sample of Michigan companies (n = 30,252) during the period 1979-1984. During 1981-1982, 438 of these companies were involved in mergers. Their analyses indicated that employment in these companies increased two percent and wages decreased four percent in the two years following the merger. In a commentary on this study, Farber (in Brown & Medoff, 1988) noted that:

> "The popular image of a corporate raider taking over a large and probably unionized company, abrogating or renegotiating existing implicit or explicit labor contracts, and reducing both wages and employment seems to be less applicable than one might have thought" (p.28).

At the management level a number of studies exist. For example, Walsh (1988) compared a sample of 50 acquired companies with a control group of a matched sample of 30 companies which were not involved in M&As during the period 1975-1979. He found that top management turnover in the acquired companies was significantly higher than that of the control group. In particular, turnover in the acquired companies increased from 25% in the first year after the acquisition, to 59% (cumulative) in the fifth year (year two - 37%, year three - 46%, year four - 52%). Management turnover in the control group increased from two percent to 33% in the same period (year two - 13%, year three - 21%, year four - 31%). He also found that turnover rates were not related to the type of M&A. Similarly, in a related study, Walsh (1989) found cumulative turnover in top management of acquired companies during the five years after a M&A of 26%, 39%, 49%, 55% and 61%, respectively.

Based on the theory of the market for corporate control, Walsh and Ellwood (1991) investigated the role M&As play in disciplining inefficient management teams. A limitation of this study is that they included both mergers and tender offers in their sample. To properly test the theory their sample should have only included hostile tender offers. While they found that top management turnover was higher than 'normal' in the two years immediately following a M&A, they found no relationship between target company performance prior to the M&A and subsequent target company top management turnover. However, their analyses revealed that it was managers from target companies with the best performance histories that departed early, particularly where the acquiring company had relatively poor performance. These and other results suggests that talented managers may decide to leave or jump ship of their own accord (*e.g.*, Marks & Mirvis, 1985).

In a study that focused on CEO turnover, Stewart (1992) examined the turnover rate of CEOs in acquired companies in hostile versus friendly takeover situations. The CEO turnover rate for a sample of 24 hostile acquisitions was 95.8% of which 87% left within six months and the remainder within one year. The CEO turnover rate for friendly acquisitions was 53.8%, of which 23.3% left within six months. This disparity in turnover rates between hostile and friendly takeovers highlights the potential confounding of results that may occur when M&As are treated as homogeneous events. Based on Stewart's results, hostile and friendly takeovers have significantly different implications with respect to turnover of the acquired firm's CEO.

In summary, following a M&A, acquired companies can expect to experience significantly increased levels of turnover of top management, and hostile M&As are associated with significantly higher levels of CEO turnover than friendly M&As.

Organizational Structure Implications

Chandler (1962) investigated the changing strategy and structure of large industrial enterprises in the U.S. Based on the proposition (among others) that growth without organizational structure adjustment could only lead to economic inefficiency, he examined how structure changed with strategy. His findings indicated that as firms diversified, their organizational structure moved away from a centralized functional (or U-Form) structure to a multidivisional (M-Form) structure. Building on this work, Wrigley (1970) found that as a firm increased its level of diversification, from dominant product to related product to unrelated product, divisional autonomy increased and corporate decisions with respect to the division decreased. More specifically, Hitt, Hoskisson and Ireland (1990) proposed that the primary control emphasis: in dominant diversification will be strategic controls; in related diversification will be strategic/financial controls; and in unrelated diversification will be financial controls.

Hoskisson (1987) examined the performance link between multidivisional structure and diversification strategy. Performance was separated into two components, rate of return and risk. A sample of 62 firms that had moved to a multidivisional structure was selected. Diversification was divided into three categories, vertical integration (24 firms), related diversification (22 firms), and unrelated diversification (16 firms). The results indicated that implementation of an M-Form structure increased the rate of return for unrelated diversification but decreased the rate of return both for vertically integrated firms, and also for related diversification but this decrease was not statistically significant. Risk decreased after M-Form restructuring but was only statistically significant for unrelated diversification and vertically integrated firms. In a further study of the impact of M-Form implementation and diversification strategy, using event study methodology, Hoskisson, Harrison and Dubofsky (1991) found similar results to Hoskisson's (1987).

In summary, the results of research on M&As and organizational structure support a contingency view of the relationship between M&A strategy, organizational structure, and performance.

Organizational Culture Impact

"Culture is to the organization what personality is to the individual - a hidden, yet unifying theme that provides meaning, direction, and mobilization" (Kilmann, Saxton, Serpa & Associates, 1985, p.ix). In a similar vein M&As have been compared to marriage, so it should not be surprising to find that 'cultural fit' is considered a necessary condition for successful M&As (*e.g.,* Business International, 1988; Mirvis & Sales, 1990; Siehl, Ledford, Silverman & Fay, 1988). Organizational culture develops from the basic assumptions and values of key participants in an organization, which in turn, become manifest in the organization's systems, practices and behavioural norms (see Ott, 1989, for a comprehensive treatment).

In one of the few large sample studies involving culture and M&As, Datta *et al.*, (1992) examined the relationship between management style compatibility, post acquisition autonomy, and performance. Management style was defined as risk taking propensity, preferred decision making approach, and control of communication patterns adopted by management groups. Autonomy was defined as the extent of day-to-day freedom given to the acquired firm management to manage its business. Performance measures were accounting based. Survey responses were received for 117 acquisitions that took place between 1980 and 1984. Of these acquisitions, 63 were classified as related and 54 as unrelated. Results indicated that incompatibility of management styles was negatively related to performance in both related and unrelated acquisitions. Autonomy was positively associated with performance in unrelated acquisitions but not so in related acquisitions, but autonomy reduced the negative impact of management incompatibility in related acquisitions.

Chatterjee *et al.*, (1992) examined the impact of cultural fit on the acquiring firm's market returns, with a sample of 25 acquisitions. Culture was defined on seven dimensions; (1) innovation and action orientation; (2) risk taking; (3) lateral integration; (4) top management contact; (5) autonomy and decision making; (6) performance orientation; and (7) reward orientation. Abnormal market returns (ARs), based on event study methodology, were calculated for 10 trading days before and five trading days after the M&A announcement. The results showed that investors tended to view M&A announcements negatively where high inter-firm cultural differences were perceived to exists, and viewed M&A announcements positively where low inter-firm cultural differences were perceived to exist. It is therefore argued that the market acknowledges a link between equity capital and human capital.

At a national culture level of analysis, Very, Calori and Lubatkin (1992) examined the impact of national culture on post M&A performance. National culture was assessed based on five theoretical dimensions: (1) decision making autonomy, conceptually similar to Hofstede's (1980) 'power distance' dimension; (2) innovation and risk taking, similar to Hofstede's 'uncertainly avoidance' dimension; (3) social concerns, compared to Hofstede's 'individualism' dimension; (4) performance and reward preferences, similar to Hofstede's 'masculinity' dimension; and (5) lateral interdependence, whether team building or competition is encouraged within work groups. These same dimensions were also used to assess organizational culture of the acquiring and acquired firms. Post M&A performance was measured based on acquiring firm managers' self-reported perception of performance. Four M&A types were examined, that is, French buying French, French buying British, British buying British, and British buying French. There were 62 French and 96 British respondents. Results indicated that national culture interacts with organizational culture and, in particular, national culture differences highlight sources of organizational incompatibility in multinational mergers. The authors comment "that issues of cultural compatibility in mergers are amplified in a multinational setting" (p.2).

Similarly, a number of other authors have reported that the lack of fit in such areas as management style (*e.g.*, Davidson, 1981), chemistry (*e.g.*, Callahan, 1986), business style (*e.g.*, Davis, 1968), organizational fit (*e.g.*, Datta, 1991), and organizational systems and practices (*e.g.*, Ulrich, Cody, LaFasto & Rucci, 1989) will have a negative impact on the eventual outcome of M&As. Each of these areas may be considered as aspects of an organization's culture.

In summary, cultural fit appears to contribute to M&A success, particularly in related M&As. However, the level of post M&A integration may modify this general assessment (*e.g.*, Haspeslagh & Jemison, 1987).

Communication Effects

M&As are organizational events which are associated with considerable ambiguity, complexity, change, and future uncertainty for those involved (Marks & Mirvis, 1986b). M&As involving publicly listed corporations are necessarily shrouded in secrecy, at least up until the M&A is announced. Even when the deal is 'signed, sealed and delivered,' intentions and plans are often only disclosed on a 'need to know' basis. Consequently, during the time surrounding the conclusion of a M&A agreement, organizational grapevines and rumour mills work overtime, leading in many cases to dysfunctional organizational and personal behaviours (Schweiger & DeNisi, 1991). A number of studies have indicated that the negative reaction of employees to managerial decisions that will adversely affect them can be significantly reduced when these actions are understood and perceived as fair by the employees (*e.g.*, Eisenberger, Huntington, Hutchison & Sowa, 1986; Isen & Baron, 1991). Open communication between management and employees is a primary tool in creating such an understanding (Greenberg, 1987). It might be said that 'it is not so much what you do, but how you do it.' Hence, due to the change and uncertainty in M&A situations, there is a need for a defined communications strategy (Anfuso, 1994).

In a longitudinal field experiment, Schweiger and DeNisi (1991) examined the impact of a realistic merger preview and a program of realistic communications, on employees in two plants belonging to a merging Fortune 500 company engaged in light manufacturing. The companies being merged had complementary products and the achievement of synergies was a key motivating factor of the M&A for both firms. The M&A was friendly with both CEOs continuing as part of the top management group in the combined post M&A organization. The study spanned a period commencing one month before the M&A announcement and ended approximately four months after the M&A. The experimental plant employees (126 in total, of which 75 participated in the study) received a realistic merger preview program (a merger newsletter, a telephone hotline, and weekly meetings with the plant manager), while the control plant employees (146 in total, of which 72 participated in the study) received only the type of information the organization normally distributed in such circumstances (a letter from the CEO that formally announced the M&A, outlined the competitive and economic benefits to be gained from it, and noted that the resulting redundant facilities and jobs would have to be eliminated, but without any details about which facilities or jobs would be affected). Employees at both plants were surveyed to assess their perceived uncertainty, their intentions to remain with the organization, their global stress, their self-reported performance and their perceptions of the company's trustworthiness, honesty and caring.

The first post M&A survey was administered two weeks after the merger announcement. The merger announcement had a significant negative impact on all items with the exception of self-reported performance for both plants, and intentions to remain for the control plant. The final survey was administered approximately 14 weeks later. Analysis indicated that the experimental plant employees were significantly lower on global stress and perceived uncertainty, and significantly higher on job satisfaction, commitment and perceptions of the company's trustworthiness, honesty and caring. There were no significant differences in self-reported performance, intentions to remain, or absenteeism. It was concluded that the realistic merger preview helped to "reduce the uncertainty for the employees of the experimental plant, and increase their perceptions that the company was trustworthy" (p.128) which is not surprising when one considers that the control group was effectively given the 'mushroom management' (Hirsch & Andrews, 1983) treatment.

In a related piece of research, Schweiger, Ritchie and Csiszar (1992) examined the impact of interventions to promote joint inter cultural learning, problem solving, conflict resolution, and socialization on employees in a M&A involving six manufacturing plants, three from the acquiring company and three from the acquired company. Two plants remained independent, two were combined and received the intervention (experimental plants), and two were combined without intervention (control plants). Employees were surveyed to assess their job satisfaction, organizational commitment, intentions to remain with the organization, perceptions of the company's trustworthiness, honesty and caring, and self-reported performance. The survey was administered on three occasions, two weeks prior to the M&A announcement (although the authors note that it "was felt by both firms' plant and personnel managers that employees knew that the acquisition was taking place prior to the announcement," p.9), six weeks after the announcement (just before the intervention was introduced), and 12 weeks after the announcement. Data on tension with old colleagues, tension with new colleagues, and understanding of new colleagues were also collected for the combined plants with the second and third survey.

Results indicated that both the independent and experimental plants had significantly higher satisfaction, commitment, perceptions of trust, and intention to remain than the control plant. Overall, there were very few differences between the independent and experimental plants. Contrary to one of the research hypotheses, the acquired plant employees had significantly better performance than the acquiring plant, leading the researchers to comment that "it is also clear from this study that one cannot assume that acquired employees fare more poorly that acquiring employees" (p.18).

In summary, these two longitudinal empirical studies confirm that, as with any other major organizational change situation (*e.g.*, Covin & Kilmann, 1990; Kotter & Schlesinger, 1979), communication based interventions will have a positive impact on employees during the M&A process.

Human Psychological Implications

Many authors have written about the negative psychological implications of M&As for organizational members (*e.g.*, Astrachan, 1995; Levinson, 1970; Fulmer & Gilkey, 1988), but there is a distinct lack of research dealing with the positive implications of

M&As. The literature, in general, tends to sensationalize the effect of M&As on employees and indeed tends not to present a balanced view of M&As. For example, Ivancevich, Schweiger and Power (1987) emphasize the negative implications of M&As stating that:

> "Mergers and acquisitions (M&As) are corporate events that have the potential to create severe personal trauma and stress which can result in psychological, behavioral, health, performance, and survival problems for both the individuals and companies involved" (p.19).

Buono and Bowditch (1989), in their book *The human side of mergers and acquisitions*, recognize the dual nature of M&As as being:

> "a complex web of reactions -- trust and betrayal, opportunities and restricted options, openness and deception, hope and despair, support and retaliation" (p.xvi).

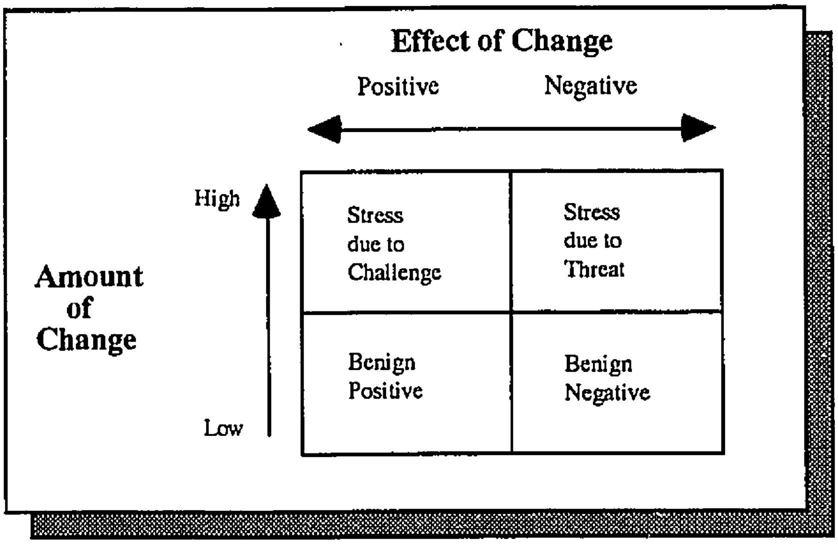
However, despite this acknowledgment of the positive as well as negative aspects of M&As, their book tends largely to emphasize the negative effects of M&As on employees. Some of these effects include: feelings of deprivation and frustration; feelings by employees' that their psychological contract has been violated; stress; uncertainty and anxiety; eroded trust in the organization; self-centered activities on the part of employees; somatic illnesses; and tension; to name but a few.

A similar orientation is taken by Marks and Mirvis (1985, 1986a, 1986b) who coined the term 'merger syndrome' to describe the M&A related stresses and tensions that can occur in the post announcement and early stages of a M&A. In a more recent article (Marks & Mirvis, 1992), they added a new phrase to the M&A jargon, 'survivor sickness,' which refers to the anxiety and tensions that can continue to be felt in an organization long after the M&A deal is done. Marks and Mirvis (1992) believe that it is only in "rare cases" that M&As are managed competently and the integration is successful. Their attitude to M&As is exemplified by their somewhat fatalistic quote from an executive involved in M&As: "You can't prepare people to be hit by a truck" (1986a, p.41).

A more balance perspective is offered by Ivancevich, Schweiger and Power (1987) who believe that through proper integration management it is possible "to mitigate what can become dysfunctional stress" (p.19). They accept that the effect of M&As on individuals may vary from being irrelevant to being stressful, depending on the circumstances surrounding the M&A. Adapting their three category classification of (1) irrelevant; (2)

benign positive; and (3) stressful, I have presented in a more complete categorization scheme in Figure 2.1.

Figure 2.1. M&A Stress Categorization



This categorization scheme acknowledges that M&As are change related events (Kimberly & Quinn, 1984) and are, therefore, unlikely to illicit a zero effect. The amount of change may vary depending on the circumstance surrounding the M&A. For example, if an organization is purchased by a conglomerate with a view to leaving it as a stand alone acquisition, then the level of change for many of the employees in the acquired organization may be quite low. On the other hand, if the acquired organization is to be fully integrated with the acquiring organization then the level of change is likely to be high for many employees of both organizations.

An example of a low change situation is provided by the following comment from a secretary in a newly merged organization:

> "It really doesn't matter who is in charge. I still have to file, type, and answer telephones. As long as I am paid on Friday, Flash Gordon could be in charge and it wouldn't matter" (Ivancevich *et al.*, 1987, p.20).

In this situation the M&A involved little change for this particular employee and the effect may be considered benign. Similarly, in other low change situations, for example where an organization is merged with a larger, more prestigious organization the effect may be benign-positive; or where the organization has changed from, say, a benevolent shareholder control to an investment house control the effect may be benign-negative.

In a high change situation, we can conceptualize change on a continuum from highly positive to highly negative. A positive change situation may occur where the employee is given a promotion and greater responsibilities. Such situations may be stressful but this stress is due to the challenge created by the M&A. A negative change situation might include demotion or restriction in responsibilities associated with the M&A.

Organizational Behaviour Summary. Paralleling the diversity of the discipline, OB research on M&As covers a wide range of topics. A number of conclusions can be drawn with respect to M&As, particularly in the areas of decision making processes, top management turnover, organizational structure, culture effects, communication effects, and human psychological implications. However, a great deal remains unanswered. Indeed, David Schweiger in a discussion at the Academy of Management Conference (Las Vegas, August 1992) reflected that it is the theories within the OB area that offer the greatest potential for advancing our knowledge and understanding of the causes of success and failure in M&As.

2.5 Summary of the M&A Literature Review

Table 2.3 presents a summary of the key findings relevant to this study. As stated at the beginning of this review there is an abundance of other M&A research dealing with such areas as taxation, Stock Exchange regulations, legal aspects of M&A contracts which is not central to the purposes of this study and which I have not included in this review. For example, I have not dealt with the research dealing with the effects of 'poison pills,' 'golden parachutes' or other corporate charter anti-takeover amendments on M&A outcomes (see Mahony & Mahony, 1993).

Table 2.3. Summary of Key Consistent Findings in M&A Research

Level of Analysis	Unit of analysis	Dependent Variable	Findings (on average/dominant pattern)	Selected References
			I/O Economics	
Industry	Business Unit	BU Profit	• Economic cycle effects exist • Industry effects exist • Business Unit effects exist • M&As reduce profitability of target firm • M&As fail to justify acquisition premia paid by acquirers	Alberts & Varaiya, 1989 Caves, 1989 Porter, 1987 Ravenscraft & Scherer, 1989 Scherer, 1988
			Financial Economics	
Corporation	Corporation	Share Price	• Substantial gains to acquired firm shareholders • Neutral to slightly positive gains to acquiring firm shareholders • Gains lower in stock versus cash financed transactions • Target firm gains highest in tender offer situations • Multiple bidder & conglomerate M&As impact negatively on gains to bidders	Copeland & Weston, 1988 Datta *et al.*, 1992 Jarrell *et al.*, 1988 Jensen & Ruback, 1983
			Strategic Management	
Corporation	Business Unit	Profit &/or Share Price	• Support for strategic relatedness hypothesis is equivocal • Currently hypothesized that relatedness is not a sufficient condition • Study of merger management offers most research promise	Chatterjee & Lubatkin, 1990 Chatterjee *et al.*, 1992 Datta, 1991 Grant & Jammine, 1988
			Organizational Behaviour	
Individual	Individual	Various	• Cultural fit is positively related to post M&A performance • Cultural fit concerns are amplified in international M&As • Organizational structure and M&A strategy have a contingent relationship • CEO turnover in hostile M&As >95%, 1 year after M&A • Top management team turnover >50%, 4 years after M&A • M&As can be stressful events for employees • M&A communication programs can reduce some of the dysfunctional effects M&As have on employees	Buono & Bowditch, 1989 Haspeslagh & Jemison, 1991 Hoskisson, 1987 Jemison & Sitkin, 1986 Marks & Mirvis, 1986 Schweiger & DeNisi, 1991 Walsh, 1989

2.6 Criticisms and Weaknesses of the M&A Literature

When considering the results presented in Table 2.3, it is useful to consider some of the key criticisms or weaknesses associated with the empirical research on M&As from the four disciplines covered. First, however, it should be noted that there are some concerns that apply to all four disciplines. In particular, there are some fundamental concerns about M&A research from both a definition and measurement perspective. The **definition concerns** relate to the lack of precision in the use of the terms 'merger,' 'acquisition,' and 'mergers and acquisitions.' Indeed, as one practitioner commented:

> "There is quite a difference between two whales mating, and a whale swallowing a minnow."

The dynamics of such differences are not, in general, considered in M&A research. Related to this definition concern is a concern about measurement problems in M&A research (*e.g.*, Hoskisson, Hitt, Johnson & Moesel, 1993). For example, there are **measurement concerns** regarding the validity and reliability of most of the measures used in the literature. Indeed, studying these weaknesses has recently become a separate research stream (*e.g.*, Chatterjee & Blocher, 1992; Hoskisson *et al.*, 1993; Nayyar, 1992; Sambarya & Hand, 1992).

I/O Economics

The major criticism of this discipline is its penchant for using broad based data sources which effectively results in M&As being treated as **homogeneous economic events**, raising the question of sample heterogeneity. For example, M&As may be friendly or hostile, fully integrated or left as stand alone entities, horizontal or vertical, to name but a few of the dimension on which they can vary. Also, the level of analysis is generally at the industry level which is too aggregated to inform us about factors which differentiate successful versus unsuccessful M&As. Lastly, I/O economists adopt an *ex post* approach to M&A research and, consequently, their results may be confounded by the occurrence of other effects independent of the M&A. An example of such effects include economic cycle effects.

Given these concerns, I/O research tells us that, on average, the profitability of acquired firms declines after the M&A, and M&As fail to justify their acquisition premia.

Financial Economics

Many researchers both within and outside financial economics have questioned the key assumptions of financial economic research on M&As (*e.g.*, Barney, 1986), and in particular, the assumptions of: (1) a single stakeholder perspective; (2) CAPM and related efficient markets theory; (3) *ex ante* approach and associated event study methodology. For example, it has been stated that:

> "at least five eminent economists and contributors to the theory of corporate finance have expressed skepticism over the fundamental valuation efficiency of financial markets ... Much of the strength of financial theory rests on fundamental efficiency, and such efficiency is quite moot" (Bromiley, 1990, p.80-81).

In addition, financial economics also treats M&As as **homogeneous economic events.** These concerns have already been discussed and, therefore, will not be repeated here. Despite, or perhaps because of these concerns, financial economic research on M&As has been unequivocal in its finding that M&As, on average, create value for both bidder and target firms, with target firm shareholders receiving substantial gains.

Interestingly, the contradictory results from I/O economics and financial economics create a perplexing conundrum, which is: *ex ante* M&As are viewed positively but *ex post* they are viewed negatively.

Strategic Management

SM research on M&As may be criticized for its emphasis on strategic content issues to the detriment of implementation issues. Another major concern is the concept of 'fit' and its historical or static nature (Hamel, 1992). Indeed, it has been noted that in trying to understand M&As, researchers need to "transcend simplistic and static notions of strategic fit" (Borys & Jemison, 1989, p.244). Also, SM researchers define M&As along only a **single and narrow dimension** of strategic relatedness. This definition raises concerns of confounding effects due to sample heterogeneity (*e.g.*, Seth, 1990). For example, M&As following a vertical integration strategy will be included in the related category. However, if we take the example of a clothing retailer acquiring a clothing manufacturer, we can see that the organizational resources and skills required in these two disparate industries are not strongly related.

Overall, the results of SM research on M&As are considered to be inconclusive. For example:

> "The evidence from the strategic management literature is decidedly ambiguous whether related mergers truly create more value than unrelated mergers" (Chatterjee & Lubatkin, 1990, p.265).

> "The performance differences associated with different generic diversification strategies are inconclusive" (Chang & Thomas, 1989, p.282).

Organizational Behaviour

A major criticism of OB research on M&As has been its anecdotal, descriptive, and fragmentary nature. Depending on one's perspective, the research may be either criticized or lauded for its normative and prescriptive orientation. However, the research can be criticized for failing to acknowledge the heterogeneity of M&As, particularly when prescriptions of a general nature are made based on a limited sample set. Also, the underlying negative attitude of many OB researchers toward M&As undermines the objectivity of those researchers' work.

OB research has provided us with some useful insight, however. For example, top management team turnover is higher post M&A when compared with organizations not involved in M&As; there is a contingency relationship between diversification strategy, organizational structure, and organizational performance; issues of cultural and management style fit will affect post M&A integration and performance; and communication strategies can reduce employee stress associated with M&As.

In Conclusion

The main purpose of this chapter was principally comparative, identifying findings within the various M&A literatures and highlighting differences between them. While such work is useful, it also serves to perpetuate the theoretical fractionation within M&A research. Indeed, like the crescents of the moon, each discipline lets us look at just one crescent but with each crescent viewed through lenses made up of differing assumptions, dominant methodologies, researchers' biases, and so on. What is needed is the integration and meshing of these four crescents into a single, full view of the 'M&A moon.' As Kanter (1990) stated:

> "to see problems and opportunities integratively is to see them as wholes related to larger wholes, rather than dividing information and experience into discrete bits assigned to distinct, separate categories that never touch one another. Blurring the boundaries and challenging the categories permit new possibilities to emerge" (p.9).

Consequently, in Chapter 3, I will attempt to synthesize the lessons learned from each of the four disciplines and develop an integrative framework that can help improve our understanding of M&As.

CHAPTER 3 - THE MOON: AN INTEGRATIVE FRAMEWORK FOR UNDERSTANDING M&As

M&A research has a long history and has generated a considerable volume of output. However, and as is apparent from the literature review, this research has provided little consistent evidence about the managerial processes that contribute to a M&As success or failure. This is not surprising when one considers some of the limitations inherent in much of the existing research. These limitations are largely captured under the general heading of: **the under-specification of the M&A process.** Some specific examples include:

(1) M&As are too often treated as homogeneous economic events;

(2) the cross sectional nature of much of the research, which confounds the investigation by incorporating industry effects in the results;

(3) the use of large sample data bases which provide us with results at too high a level of aggregation to inform; *e.g.*, on average, you get average results;

(4) the prevalence of using simple bivariate models when investigating the phenomenon, *e.g.*, the strategy-performance relationship; and

(5) the under specification of M&A performance by researchers and, in particular, the limited time period allowed for performance impacts to materialize.

It has been recommended that researchers should examine the M&A process from a more comprehensive perspective (*e.g.*, Walsh, 1989). Consequently, the aim of this chapter is to develop a comprehensive framework that can help us better understand some of the major parts of the M&A process which, in turn, should help us better understand why some M&As succeed and others fail.

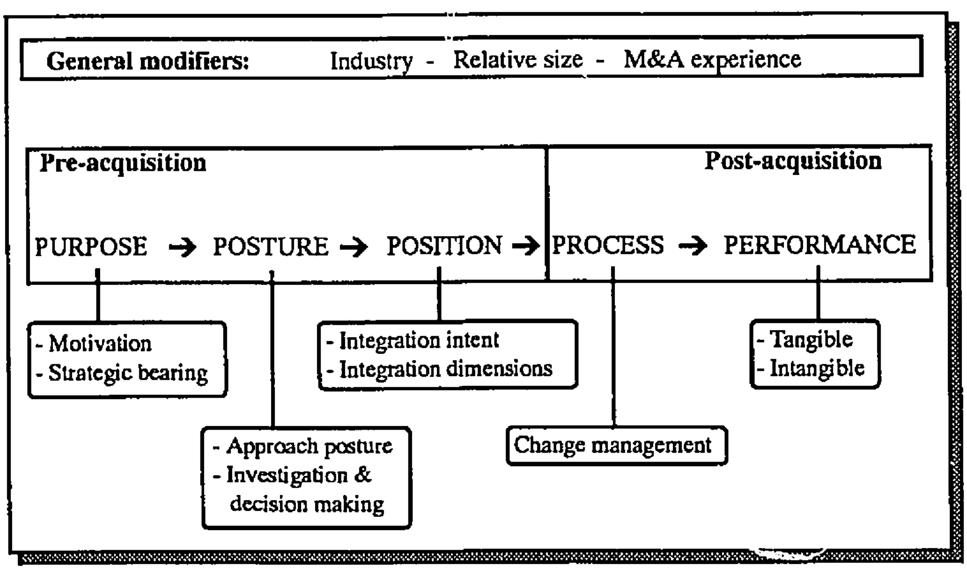
This chapter will attempt to think across boundaries and create an integrated picture or map of the full 'M&A Moon.' This mapping and synthesis is based on a rational linear thought approach to mergers and acquisitions, starting with M&A motives and ending with M&A performance. This synthesis draws on each literature area as required and is further informed by discussions with M&A consultants/practitioners, and by my own M&A experiences.

Presented in Figure 3.1 is an outline of the resulting M&A map, the '5 Ps of M&As' (Foote & Suttie, 1991). It consists of three major areas: pre-acquisition factors, post-acquisition factors, and general modifiers. For example, we may briefly consider this M&A process as follows:

→ Purpose:
- we start with the motives for a particular M&A, *e.g.*, growth and synergies;
- which, in turn, should determine the strategic bearing, *e.g.*, new products for our existing markets;

→ Posture:
- due to the higher level of resistance associated with hostile approaches, it may be decided to identify only those targets that are interested in being bought out, *i.e.*, a friendly approach posture;
- it is hoped that the resulting investigation of the M&A target and the decision to proceed or withdraw will be managed effectively;

Figure 3.1. Outline of the M&A Research Framework: '5 Ps of M&As'



➔ Position:

- if it was a product concentric M&A, then the integration intent might be absorption particularly if the acquirer is also seeking synergies from the M&A;
- the integration intent will determine the dimensions associated with the integration, *e.g.*, staff and systems;

➔ Process:

- the integration dimensions will, in turn, drive the integration or change management; and

➔ Performance:

- finally, the M&A will affect performance, both tangible and intangible.

Each of the specific aspects of this M&A framework will now be discussed in turn, starting with each of the 5 Ps, and followed by the general modifying factors.

3.1 **Purpose** (Motivation, and Strategic Bearing)

Motivation

As motives should have temporal precedence in the M&A process, at least from a rational, linear decision making perspective, it is appropriate to consider M&A motives as a starting point in trying to outline a process framework of M&As. Further, it seems reasonable to assume that the motivation for, or objectives of, a M&A can have a large impact on the entire M&A process (Shrivastava, 1986). While there has been a considerable amount of research on M&A motives there has been little that links the identified motives to outcomes (Napier, 1989). Perhaps this is due to the fact that M&A motives are complex and diverse, and can change over time (Goldberg, 1983). Indeed, despite over 60 years of research on M&As, it has been stated that "we still do not understand the reasons for mergers very well" (Brander, 1988, p.127). However, the M&A literature is consistent in its view that motives impact the M&A process and the ultimate success or failure of M&As.

Motives or objectives for M&As can have a significant effect on expectations and outcomes of M&As (Levinson, 1970; Schweiger & Walsh, 1990; Shrivastava, 1986). Although many motives have been offered to explain why firms pursue M&As, they can generally be grouped into two main classes of M&A motive theories (Halpern, 1983; Seth, 1990). One class refers to **non-value maximizing** motives on the part of management of the acquiring corporation, for example, M&As which are solely motivated by a desire to control a large empire. It is argued that such motives create no economic gains to be divided among the firms involved. Given the costs of negotiation and the problems of coordination of the expanding corporate empire, it is likely that there would be an overall economic loss. The second class of M&A motive theories refers to **value maximizing** motives[2] where the M&A decision should meet the same criteria as any other investment decision with an expected positive economic outcome.

The results of studies investigating these two broad classes of motives have found that M&A motives have been generally consistent with the value maximizing behaviour theory on the part of the acquiring firm (*e.g.,* Butters, Lintner & Cary, 1951; Halpern, 1983; Ruback, 1983; see Shleifer & Vishny, 1988, for a contrary view). This result is also consistent with micro economic and micro financial theory in which the objective of the firm is assumed to be the maximization of shareholder wealth. It may be generally stated that managers do not consciously abandon profit maximizing behaviour (Hirshleifer, 1980).

The literature on M&A motives has been described as "voluminous" (Harris, Stewart & Carleton, 1982, p.230). The I/O economic literature on M&As deals quite extensively with the topic (*e.g.,* Goldberg, 1983; Scherer, 1980; Steiner, 1975). Research on M&A motives can also be found in financial economics (*e.g.,* Copeland & Weston, 1988) and strategic management (*e.g.,* Walter & Barney, 1990). The following review will attempt to synthesize the many listings of M&A motives from these three areas.

Many motives for M&A activity have been identified within the value maximizing behaviour class. The following list, derived from a number of studies, illustrates the diversity of M&A motives (Ansoff, Brandenburg, Portner & Radosevich, 1971; Butters, Lintner & Cary, 1951; Goldberg, 1983; Steiner, 1975):

---

[2] Value maximization has been defined as "maximization of the net present value of future profits" (Shleifer & Vishny, 1988, p.7).

(1) Diversification and reduction of business risk,
(2) Limiting competition and/or achieving monopolistic/ oligopolistic profits,
(3) Increasing market share,
(4) More fully utilizing resources of the corporation,
(5) Acquiring resources deficient within the corporation,
(6) Entering new markets,
(7) Growth,
(8) Reducing over-capacity in an industry,
(9) Displacing an existing management,
(10) Speculation reasons, and
(11) Exploiting financing, tax and accounting opportunities.

Steiner (1975) argues that in considering M&A motives we should be parsimonious and endeavour to group motives into broader categories (such as, search for efficiencies, anti-competitive considerations, search for speculative gains, response to external factors, and satisfaction of managerial objectives). Further, in arriving at a broad list of M&A motives we should ensure that such a list takes into account the four primary M&A strategic types (*i.e.,* horizontal, concentric, conglomerate and vertical). Therefore, the following list is proposed as encompassing all major M&A motives within the value maximizing class of motives:

1. Growth:

   Growth has been described as one of the primary motives for M&As (Goldberg, 1983). Growth may encompass expanding current products and/or markets, and expanding into new businesses.

2. Synergies:

   Organizations involved in M&As may improve their profitability due to synergistic gains arising out of the M&A (Bradley, Desai & Kim, 1983).

3. Risk and uncertainty reduction:

   Diversification through M&As has been a popular method by which organizations have tried to reduce the risks (variability in returns) of business. Diversification economies are achieved by improving the risk/return profile of the acquiring firm following a M&A. This can be either a reduction in the firm's risk relative to its performance or an increase in the firm's performance relative to its risk.

   Additionally, M&As of a vertical and horizontal nature are often motivated by a desire to control risk, uncertainty and critical interdependencies within the environment of the organization (*e.g.,* Ansoff *et al.*, 1971; D'Aveni & Ilinitch, 1992; Pfeffer, 1972). For example, it has been noted that the cost of repelling an entrant into one's market by price warfare generally exceeds the cost of buying them out through acquisition (Caves & Porter, 1977).

4. Speculative and opportunistic:
   Many M&As have been motivated by opportunities for speculative gains (Pickens, 1986; Scherer, 1988). The finance literature includes asymmetry of information as a motivating factor in this category. That is, where the acquiring organization has information regarding the target firm which is not available to other participants in the market and which is not reflected in the market valuation of the target firm (Halpern, 1983). Also included in this category are M&As that are best understood in terms of a market for corporate control.

More recently, in the strategic management literature, a study was carried out to empirically determine the managerial motives behind M&As (Walter & Barney, 1990). These researchers interviewed 32 professional M&A intermediaries -- M&A specialists in investment banks, venture capitalists, financial advisors, executives of underwriting firms, corporate lawyers, and so on. The interviewees were asked to rank the importance of 20 different motives for M&As in five different categories of M&As (horizontal, concentric, conglomerate, vertical, and M&As in general). The list of motives was derived from the literature (*e.g.,* Kitching, 1967; Steiner, 1975) and may be considered an expanded version of the 11 motives previously listed. It should be noted, however, that Walter and Barney's categories of M&A types are not consistent with the literature. Specifically, they confound the categories of horizontal and concentric M&As, by including market concentric within their definition of horizontal, leaving their definition of concentric as only referring to product concentric. Therefore, while it is inappropriate to rely on their results for some of the specific categories of M&As, their results where all four types of M&As (horizontal, concentric, conglomerate, and vertical) are considered simultaneously may be utilized.

They used cluster analysis to develop a taxonomy of M&A motives. The resulting five clusters of motives were based on respondents' top five ranking of motives for each of the four types of M&As. These rankings were considered simultaneously in deriving the following five cluster motives

(1) expansion of existing products and markets,
(2) expansion through entering new businesses,
(3) obtaining and exploiting economies of scale and scope,
(4) maximizing and utilizing financial capability, and
(5) dealing with critical and ongoing interdependencies with others in a firm's environment.

These five empirically derived motives can be compressed into the four summary motives listed previously. In particular, expansion of existing products and markets, and expansion into new businesses are both growth related. Another test of the adequacy of the four summary motives would be to compare them to a situation where M&A participants were asked simply what their motives were. For example, a survey of over 150 corporations (Business International, 1988) involved in M&As identified the following primary motives:

(1) Greater than 40% of the respondents reported growth as the primary motive (growth),
(2) Greater than 30% reported higher market share (growth and synergies),
(3) 18% reported improved marketing strength (synergies), and
(4) 10% reported diversification motives (risk reduction).

In summary, M&As are a mixed bag of motives and probable effects. Also, there may be a number of motives behind any particular M&A. The M&A literature is consistent in its view that motives impact the M&A process and the ultimate success or failure of M&As, and it is argued that the following four broad M&A motives comprehensively capture the many specific M&A motives:

(1) Growth,
(2) Synergies,
(3) Risk and uncertainty reduction, and
(4) Speculation and opportunism.

Strategic Bearing

The literature describes four generic growth strategies (*e.g.*, Ansoff, 1957; Thompson & Strickland, 1986; Williams, Paez & Sanders, 1988):

(1) Horizontal,
(2) Concentric (product and market),
(3) Vertical, and
(4) Pure conglomerate.

From a M&A perspective, each of these differing strategic options have the potential to create dramatically different scenarios and dynamics for all aspects and, indeed, throughout the entire M&A process from formulation to implementation. Figure 3.2 presents these four generic growth strategies based on the dimensions of product and market relatedness.

Figure 3.2. Generic Growth Strategies

		Product	
		Existing	New
Market	Existing	Horizontal (Related)	Product Concentric (Related)
	New	Market Concentric (Related)	Vertical & Conglomerate (Unrelated)

It has been noted previously that within the SM literature, in particular, there is an assumed relationship between M&A strategic type and profitability. Specifically, related M&A strategies are assumed to be superior to unrelated strategies and as organizations move away from their existing business, they will suffer declining profits. This assumption, while widely accepted in the literature, has yet to be conclusively supported by empirical results. Indeed, Seth (1990) stated that:

> "our analysis leads us to conclude, contrary to earlier researchers, that related acquisitions cannot be expected to create more value than unrelated on a theoretical basis" (p.100).

In fact, there are a number of sizable corporations which have successfully pursued an unrelated or conglomerate strategy, for example, General Electric, Goodyear and 3M (*e.g.*, Leontiades, 1986; Levy & Sarnat, 1970). In particular, Sir James Goldsmith successfully developed an organization based on a strategy of creating value, more through 'knowledge effects' than through product/market based additivities and complementarities. Knowledge effects include managerial competencies, and core administrative systems and routines (Goldsmith, 1987; Goold & Luchs, 1993).

Further, Penrose (1959) commented with respect to disparate organizational sizes, that "we cannot define a caterpillar and then use the same definition for a butterfly" (p.19). Perhaps when we are considering related and unrelated M&A strategies the same analogy can be made? As many authors have noted, we need to consider M&As not as homogeneous economic events but very much as heterogeneous events (*e.g.*, Amit & Livnat, 1988; Fowler & Schmidt, 1989; Seth, 1990), and as events of which we have a very limited understanding both from a theoretical and a practical perspective.

3.2 **Posture** (Approach Posture, and Investigation and Decision Making)

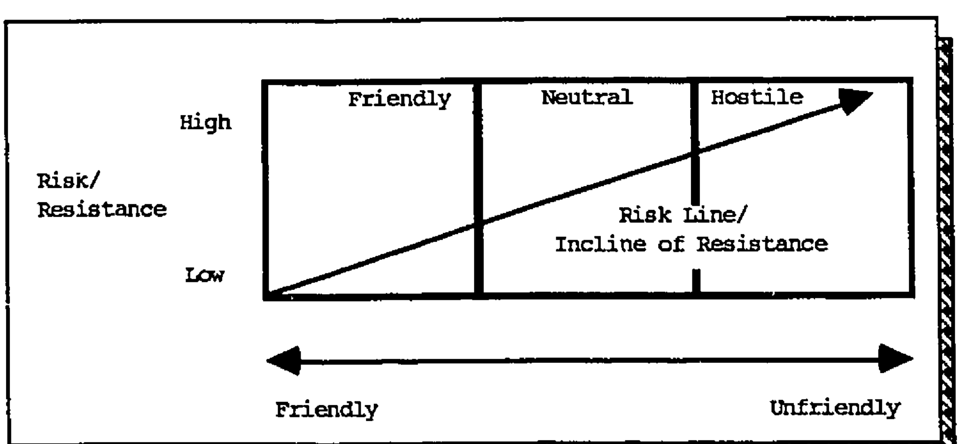
Approach Posture

We can conceptualize the possible approaches that an acquirer can make to an acquiree as ranging along a continuum from that of cooperative to adversarial, or friendly to hostile. Pritchett (1985) identified four acquisition approach postures: (1) rescue, (2) collaboration, (3) contested, and (4) raid. Rescue may be either financial bail-out or rescue from an unwanted suitor, where the rescuer takes on a 'white knight' approach. Collaboration is where there is a willing buyer and seller. Contested refers to situations where the acquiree is unsatisfied with the price and/or conditions being offered. Finally, raid is where the unwanted suitor is successful in acquiring the target.

Pritchett presents these four approaches on a continuum from cooperative to adversarial in the following order: rescue, collaboration, contested and raid. There is some confounding in this classification of M&A approaches. For example, collaborative would appear to be the most cooperative approach, not rescue. Further, rescue is an approach which often occurs in hostile takeovers and as such may only be the 'lesser of two evils' as opposed to a desired situation, or "a desperate flight from an unwanted suitor rather than a love match" (Drucker, 1981, p.28). To classify such an approach as the most cooperative would appear to be inappropriate. Pritchett does, however, provide a good discussion of the impact of different M&A approaches on the dynamics of the M&A negotiations and subsequent implementation.

An alternative classification scheme is provided by Walsh (1989). He classified approaches as either friendly, neutral, or hostile and based on this classification scheme found that target company top management turnover was significantly higher in the first year following M&As in hostile, rather than friendly situations. Using Walsh's scheme and drawing on Pritchett's (1985) discussion of 'incline of resistance' and 'risk curve' we can posit the relationship presented in Figure 3.3.

Figure 3.3. Risk Line/Incline of Resistance by M&A Approach Posture



The financial economic M&A literature provides conflicting findings on the effect of hostility on shareholder returns. Baradwaj, Fraser and Furtado (1990) found that hostile M&As in banking produced positive net wealth effects which are larger than the wealth effects of friendly M&As. This result is posited to be due to the disciplinary potential of M&As on under performing target management. However, Martin and McConnell (1991) in their sample of 253 M&As found no significant difference in net wealth effects between hostile and friendly M&As. Overmyer-Day and Hogan (1993) found that hostility during the negotiation process was related to lower combined firm return on equity in the two years after the M&A.

From these results it would appear reasonable to say that in hostile situations the acquiring company needs to ensure that they have access to managerial expertise to replace and/or bolster the target company's management, whereas, in friendly M&As additional managerial expertise may not be as necessary.

Investigation and Decision Making

There is little research that relates the investigation (in legalese referred to as 'due diligence') and decision making processes to eventual M&A performance. As previously discussed in Chapter 2, M&A decisions are generally non-routine, complex, surrounded by ambiguity, involve restricted access to information, lack structure, and provide a fertile ground for dysfunctional decision making behaviours (Duhaime & Schwenk, 1985; Jemison & Sitkin, 1986).

Pritchett (1985) provides some anecdotal evidence of the importance of the pre M&A investigation and decision making processes in gaining a realistic picture of what is actually being acquired:

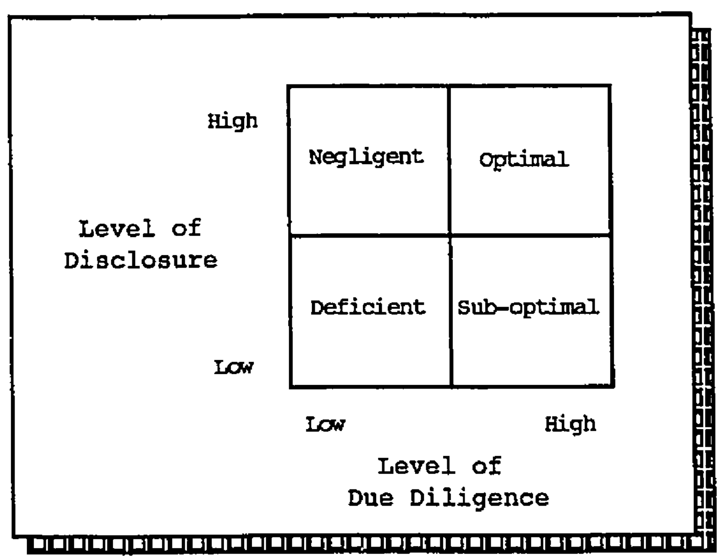
> "We're facing the same problems right now with a company we just acquired. We're beginning to realize that the previous owner drove the car differently. When he owned the company it was one-man rule. But we operate in a decentralized fashion, so it's like the whole family has to know how to drive. The previous owner also pampered the machine, while our management style and philosophy is to drive hard. We're beginning to wonder if the acquisition will be able to handle the strain" (p.6).

While it is possible to write very detailed purchase contracts, with contingency payment schedules and so forth, and to write indemnity contracts to cover the seller's statements of assets and liabilities, if you end up with a 'dog' all the contracts in the world will be of little satisfaction as the post M&A haranguing will overshadow the most important aspect of the deal, making the M&A work and achieving the projected performance (*e.g.*, Shrallow, 1985).

Two key aspects of the M&A investigation and decision making process are: (1) the level of information disclosure provided by the acquiree, and (2) the level of investigation and due diligence performed by the acquirer in coming to a decision to invest or not. Figure 3.4 presents the interplay between these two dimensions. High disclosure is likely to occur in friendly M&As. Low disclosure is typically found in hostile M&A situations where the target firm will only provide information already in the public domain, for example, financial statements and stock exchange filings. The optimal situation would be where there is full disclosure on the part of the acquiree and where the acquirer carries out a thorough investigation.

As with the purchase of any major item, the level of pre purchase investigation is likely to impact a purchaser's satisfaction with the item after purchase. Unfortunately, many acquisitions are made based on limited and biased information provided by the seller - a sub-optimal situation.

Figure 3.4. M&A Investigation and Decision Making Process



3.3 **Position** (Integration Intent, and Integration Dimensions)

M&A Integration Intent

M&A integration intent refers to how the organizational relationship between the acquirer and acquiree is planned to be structured. This can be conceptualized along a continuum from symbiosis to autonomy, that is to say, the acquired and acquiring organizations combine to form a new organization that incorporates the best from each (symbiosis), or the acquired organization may be left as a stand-alone autonomous entity.

For example, in a conglomerate or unrelated M&A the acquired organization is likely to be left intact with only the acquirer's administrative and control systems imposed on the acquired organization. On the other hand, in a horizontal M&A, where the acquirer wishes to gain both additive and complementary synergies the acquired organization may be fully absorbed into the acquiring organization.

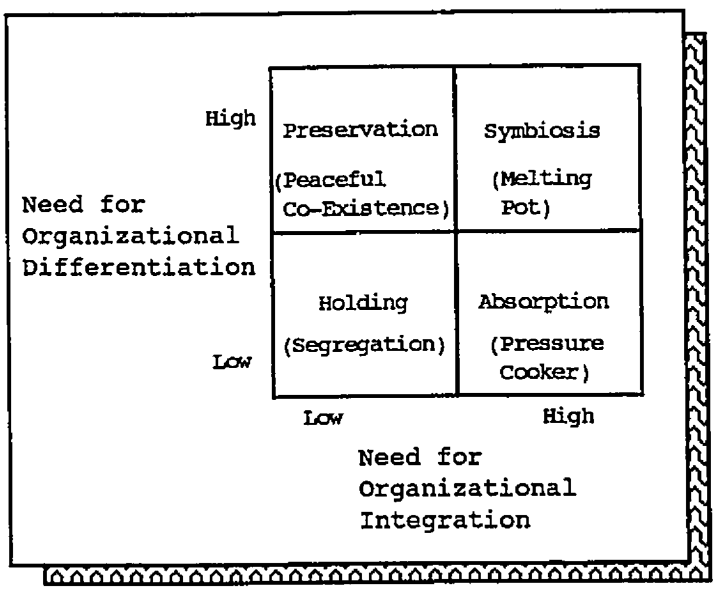
Haspeslagh and Jemison (1991) propose that M&A integration intent is a function of two dimensions: (1) need for organizational autonomy on the part of the acquired firm; and (2) need for strategic interdependence between the acquiring and acquired firms. Essentially this is a question of balancing the need for differentiation and the need for integration within the disparate units of an organization (Lawrence & Lorsch, 1967). Indeed, these dimensions of differentiation and integration are more appropriate for considering M&A integration mode than the narrower dimensions of need for organizational autonomy and need for strategic interdependence.

Specifically, Lawrence and Lorsch discuss differentiation from both a systems and, what some M&A researchers refer to as, a 'management style' perspective. For example, they discuss differences in goal orientations, time orientations, and interpersonal (cognitive and affective) orientations. They found that the degree of differentiation in behaviour and orientation between various organizational systems was inversely related to the degree of integration (defined as the process of achieving unity of effort) obtained between these systems. Indeed, in an M&A, differentiation may be required in more areas than organizational autonomy alone.

The dimension of 'need for strategic interdependence' also appears to be too narrow in its scope and would be best replaced by the Lawrence and Lorsch dimension of 'need for integration.' This is because integration may include not only strategic but also, for example, administrative and/or operational integration (Raelin, 1989).

Haspeslagh and Jemison (1991) do, however, describe four key M&A integration modes. Figure 3.5 presents these modes on the two dimensions of need for organizational differentiation and need for organizational integration. Additional descriptive labels are derived from Perry (1986), and Sales and Mirvis (1984).

Figure 3.5. M&A Integration Intent



Symbiotic integration refers to situations where both organizations initially coexist but then gradually become increasingly integrated. This is a 'melting pot' situation involving a blending or amalgamation of both organizations and is likely to be found in horizontal M&As involving, say, a research and development oriented organization and a marketing oriented organization. Absorption integration occurs where the acquired firm is integrated into the organization of the acquiring firm. This is more a 'pressure cooker' approach to integration. Again horizontal M&As or concentric M&As might adopt this approach. Preservation occurs when the acquired firm is left as an autonomous entity although some monitoring and control by the acquiring firm is likely. This type of approach is likely in vertical M&As. The holding mode, or 'peaceful co-existence,' might be found in conglomerate M&As where the acquisition is of an investment nature with little intent of involvement by the acquiring firm in the management of the acquired firm. A case of 'segregation.'

It can be seen, therefore, that M&A integration intent will have a significant impact on many aspects of the M&A process, from planning through to implementation.

Integration Dimensions

Related to M&A integration intent are the dimensions of integration. While some researchers broadly talk of high or low levels integration (*e.g.,* Pablo, 1993), such discussion lacks definition and managerial utility. Other researchers have attempted to more precisely define the dimensions of M&A integration. For example, Shrivastava (1986) outlined three broad types of post M&A integration. These are: (1) physical, (2) procedural, and (3) managerial and sociocultural. Further, we can consider the concept of autonomy to be inversely related to the concept of integration. Raelin (1989) described three broad levels of autonomy: (1) strategic, (2) administrative, and (3) operating. Calori, Lubatkin and Very (1993) considered three broad levels of control structures which an acquirer may establish to monitor the acquiree's compliance with the acquirer's corporate objectives. These are: hierarchical, formal, and informal control mechanisms. These three control mechanisms are sub-defined broadly as follows (certain items are excluded from their definition where they are redundant, for example, 'decision making delegation' is included separately as part of the informal controls while also being an inherent part of the 'formal control mechanisms'):

- ➔ Hierarchical Controls
  - Structural integration (autonomous to integrated)
  - Managerial transfer
- ➔ Formal Controls
  - Operational control
  - Resource control
  - Strategic control
- ➔ Informal Controls
  - Cultural integration

Table 3.1, both lists and synthesizes the perspectives of these three sets of researchers in order to arrive at a comprehensive yet parsimonious listing of the key dimensions of post M&A integration.

Table 3.1. M&A Integration Dimensions

Shrivastava (1986)	Raelin (1989)	Calori, Lubatkin & Very (1993)	M&A Integration Dimensions
1. Physical	1. Strategic	1. Strategic	1. Systems
2. Procedural	2. Administrative	2. Operational	2. Staffing
3. Managerial & Sociocultural	3. Operational	3. Resource	3. Structural
		4. Structural	4. Strategic
		5. Managerial	5. Cultural
		6. Cultural	

Even in M&As of a 'holding' integration mode it is common to effect some changes to the acquiree's organizational systems, such as financial reporting systems. The staffing dimension is considered more encompassing than the purely managerial dimension used by some researchers. For example, in horizontal M&As synergies are often anticipated from pruning duplicated positions at all levels of an organization, not solely at the managerial level.

The physical, operational and resource dimensions are considered to be subsumed within the structural and strategic dimension. For example, setting strategic goals for an organization requires, from an implementation perspective, determining the operational plan and allocating the required resources to achieve those goals. In a similar vein, the degree of structural integration is going to determine the level of physical integration between the organizations.

Indeed, as further evidence of the appropriateness of these dimensions we can see how they encompass the management variables as defined by the '7 Ss' (*e.g.*, Pascale & Athos, 1981). The three outstanding Ss are Style, Skills and Superordinate goals which can be considered to be subsumed within the dimensions of staffing and culture (*e.g.*, Fry & Killing, 1989a).

It might be hypothesized that the level of difficulty associated with change implementation is likely to increase as one moves down the list. For example, system changes will normally be expected in an M&A. Generally, an acquirer will, at a minimum level of integration, require some homogenization between the acquired organization's reporting systems and the acquirer's systems. Considering that many organizational systems represent an area of ongoing change and development, such changes are not considered major upheavals in organizational life. Indeed, these changes are often only apparent in the comptroller's office.

Changes in staff may be considered relatively easy, though not painless, to implement in that one can fire/make redundant/buy out a contract of any employee. Indeed, Walsh (*e.g.*, 1988) has provided evidence that M&As are associated with higher than normal turnover of top management. Also, Martin and McConnell (1991) found that 59% of top management that departed an acquisition in the first year following an M&A did so for reasons related to the M&A. Specifically, 53% left due to the 'change in control,' 3.6% because they were 'fired for poor performance,' and 2.4% due to 'policy differences.' In the second year following an M&A 39.2% of top managers that departed left for reasons related to the M&A, that is, 25% left due to the 'change in control,' 7.1% because they were 'fired for poor performance,' and 7.1% due to 'policy differences.' However, it should be noted that the impact of such changes are difficult to predict and have not been adequately studied in the M&A literature to come to any firm conclusions. Drucker offers the view that: "to recruit new top managers is a gamble that rarely comes off" (1981, p.28).

While organizations change their strategy and structure as they develop and grow (*e.g.*, Chandler, 1962; Greiner, 1972), such changes are not routine. Consequently, the formulation and implementation of strategic and structural change is considered difficult and complex (*e.g.*, Boeker, 1989; Dyer, 1984; Pettigrew, 1987).

<u>Culture</u> is a more amorphous concept and cultural change is generally considered difficult to implement (*e.g.*, Siehl, Ledford, Silverman & Fay, 1988). For example, Reynolds (1987) states:

> "Corporate culture is not an ideological gimmick to be imposed from above by management or management consulting firms but a stubborn fact of human social organization that can scuttle the best of corporate plans if not taken into account" (p.38)

Differences or clashes in organizational culture between acquirer and acquiree have been identified in the M&A literature as a key barrier to M&A success (*e.g.*, Mirvis & Sales, 1990; Walter, 1985). However, based on the previous discussion it can be argued that such difficulties are contingent on the level of desired integration.

In summary, the integration intent should drive the level of integration. For example, in the holding situation changes may only occur at the systems level, such as financial reporting systems. On the other hand, in the symbiosis situation, integration is likely to occur at all levels, which will be considerably more difficult to implement particularly where the M&A involves managerial and cultural differences which will have to be dealt with first (*e.g.*, Porter, 1985).

3.4 **Process** (Integration Management)

Many researchers have argued that post M&A integration management is the greatest single cause of M&A success or failure. Based on a review of the M&A literature, Schweiger and Walsh (1990), stated that:

> "the unstated assumption has been that a well-managed integration process should ensure the realization of the strategic goals underlying any particular combination" (p.63).

However, they concluded their review by noting that:

> "the under-specified fragmented approach to research in this area has only yielded conundrums and equivocal results" (p.82).

There are, however, some unequivocal findings, albeit of a very general nature, which include: the importance of adequate communication with employees after the M&A in order to reduce employee uncertainty, stress and anxiety (*e.g.*, Schweiger & DeNisi, 1991); the negative impact of cultural differences between acquirer and acquiree on the integration process (*e.g.*, Business International, 1988); and the above normal rate of top management turnover following M&As (*e.g.*, Walsh, 1989).

In general, most M&A researchers, while agreeing that post M&A integration management is very important to M&A success or failure, acknowledge that it is an area about which we still know relatively little (*e.g.*, Chatterjee, 1992; Shanley & Correa, 1992). From the perspective of our understanding of the dynamics of post M&A integration, this aspect of M&As may be considered the 'dark side of the [M&A] moon.' To overcome the historically 'fragmented' approach to M&A integration, we require a sound conceptual basis to approach the issue. Indeed, some 25 to 30 years ago, one of the more accepted aspects of M&A integration was the concept of change. For example:

> "change is certain after a merger - not evolutionary change, but sudden, often traumatic change" (Searby, 1969, p.4).
>
> "the key variable for [M&A] success, however, is not superior strategy; it is the **managers of change**, who can... make a success of it" (Kitching, 1967, p.98, emphasis added).

Within the OB area, there is an extensive body of literature on organizational change and change management. This literature may be used as a starting point to better inform us on M&A integration. Figure 3.6 outlines [illegible]anizational change model based upon the interplay of three key change factors (Hin[illegible]wn & Greenwood, 1991):

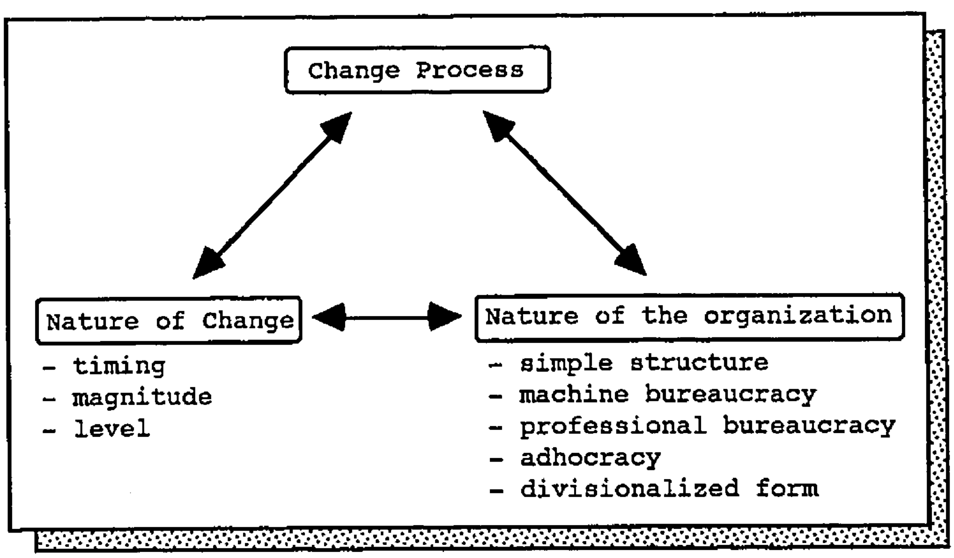
(1) Nature of Change
- (a) time frame
  e.g., continuous, preemptive, anticipatory, reactive, and crisis;
- (b) magnitude of change
  e.g., does the change represent a minor or major departure from past practices, that is to say, is it evolutionary or revolutionary in nature; and
- (c) level(s) of impact
  e.g., individual, group and organizational.

(2) Nature of the Organization
e.g., simple structure, machine bureaucracy, professional bureaucracy, adhocracy and divisional form.

(3) Change Process

When considering Figure 3.6 and its application to this study, it should be noted that two of the three concepts in this figure are being controlled or purposely varied with a view to improving our knowledge of the 'change process' aspect of the model. First, the research sample has been chosen to ensure that we are dealing with a similar organization type, and second, the nature of the change is purposely being varied according to integration type. Therefore, only the 'change process' aspect of the model will be considered in detail in this chapter. Detailed information is available in the literature on the 'nature of the organization' (*e.g.*, Greiner, 1972; Mintzberg, 1979; Pugh, Hickson, Hinings & Turner, 1969) and 'nature of change' (*e.g.*, Time frame - Allaire & Firsirotu, 1985; Fry & Killing, 1989b; Magnitude of change - Ansoff, 1991; Gersick, 1991; Meyer, Brooks & Goes, 1990; Miller, 1990; Levels of impact - Dyer, 1984; Tichy & Ulrich, 1984) aspects of the model.

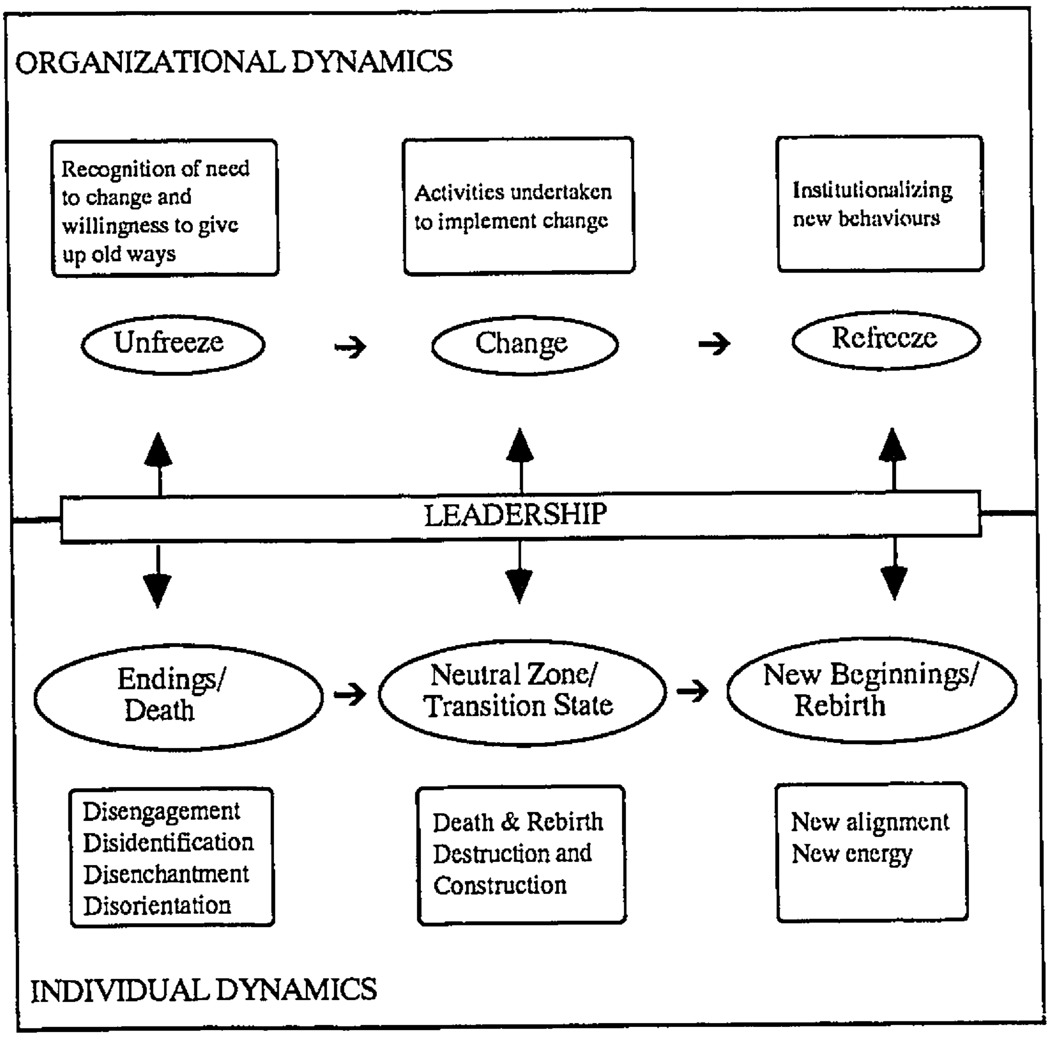
Figure 3.6. Organizational Change Model



Organizational Change Process

Many organizational change and organizational development concepts are based on Lewin's (1947) three stage formulation of the change process. This model is one of the earlier models of organizational change. If we also consider Bridges (1980) work on how individuals deal with major life changes we can outline some of the major organizational and individual change dynamics. These are presented in Figure 3.7.

Figure 3.7. Organizational and Individual Change Dynamics



Most change programs result in winners and losers, and elicit mixed feelings. Consequently, Lewin points out that it is necessary to identify the forces driving or favouring change and the forces constraining or opposing change. Both the positive and negative forces need to be effectively managed if change is to be successful. Those driving the change need to be harnessed and directed, and those constraining the change need to be dissipated. Many authors have since operationalized Lewin's model based on a rational-analytical thought approach (*e.g.*, Dyer, 1984; Grinyer & McKiernan, 1990). These operationalizations generally expand the three stage model with more specific and detailed steps. For example, Greiner (1967) outlined the following six phases in formulating and implementing organizational change:

(1) Problem recognition;
(2) Intervention and reorientation;
(3) Shared problem diagnosis and recognition;
(4) Solution development and commitment;
(5) Implementation, evaluation, and operation; and
(6) Reinforcement and acceptance.

Another key aspect of the change process, about which most authors concur, is the role played by top management and, in particular, the leadership style utilized in the change process. A number of leadership approaches have been proposed (*e.g.*, Bass, 1990b; Casse, 1991; Tichy & Ulrich, 1984), for example:

→ Unilateral Action; Sharing of Power; & Delegated Authority.
→ Telling; selling; involving; and delegating.
→ Transactional and transformational leadership style.

The "new paradigm of leadership" (Bass, 1990a, p.xiii), would appear to be a transformational leadership. Such a leadership style involves (*e.g.*, Bass, 1990b; Bennis & Nanus, 1985):

→ Being charismatic,
→ Developing a vision and sense of mission for the organization,
→ Setting challenging expectations for their followers,
→ Showing confidence in and respect for their followers, and
→ Behaving in a manner that reinforces the vision.

As previously noted, there is little M&A research that has examined the M&A integration process (*e.g.*, Shanley & Correa, 1992) and, in particular, little investigation of the change management process or leadership style employed during the change process.

In the absence of such research we are not in a position to offer specific M&A implementation advice, other than that of a very generalized nature. For example, if we consider two stereotypical M&As which can be considered to be at opposite ends of a change complexity continuum and applying the change process model presented in Figure 3.6 we would offer the following prescriptive advice:

M&As of a preservation integration type. For example, a M&A of a holding or investment type often leaves considerable autonomy with the acquired organization. This approach was taken in 40% of the M&As in one survey (Business International, 1988). This is a simple change scenario, largely involving only a change in reporting systems. It can be outlined as follows:

1. Nature of Change
   (a) Time frame
   Reactive - response to the M&A.
   (b) Magnitude of change
   May be considered evolutionary as reporting systems change from time to time, for example, due to regulatory changes.
   (c) Level(s) of impact
   Largely limited to the comptroller department or group.

2. Nature of the Organization
   Any one of the five organizational types (Mintzberg, 1979) may be involved. However, for this type of change the nature of the organization should not be of any great relevance.

3. Change Process
   In general, M&As of an investment type do not represent any fundamental change in the mission of the acquired organization. Consequently, the main job of the organization's leadership is to emphasize a 'business as usual' approach.

M&As of a symbiotic integration type. In the Business International survey (1988) this approach was taken in 16% of the M&As. This can be considered a very complex organizational change scenario with implications for both organizations:

1. Nature of Change
   (a) Time frame
   Each M&A will have its own timing requirements. For example, respondents in the Business International Survey reported that it took from two to five years to fully integrate an acquisition (see also Souder and Chakrabarti, 1984, who found similar results).

(b) Magnitude of change
While integration will tend to be revolutionary in nature, if the time frame is sufficiently long, the change may take on a more evolutionary character (see Haspeslagh & Jemison, 1991, for a description of the ICI-Beatrice Chemical symbiotic M&A).

(c) Level(s) of impact
All three levels of individual, group and organization will be affected by this type of change.

2. Nature of the Organization
Again, any one of the five organizational types may be involved. However, for this type of change the nature of the organization may be of great relevance. For example, Hinings, Brown and Greenwood (1991) provide a cautionary tale on the difficulties of implementing structural change in an autonomous professional firm. Consequently, it is argued that the nature of the organizations involved in the M&A will need to be taken into account in complex change situations.

3. Change Process
Based on a study of the Borg Warner Chemicals M&A, Broekhuysen (1987) offers the following general prescriptive advice:

→ Create trust through communication,
→ Develop cooperation and responsibility, and
→ Create the future together, as partners.

Haspeslagh and Jemison (1991) described some of the key challenges of M&A integration:

→ Establishing interface management,
→ Putting operations on an even keel,
→ Instilling a combined sense of purpose,
→ Taking stock and establishing control,
→ Developing mutual understanding, and
→ Building credibility throughout the organizations.

In summary, the integration process is an area of M&As about which we know relatively little (Schweiger & Walsh, 1990). We can say that, depending on the level of integration, some M&As create exaggerated organizational situations that demand superior management skills and, in particular, superior leadership and change management skills. Further, we know from surveys of practitioners involved in M&As that it often takes several years to create value from M&As, and that the integration process can also take several years.

3.5 Performance

In M&A research, the performance of an M&A is generally examined based on tangible measures of performance such as stock price reactions or accounting data (Halpern, 1983). Financial economists use *ex ante* measures of shareholder value. I/O economists use *ex post* measures, for example, profitability, return on equity, and return on assets. Strategic management researchers use both *ex ante* and *ex post* measures of performance. All these measures, and indeed most organizational performance measures, have limitations. However, with respect to M&A performance, it can be argued that these measures are invalid due, for example, to their limited time perspective. This timing problem may be divided into direct and indirect effects.

The direct timing problem refers to the limited period over which M&A performance is generally examined. Most studies measure performance for a period of less than three years after the M&A has been consummated. However, most practitioners involved in M&As acknowledge that it can take at least three to five years to realize the full benefits of an M&A. For example, Souder and Chakrabarti (1984) found that two of the most highly rated M&As (by the executives involved) in their study had negative performance impact for five years after being acquired. Also, even the most successful M&As in their study took “up to five years” (p.43) to meet the acquirers’ expectations. Other M&A researchers have identified a similar time frame for achieving value gains from M&As (*e.g.*, Haspeslagh & Jemison, 1987). Therefore, the time frame used by most M&A researchers is not compatible with the time frame used by practitioners when they make their M&A decisions - a case of ‘apples and oranges.’

The second timing problem is more indirect in effect. M&As are a mixed bag of motives and probable effects (Steiner, 1975) and, consequently, measuring performance along a single, narrow dimension does not necessarily capture the full M&A gains. For example, no consideration is given to less tangible benefits from M&As such as knowledge gains through skill acquisition or business exploration. Knowledge gains can possess great economic value but are difficult to capture by statistical measures (*e.g.*, Hayek, 1945). Indeed, while existing performance measures <u>may be</u> appropriate for measuring value capture in M&As they are not as suitable for measuring value creation. Examples of value creation in M&As includes their ability to renew capabilities, ameliorate resource constraints, enter new markets, and develop internationally (*e.g.*, Chang, 1992; Haspeslagh & Jemison, 1991). Further, value creation through building intangible assets is a key feature of M&As (*e.g.*, Grant & Jammine, 1988) but one that is not easily quantifiable. While these intangible gains should eventually manifest themselves in superior performance the time gap is likely to be outside current time frames used by M&A researchers.

Researchers need to broaden both the performance dimensions and time frames used in examining M&As. Specifically, we need to expand our measures of M&A performance from the purely tangible, essentially value capture measures, to measures of value creation, tangible and intangible. For example, from my own experience, we made one early acquisition that was a disaster from a financial performance perspective (for example, as measured by ROE or ROA) but from which we learned some critical lessons about how not to make an acquisition, lessons we subsequently applied with other acquisitions. One such lesson was the benefit of incorporating 'earn out' clauses in M&As involving owners/managers.

Researchers also need to examine M&A performance over a longer period than is currently the norm. Indeed, Souder and Chakrabarti (1984) discussed how those acquirers who take a "patient partnership" (p.47) approach to M&As exhibit greater success than those who seek instant returns. It would appear that M&A researchers also need to take a more patient approach to measuring M&A performance. Unfortunately, the longer one extends the review period, the more performance is likely to be tainted by factors unrelated to the M&A. Recognizing the problems associated with measuring M&A performance, Porter (1987) chose to define successful M&As as those acquisitions which were not subsequently disposed off. Another alternative would be to ask managers involved in M&As to both define the performance criteria and judge how well the M&A scored against these criteria.

3.6 General Modifiers

Finally, a number of general factors have been identified in the literature that may impact the outcome of any M&A. Some of the more commonly accepted factors include:

Industry factors. I/O economic researchers have shown that industry factors affect M&A profitability (*e.g.*, Schmalensee, 1985). While Rumelt (1991) might dispute the size of these industry effects he still acknowledges their existence. Consequently, many researchers have recommended that M&A research should control for industry effects (*e.g.*, Ruback, 1983).

Relative size. Kitching (1967) found that there was a size mismatch (where pre M&A sales of the acquired company were less than two percent of the sales of the acquiring company) in 84% of his sample of failed M&As and, consequently, cautions against acquisitions which are too small. Hunt (1990) replicated Kitching's study and found similar results. However, neither study tells us anything about size relationships where sales are above the two percent criteria used in these two studies - quite a wide range to leave unspecified.

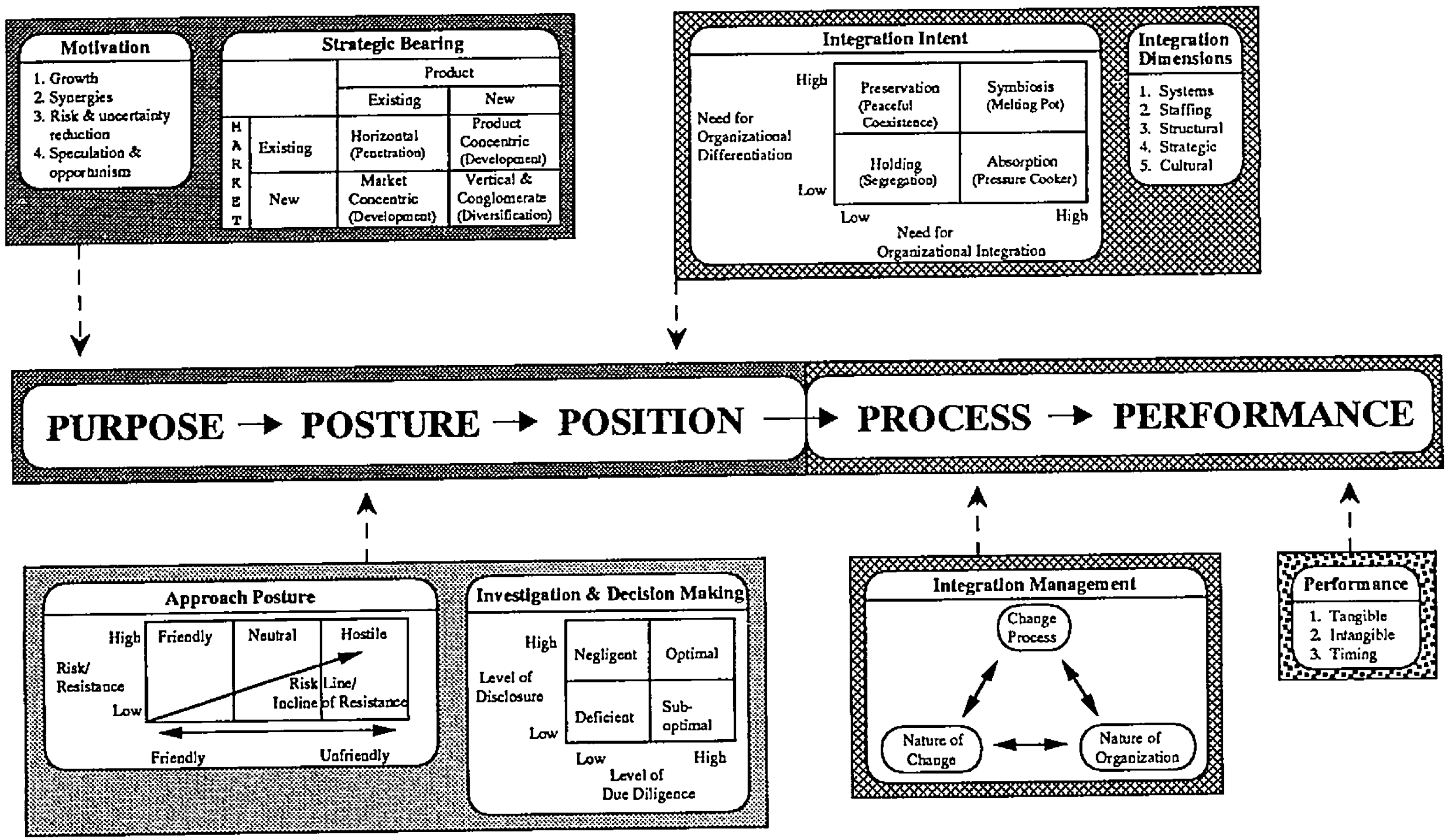
However, from a purely intuitive perspective and as previously noted, "there is quite a difference between two whales mating and a whale swallowing a minnow." Therefore, the relative size of the organizations involved in an M&A is a factor that should be considered in our analysis.

M&A experience. Kusewitt (1985) cites a 1960s study by Booze, Allen and Hamilton where they found an M&A experience effect. That is, higher acquisition rates led to greater success due to greater experience. Kusewitt's own results also supported the notion that M&A experience led to increased M&A success. He also suggests that there is probably an optimum acquisition rate beyond which the acquirer will experience overload. Essentially, acquisition rate is posited to have an inverted U relation with performance.

In Conclusion

The goal of this chapter was to develop a framework that would be both theoretically and managerially relevant (Thomas & Tymon, 1982). As a result, the chapter drew more on organizational studies (for descriptive relevance) rather than quantitative studies (*e.g.*, event studies) in an attempt to capture the complexity of the forces that shape M&As. Based on the various factors discussed in this chapter, Figure 3.8 presents the resulting integrated framework for considering M&As. As previously stated, this

Figure 3.8. M&A Research Framework (The 5 Ps of M&As)



framework is based on a rational linear thought process. It starts with M&A motives and ends with M&A performance.

Existing M&A research has been criticized for being under specified. The M&A framework presented here attempts to more fully specify some of the key factors that need to be considered if M&A research is to be more conclusive in its findings. In particular, this framework is presented in an effort to highlight the heterogeneity inherent in the general term 'mergers and acquisitions.' The treatment of M&As as essentially homogeneous events confounds the analysis and, no doubt, contributes to the inconclusive and contradictory results that dominate M&A research.

Many routes can be taken from M&A motives to M&A performance. It would seem that by narrowing and more fully understanding the exact route of the sample being studied, M&A research should result in more conclusive findings. For example, if we examine the acquirer's motives for an acquisition we may find that it was to explore a new market or access new technology and there may not have been a financial profit expectation but rather a knowledge gain expectation. Or, in a declining industry an acquisition may be motivated by a desire to control the decline, because reversing it is an unrealistic goal (*e.g.*, the merger discussions between Canadian National Railways Company and Canadian Pacific Limited with respect to their eastern rail operations). Such motives and outcomes are not well handled by existing research.

These and other research concerns are now being discussed by M&A researchers. Indeed, there is some consensus as to how we can overcome the deficiencies inherent in much of the previous research. This consensus is related to need to change the historically dominant approaches to M&A research. Consequently, Chapter 4 will describe a research methodology that both incorporates this consensus and also uses the M&A Research Framework presented in Figure 3.8.

CHAPTER 4 - RESEARCH METHODOLOGY

The basic goal of this study was to improve our understanding of the critical managerial processes involved in M&As. Indeed, according to the M&A literature, examining the processes surrounding M&As is considered the most fertile research route for advancing the M&A literature (Walsh, 1989). Further, based on the literature review, it would appear that there is consensus among M&A researchers about the need to move away from secondary, cross sectional, large data base, and content type research, to a more in-depth examination of the process aspects of M&As. Consequently, a case research approach was chosen for this study (*e.g.*, Parkhe, 1993; Yin, 1989).

In this chapter, the research methodology used to examine the process aspects of M&As will be described and, specifically, the following topics will be addressed:

(1) The research questions;
(2) The research methodology:
  → rationale for method choice,
  → construct definition,
  → research design,
  → validity and reliability issues;
(3) Sample selection:
  → case site selection,
  → informant selection;
(4) Data collection;
(5) Data analysis; and
(6) Summary review of the research approach.

4.1 Research Questions

The objective of this research was to develop insights into how M&As are most effectively managed. This is considered important because the literature attributes the high failure rate of M&As to ineffective merger management which results in intended M&A benefits not being realized. The various research questions are motivated primarily by a desire to identify practical guidelines that can be used to help direct future M&A research and managerial activities.

Indeed, based on the literature review, it would appear that there is consensus among M&A researchers about our general lack of understanding of M&A management and, in particular, post merger integration processes. As Nahavandi and Malekzadeh (1988) commented: "the process has been ignored ... [there is a] need to develop process-oriented models of postmerger integration" (p.87). The following is a selection of researchers' comments about the need to improve our understanding of M&A management:

> "The study of ... the post-merger integration period offers the most research promise" (Walsh, 1989, p.320).
>
> "acquisition success and failure had more to do with the processes of decision making and integration than with the variables captured in ... prevailing performance-oriented studies" (Haspeslagh & Jemison, 1991, p.280).
>
> "Few studies have collected systematic data on the *interaction* of acquired and acquiring firms during integration" (Shanley & Correa, 1992, p.261).

Acknowledging these views, this research focused on examining how organizations go about the task of managing M&As. These process aspects of M&As may be described as being at a preparadigmatic stage of development, lacking even a theoretical core. Consequently, due to the minimal current level of understanding of M&A management processes, **this research must be considered exploratory in nature**. Further, identifying the critical issues surrounding both the pre and post merger stages of M&As is considered an important prelude to advancing our theoretical and practical understanding of M&As (*e.g.,* Greenwood *et al.,* 1994). Therefore, the following research questions were put forward to guide this research:

(1) What are the critical management tasks (*e.g.,* issues, decisions, and actions) associated with pre merger management?
(2) What are the critical management tasks (*e.g.,* issues, decisions, and actions) associated with post merger management?
(3) How does management of pre merger tasks impact post merger management?

4.2 Research Methodology

Methodological debates take place on a number of levels, including the philosophical (nature of the universe), ontological (nature of being or reality) and epistemological (ways of knowing or nature of knowledge). It is beyond the scope of this research to fully address each of these levels. However, it is considered useful for researchers to define their own assumptions and approaches to such issues (Morgan, 1983).

Management research has been criticized for been driven more by 'methodological orthodoxy' than by 'methodological appropriateness' (*e.g.*, Gummesson, 1991). Yet, many researchers have stressed that it is the research question that should drive the methodology and not *vice versa* (*e.g.*, Hackman, 1992). This is referred to as a 'paradigm of choices' approach because it recognizes that different methods are appropriate for different research questions (*e.g.*, Patton, 1990). Indeed, this perspective, which is adopted here, eschews allegiance to any one epistemological viewpoint, opting instead for a pluralistic approach to research, for it is purpose rather than method that should lie at the heart of methodological decisions. However, researchers must always be aware of the limitations and imperfections inherent in all methodologies and in all of the various epistemic positions that can be taken to research and research data (*e.g.*, Kirk & Miller, 1986; Van Maanen, 1979).

Methodologies should be considered tools of inquiry, with different inquiries requiring different tools (Downey & Ireland, 1979). Therefore, considering the research questions, a case research approach is proposed as the most appropriate tool of inquiry. This approach is far from new, indeed, "Hippocrates first presented 14 classic case studies of disease some 2300 years ago" (Bonoma, 1985, p.199). Yin (1989) provided the following definition:

> "*A case study is an empirical inquiry that:*
> - investigates a contemporary phenomenon within its real-life context; when
> - the boundaries between phenomenon and context are not clearly evident; and in which
> - multiple sources of evidence are used" (p.23).

Interestingly, Bonoma (1985), synthesizing the views of researchers in medicine, organizational behaviour, sociology and psychiatry stated that:

> "given the low level of theoretical knowledge about phenomena in which social science is interested, coupled with the known complexities and context-sensitivities of these same phenomena, qualitative research is the major or even the only valid knowledge-accrual device open to scientists whose interests are focused on human behavior" (p.203).

Rationale for Method Choice

The case research approach is chosen to answer the research questions for two main reasons. First, from a methodological perspective, it is most appropriate because (*e.g.*, Hamel, Dufour & Fortin, 1993; Parkhe, 1993; Yin, 1989):

(1) The phenomenon of interest is not currently amenable to quantification due to its complexity and the early stage of theory development. Consequently, we are unable to fully specify, in advance, factors involved in these processes or fully delineate relationships among such factors. Therefore, a flexible, evolving research approach is required.
(2) Management processes are most usefully studied in their natural setting.
(3) To research complex phenomena, we require a methodology with a complexity capturing ability - a particular strength of case research.
(4) Case research can answer "how" and "why" questions allowing researchers to understand the nature and complexity of organizational processes.

Further, Parkhe (1993) reviewed the methodological challenges facing researchers of international joint ventures and his description of the research challenges in that area were very similar to those facing M&A researchers. Parkhe recommended a phased research methodology of a pilot case followed by several more theoretical replications, and explained how this design was most suited for an emerging and "messy" research area. Considering the research similarities between the two areas, the approach taken in this study draws on Parkhe's recommendations.

Second, many M&A researchers have concluded that case research is the most appropriate methodology to move us beyond the current moribund situation. Specifically, from the I/O economic literature, Goldberg (1983) stated that:

> "the outcomes of the bulk of merger studies suggest at least two complementary research strategies:
> a. observation of *merger cases* which facilitates the analysis of causes and outcomes; and
> b. *longitudinal* case studies of *merger processes, which facilitate an understanding* of their effects" (p. 209).

Indeed, Ravenscraft and Scherer (1987) used case studies in addition to Federal Trade Commission Line of Business data in order to aid their understanding of M&A performance. Further, Marchildon (1991) recommended that:

> "the most effective manner in which to probe the disparate consequences of merger is through analytical business history case studies" (p.xv).

Also, in the financial economics literature, Ruback (1983) used a case research approach in studying M&As. Recently, Haspeslagh and Jemison (1991) used a case research methodology and produced one of the more insightful pieces of M&A research. Indeed, in 1993, their book received the Terry Award which is "given annually to the book judged to have made the most outstanding contribution to the advancement of management knowledge" (Academy of Management News, October 1993, p.27). Therefore, based on the recommendations of these and other M&A researchers, it is argued that a case research approach is an appropriate research methodology for studying M&A management processes. In summary, a case research approach is considered appropriate when:

> "there is little known about a phenomenon, current perspecti es seem inadequate because they have little empirical substantiation ... [the case research approach is] especially useful for studying ... longitudinal change processes ... the early stages of research on a topic or to provide freshness in perspective to an already researched topic [and in] new research areas or research areas for which existing theory seems inadequate" (Eisenhardt, 1989, p.548-9).

Eisenhardt's criteria certainly apply to M&A management processes. Such processes have yet to be adequately specified, let alone understood. What is initially required is an understanding, in action, of the phenomenon and a case research approach can provide such an understanding (*e.g.*, Benbasat, Goldstein & Mead, 1987; Bonoma, 1985; Eisenhardt, 1989).

Construct Definition

I have used the '5 Ps' framework developed in Chapter 3 (see Figure 3.8) as a M&A Research Framework. This framework allows one to more comprehensively examine, when compared with past research, a number of the critical concepts surrounding M&As. Essentially, the Research Framework takes a chronological approach to M&As, from motivation for the M&A, to eventual performance. Further, it addresses a number of the key criticism of previous M&A research, and, in particular, the issue of the under-specification of the M&A process. Each of the five key concepts in this framework and their sub-parts have already been extensively discussed and will, therefore, not be discussed further here.

Research Design

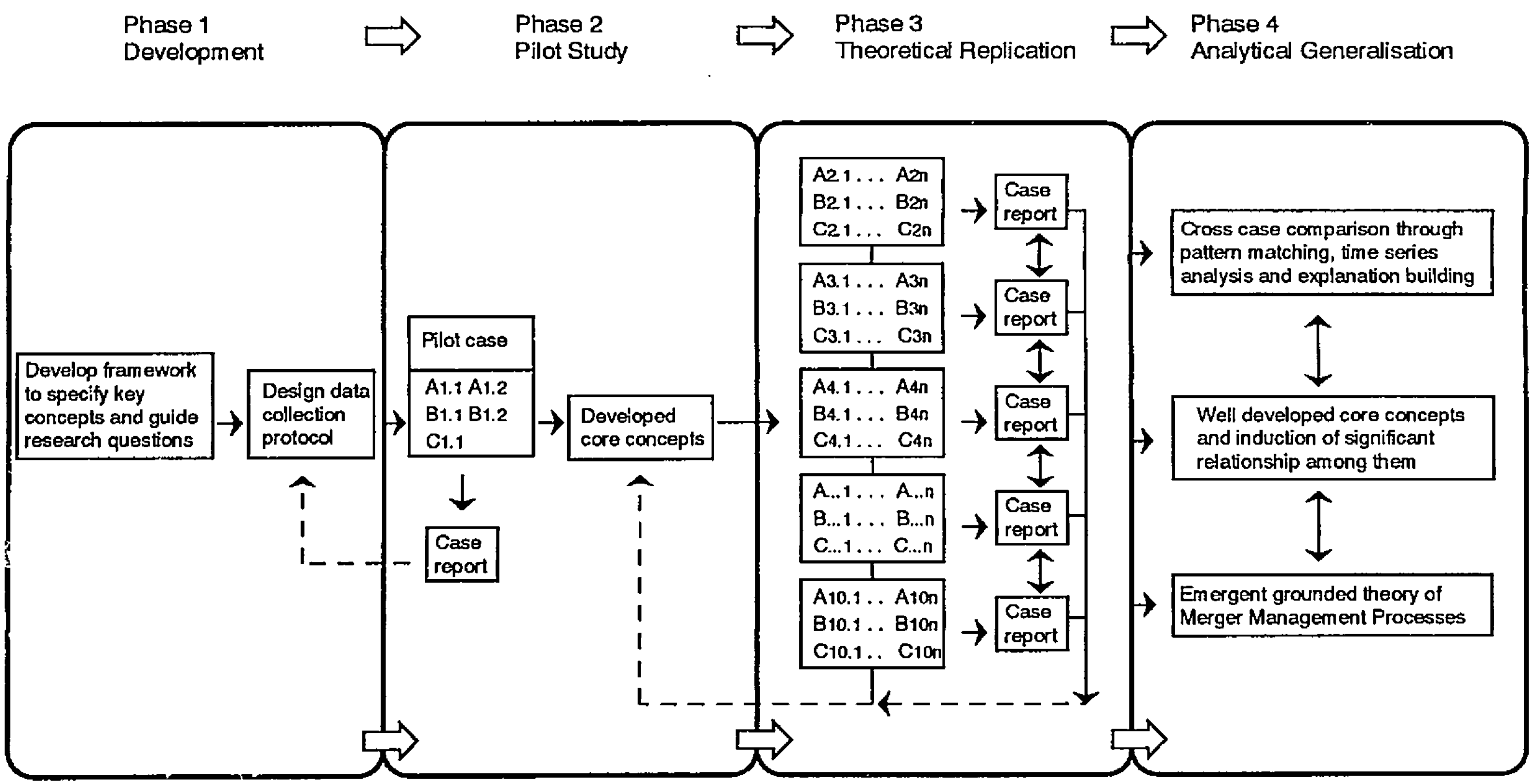
The research design is shown in Figure 4.1. It should be emphasized that case research is dynamic and evolutionary in nature and, therefore, the research design should be interpreted with such a perspective in mind (Weick, 1989). From a linear viewpoint there are four key phases to the design:

(1) development phase;
(2) pilot phase;
(3) theoretical replication phase; and
(4) analysis and explanatory phase.

Development phase. The purpose of the development phase of this research was to link the study to the existing knowledge on the topic, and encompassed the work described in Chapters 2 and 3. While the M&A literature is generally consistent in its view that relatively little is known about merger management, this has not been taken as a license to carry out research in an unfocused manner. The literature review in Chapter 2 identified a need for research into the dynamics of merger management and helped shape the research questions discussed previously (O'Dwyer, 1994a). In Chapter 3, the M&A Research Framework was developed in order to specify some possible *a priori* constructs that would provide direction and guidance for the research effort. Subsequent to identifying specific research questions was the need to decide on an appropriate methodology. A case research approach was chosen and the rationale for this choice has also been discussed.

Pilot phase. The pilot phase of the study involved testing, modifying, and further developing the interview protocol. The protocol was used as an guide for semi-structured interviews with five senior managers involved in a M&A. Interviews lasted from one hour to four hours and twenty minutes, with an average of in excess of two hours. The interviews allowed for the refinement of the interview protocol and provided confirmation

Figure 4.1. Research Design



Key:
A = Firm A Professionals; B = Firm B Professionals; C = Chief Operating Officer.

of its ability to elicit relevant information about M&A management processes and related issues. In addition, two of the interviewees were able to discuss M&As from a perspective outside the limits of their own particular case experience due to their involvement as advisors in a number of client M&A situations. Detailed information about the pilot study and its results are available elsewhere (see O'Dwyer, 1994b) and, consequently, will not be repeated here. However, the results of the pilot study are incorporated in the results for the preservation type mergers described in Chapter 6, and in the summary results described in Chapter 9.

Theoretical replication phase. While each individual case can be considered a study in and of itself, where convergent and divergent evidence is sought regarding the facts and conclusions of the case -- within case analysis; multiple cases provide multiple lenses to confirm, extend and/or contradict single case insights -- cross case analysis (Eisenhardt, 1989). As Yin (1989) stated, multiple case research designs:

> "should follow a replication, not a sampling, logic, and an investigator must choose each case carefully. The cases should serve in a manner similar to multiple experiments, with similar results (a literal replication) or contrary results (a theoretical replication) predicted explicitly at the outset of the investigation" (p.59).

This study took a theoretical replication approach. As incorporated in the Research Framework, M&A integration exists along a continuum from low to high integration. Four categories of organizational integration were identified (Haspeslagh & Jemison, 1991): holding (or segregation), preservation (or peaceful co-existence), absorption (or pressure cooker), and symbiosis (or melting pot). It is argued that merger management processes will vary according to the level of desired integration. For example, symbiotic integration is expected to require substantially greater amounts and differing types of integration management than, say, holding. Therefore, the theoretical replication phase was based on choosing cases that fitted different integration categories. Accordingly, the level of integration was used as the primary criteria to select research sites. Only three of the four integration types were examined in this study. The 'holding' type, which involves the least amount of integration, was not examined as there were no mergers of this type in the population of mergers chosen for this study.

The theoretical replication phase of the research was also directed by the change management model incorporated in the Research Framework. This change model has three primary dimensions:

(a) nature of the organization (or context);
(b) nature of the change (or content); and
(c) the change management process.

First, in order to provide homogeneity with respect to the nature of the organizations to be researched, it was proposed that organizations of the same type be selected (this point will be expanded upon later). Second, as the nature of the change (*i.e.*, time frame, magnitude of the change, and levels of impact) is expected to vary according to the level of integration, it was proposed that the research sample should represent the various integration levels, discussed previously. Consequently, this approach to organizing the study allowed change management processes (or M&A management processes), the third dimension, to be investigated in a structured manner.

Analytical generalization phase. Analysis in case research is an on-going iterative process. However, two distinct analytical phases should be emphasized: the first phase relates to within case analysis; and the second phase relates to between, or cross-case comparisons. Due to the structured differences between the selected cases it is argued that these differences have the potential to greater inform us of the unique aspects of merger management associated with each of the differing levels of integration. Indeed, this planned diversity in integration type can also help accentuate the commonalties across types. Consequently, the cross-case comparison analysis is considered to be a critical part of the analytical generalization phase of the research.

Specifically, three major analytical tools for case research have been identified in the literature: pattern matching; time series comparison; and explanation building (e.g., Yin, 1989). Each of these tools may draw on convergent and/or divergent data, and may draw from within and/or between cases. These activities will be described in more detail as part of the data analysis discussion.

The dependent variable was merger performance. Five measures were used to differentiate between levels of merger performance:

A. Objective measures:

(1) Change in Net Income Per Partner,
(indication of change in profitability).

(2) Change in number of professional staff,
(indication of change in business volume).

B. Perceptual measures:

(3) Change in client service (five point scale - worse to better).

(4) Change in professional satisfaction (five point scale - worse to better).

(5) Achieving merger goals (five point scale - none to all).

Change referred to the difference between the pre merger level and the three year post merger level on each dimension. Measures number (1), (3) and (4) are considered to be the critical elements of success, both short and long term, for professional service firms (Maister, 1985). Measures (2) and (5) were added for completeness. These five measures were eventually aggregated to form a single performance measure which was defined along a four point scale of: failure, somewhat successful, moderately successful, and very successful.

In summary, this design type is referred to as an 'embedded multiple case design' (Yin, 1989). The term 'embedded' refers to the use of multiple units of analysis within each case, with multiple cases being chosen in order to fully examine the effect of differing levels of integration on integration management processes. The existence of alternative levels of integration is, in turn, labeled a "nonequivalent, dependent variables design" approach (*e.g.*, Cook & Campbell, 1979; Yin, 1989).

Validity and Reliability Issues

The following criteria are considered important in evaluating any research design: construct validity; internal validity; external validity; and reliability (*e.g.*, Bacharach, 1989; Kidder & Judd, 1986). Construct validity refers to how successfully a construct is measured or operationalized. Internal validity is concerned with establishing a causal connection between constructs. External validity addresses the degree to which we can generalize a study's findings to other populations and settings. Finally, reliability refers to the consistency of an instrument from one measurement instance to another.

Table 4.1, developed from Eisenhardt (1989), Parkhe (1993) and Yin (1989), outlines some of the key case research tactics which address validity and reliability issues. All of these tactics were incorporated in this study. One of the more important tactics is the development and use of a research framework to guide the overall research effort. The M&A Research Framework developed in Chapter 3 provided such a guide. Further, the framework allowed me to more fully specify my sample, identifying differences on a number of critical dimensions, such as motivation, strategic bearing, approach posture and so forth. Also, it provided a means to move away from the current use of simply defined conceptualizations (largely bivariate relationships) of M&As, allowing me to more accurately and completely describe the research sample. Indeed, it is only by recognizing and specifying the complexity of the phenomenon that researchers will be in a position to move beyond the current equivocal state of their results (Napier, 1989). The Research Framework acknowledges that there are different types of M&As and allowed me to be "sensitive to the *type* of merger" being investigated (Greenwood *et al*,. 1994, p.240).

4.3 Sample Selection

As discussed in the literature review, quite a diverse range of researchers have criticized the heterogeneity of many of the samples used in M&A research. A critical aspect of this heterogeneity is that of industry, a factor that has been shown to contribute to performance variance between organizations. Therefore, it is argued that the organizations included in this study should operate in the same industry. Such a restriction should help control for industry effects on merger management practices. While it is acknowledged that such a strategy compromises generalizability in favour of accuracy, it is felt that this is an appropriate research approach in view of the current state of our knowledge of the topic and the limited conclusive results of past cross sectional studies. Indeed, Harris (1983) stated that:

> "the complexity of an individual acquisition suggests that it may be wise to pick a roughly homogeneous set of mergers for study" (p.346).

Table 4.1. Case Research Tactics for Validity and Reliability Issues

Issue	Activity	Rationale
Construct Validity	• Position within existing literature • Define a priori constructs • Create a research framework • Use multiple data collection methods • Establish chain of evidence • Have key informants review draft results	• Raises the theoretical level • Sharpens construct definition • Focusses research efforts • Better grounding of theory by triangulation • Improves explanatory power • Critical, informed evaluation of data
Internal Validity	• Within case analysis • Between case pattern matching • Time series analysis • Explanation building	• Compares predicted pattern with empirical based one • Evidence is viewed through multiple lenses • Chronological presentation • Part of hypothesis generating process
External Validity	• Theoretical sampling from specified population • Use replication logic across cases • Comparison with literature	• Focusses research efforts on theoretically useful cases • Enhances analytical generalization through induction • Sharpens generalizability and raises theoretical level
Reliability	• Use case research protocol • Iterative tabulation of evidence for each construct • Use multiple and diverse informants • Overlap data collection and analysis	• Essential to reliability • Sharpens construct definition and measurability • Findings based on convergence of responses • Improves theoretical flexibility

This leads us to the next sample selection question, that of determining which industry to study. The literature indicates that some of the major problems encountered in M&A integration are those related to 'human factors.' Therefore, from a learning perspective, it is argued that choosing an industry where the main task of integration involves integrating people, as opposed to, say technology or products and so forth, should provide the greatest opportunity of examining and understanding some of the critical problems and forces surrounding integration in M&As. Additionally, by choosing such an industry we will be in a better position to examine these 'human factors' where the integration processes are not compounded by interaction effects arising from, for example, technology factors.

These general factors of common industry and M&As where human resources are the key asset guide the sample selection in the direction of professional service firms. Professional service firms (PSFs) are service organizations controlled by professionals and in which professionals are the dominant service provider. PSFs are found in such professions as accounting, consulting, law and medicine, to name a few. The key resource of a PSF is its human resource. While technology is used in PSFs, it is used to aid the firm's professionals in providing their services. The PSF is considerably more dependent on and driven by professionals than by technology (the literature on PSFs will be reviewed in Chapter 5). Indeed, the lessons learned from PSFs should provide evidence for understanding non PSFs which will be all the more convincing because the facts, freed from the complications of other than people issues, should provide the observer with greater clarity and precision.

The choice of which industry/profession to select was based on discussions with a number of professionals. These discussions led to choosing the legal profession as the most appropriate industry, for the following reasons:

(1) Law firm M&As are generally friendly (McDougall, 1988). Therefore, their selection should control for variation in the dimension of 'approach posture.'

(2) There has been a sufficient number and variety of recent law firm M&As to provide an adequate sampling population.

(3) Law firm M&As have, to date, received little research attention, whereas accounting firm M&As have (*e.g.*, Greenwood *et al.*, 1994).

(4) Due to the dearth of management research on law firms, it was felt that they would be more amenable to participation than some other professions.

(5) Also, the results should have utility by adding to the number of professions being studied, allowing for comparison and contrast with existing PSF research.

Case Site Selection[3]

Having chosen to focus this research on the legal profession, we now need to select individual case sites. However, as none of the legal regulatory bodies (*e.g.*, Upper Canada Law Society) kept a list of law firm M&As, I first had to develop my own list. I carried out an extensive review of a number of legal and other publications (*e.g., Canada Law Book, Canadian Lawyer, Canadian Law List, Lawyers Weekly, Globe & Mail, and Financial Post*) with a view to developing a list of all Canadian law firm M&As in the period 1988-1991.

Additionally, I had discussions with seven consultants/practitioners in this area to verify the accuracy of this list and to pick their brains on what they saw as the most important management issues in law firm M&As. For example, one such consultant was a senior partner in one of the Big Six accounting firms. He specialized in consulting to the legal profession and had positioned himself 'as a leading business advisor to this sector [and had] advised over 100 Canadian legal firms on matters such as practice management and growth, strategic planning and marketing, organization, financing, mergers and acquisitions, and partner compensation.' An additional outcome of these discussions was a critical evaluation of the research project by informed practitioners and their positive view of its purpose and potential contribution.

Further, considering the highly sensitive nature of the research topic, I sought the advice of these people in determining the path of least resistance to gaining agreement by firms to participate in the research. All seven consultants saw value in the research and were very generous with their time and input. Also, they all allowed me to use their names as references when I made my initial contacts with law firms. As a result, the first person I spoke to in each firm had already been identified as someone who would be predisposed to assisting me in my research. After this initial contact, it was often two or three people later before I got to talk to someone who had the decision making power to finally decide "Yea

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[3] In the interest of confidentiality, some of the facts surrounding the mergers included in this study have been changed. It should be noted that these changes do not detract from the lessons learned and serve only as a means of camouflaging the identity of the various firms involved in the research.

or Nay." However, and with the benefit of hindsight, I do not believe I would have received as favourable a response as I did without the support of these initial and intermediate contacts. Cold calling would have been a much riskier route to take.

Table 4.2 presents a summary of the integration type of the research population and research sample. There were 16 Canadian law firm mergers during the period 1988-1991, where the merged firm employed at least 40 lawyers after the merger. This cut-off point of 40 professionals was chosen so as to ensure that only firms with more developed firm management systems would be included. Further, law firm affiliations were not considered. Ten of these merged firms agreed to participate in the research, three declined

Table 4.2. Integration Type of Research Population and Research Sample

	Total	Symbiosis	Absorption	Preservation
Merged Firms - Total Pop'n	16	3	4	9
Merged Firms - Researched	10	2	3	5

participation, and the remaining three were not approached as I had sufficient cases of their integration type. Upon merging, the researched merged firms employed approximately 200 professional staff and in excess of 500 total staff, on average. These 10 mergers involved firms from across Canada and, consequently, extensive travel was required to complete the research.

Informant Selection

The following factors guided the selection of individual informants for the study. While the level of analysis was the merged organization, the unit of analysis was key informants who, through their involvement in the merger, had an intimate knowledge of the management processes surrounding their merger. Therefore, because each merger involved two firms, it was necessary to select informants from each of the predecessor firms in order to get 'both sides of the story.' In addition, the chief operating officer or senior person responsible for administration issues, and in effect the day to day merger integration issues, was also interviewed. Overall, within each merger, informants were chosen so as to represent the three informant types presented in Table 4.3.

Table 4.3. Informant Type in Each Merger

	Number of Informants		
Informant Type	**Merged Firm**	Firm A	Firm B
Merger 'architect'	2	1	1
Partner	2	1	1
Chief operating officer	1	0-1	0-1
Total	5	2-3	2-3

In general, the informant selection process started by first identifying the merger 'architect(s)' within each firm. The merger 'architect' was the person most closely identified with developing and promoting the merger. I then proceeded to arrange interviews with at least one merger architect from each of the predecessor firms. At the end of this interview, I asked for recommendations of other people to interview about the merger, and I specifically asked for suggestions of people who might have a different view or perspective on the merger. In each case I found that informants were very open and willing to recommend such people. Indeed, and as the results chapters will indicate, people were very candid and honest with me about their mergers and were prepared to discuss the merger "warts and all."

In order to round-off the potential types of research informants, two additional groups of informants were sought out. First, in four of the mergers, interviews were carried out with people (three partners and one C.O.O.) who had remained with the merged firm for at least one year post merger but had since then left. Second, three senior lawyers were interviewed from three firms that had entered into merger discussions with other firms but had eventually decided against pursuing a merger with these firms. Interestingly, these seven interviews added little new information over and above that gained from other informants. However, these interviews did serve to support and corroborate the fullness of the information already gained.

On average, five people were interviewed from each merger. Each informant was assured total confidentiality both **inside** and **outside** the firm. In particular, while each firm knew who was participating in the research, the comments of each informant were solely for my ears. As a result, informants were very open and candid during the interviews. Also, informants were very interested in the research topic and were willing to give freely of their time participating. As a result of the openness of the informants, in all cases, I found that after the fourth interview I had gained all relevant information about the critical management tasks surrounding the merger. From the perspective of adding information value, the fifth interview was always redundant. However, it did provide further corroborating evidence on the information gained in the other interviews.

The average interview time was over two hours. The shortest interview time was one hour, and the longest was over four hours. However, most interviews were in the range of two hours plus/minus 15 minutes, which in itself is some indication of the informants' interest in the topic. All interviews with people from the merged firms were tape recorded and subsequently transcribed, generating in excess of 2,300 double spaced pages of interview transcripts.

In total, 62 people were interviewed in connection with this research. These informants were from the following groups:

➼	Informants from the sampled firms (Four of these people had left the merged firm post merger)	52
➼	Lawyers from firms which pursued but did not complete a merger	3
➼	Consultants to law firms and/or on mergers & acquisitions	7

4.4 Data Collection

Yin (1989) listed the sources of evidence in case research as: documents, archival records, interviews, direct observation, physical artifacts and participant observation. All except the participant observation source was used in this research. The remaining five sources may be categorized as primary or secondary with respect to this study. The secondary sources were direct observation and physical artifacts. These are classed as secondary because they were not rich sources of information. However, they did provide support for some information provided by informants, for example, with respect to the attention paid to the post merger location and layout of the different practice areas, and in relation to firm flexibility with respect to individual partners' office layout preferences. The primary sources of information were:

(1) in-depth interviews with key informants from both firms involved in the M&A, together with interviews with people who had left the firms post merger, and also with people who broke-off merger discussions; and
(2) documents and archival records.

As discussed in the literature review, it can take three to five years to merge two organizations. Consequently, if we are going to investigate merger management processes we must either do so longitudinally or historically. Researcher constraints precluded a longitudinal approach, so an historical approach was adopted and, therefore, the information gathering process was retrospective. As merger mania in the Canadian legal profession occurred predominantly in the years 1989-1990 (*e.g.*, Daniels, 1991; Makin, 1990) and the research took place during 1994, the longest period of recollection was approximately five years. Indeed, this timing allowed for merger management processes to be examined over a minimum period . three years and a maximum period of five years.

Interviews with key informants was the richest and major source of information. In the interviews, informants were asked in an open ended format (see Appendix 1 - Interview Protocol) about both the facts of the merger and their opinions and insights about the merger (McCracken, 1988). However, interviews can suffer from problems of bias, and poor or inaccurate recall. Therefore, in order to ensure reliability, the interview evidence was triangulated first by reference to other informants involved in the same M&A and second, with other data sources. Other data sources included documentation and archival records. Documentation included, where available, the merger agreement or merger prospectus, and post merger firm survey results. Archival corroboration involved cross-reference to such information sources as, for example, firm histories, discussion with industry consultants, and newspapers and relevant business magazines (*e.g., Canadian Lawyer* and *Legal Economics*).

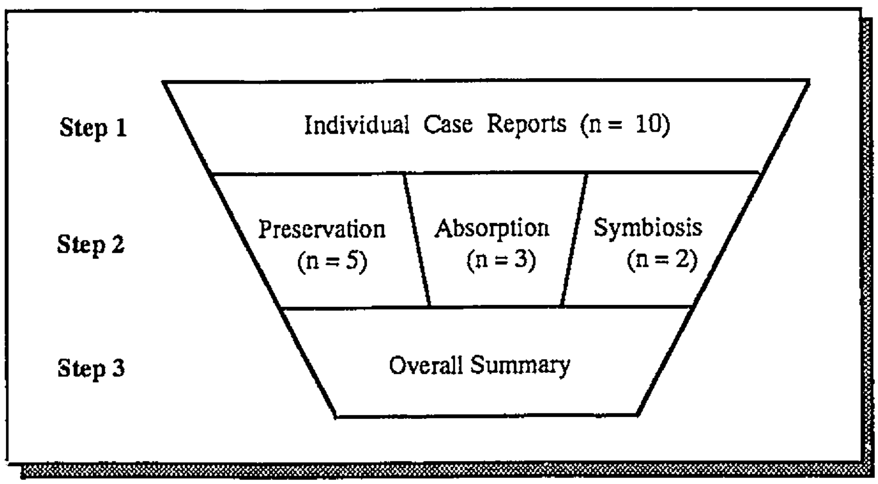
4.5 Data Analysis

Yin (1989) described three systematic and rigorous data analytic techniques: pattern matching, time series analysis, and explanation building. Each of these analytic techniques has been employed in this study. The logic of pattern matching involves comparing an empirically based pattern with one or more predicted patterns, for example, those patterns suggested by the M&A Research Framework. Time series analysis refers to tracing activities over time. Case study analysis of either a longitudinal or historical nature allows researchers to examine activities and trends over time. Ideally, in complex time series analysis where trends reflect multiple sets of variables, a framework of predicted trends should be available to assist the researcher in identifying the trends. As with pattern matching, confirmatory and disconfirmatory trends may be of equal research value (Parkhe, 1993) and, again, the Research Framework assisted in this regard.

Finally, to explain a phenomenon is to stipulate a set of relationships and forces that link variables in a meaningful manner. The Research Framework provided an initial basis for developing an understanding of such relationships and forces. However, the framework served merely as a guide to help uncover the critical processes that lead to effective M&A management - the ultimate goal of this research. It was through determining and comparing the various patterns and timings of activities both within and between cases that provided the necessary information to derive the relationships between the important variables being investigated. These relationships are presented in the results chapters for each of the three merger types, based on level of integration.

The analysis involved three main steps as presented in Figure 4.2. The first step involved writing 10 individual case reports based on the interview transcripts. From a research perspective it was necessary to write a report on each case which synthesized the interview notes of the, on average, five informants from each merger. These case reports, which averaged 22 double spaced pages or 220 pages in total, are not for publication due to the confidential information that they contain and were written solely because they were a necessary and critical part of the analytical process.

Figure 4.2. Steps in the Analytical Process



Further, from a research methodology perspective, I would recommend to other researchers carrying out this type of in-depth research to also tape record their interviews. Their are a number of benefits to be gained from tape recording and then transcribing the tapes. For example, and most importantly, there is full capture of everything the informants said in the interview. Also, it permits a researcher to carry out a number of interviews in sequence whereas, if the interview was not recorded then a researcher would have to allow sufficient time between interviews in order to complete their interview notes before their recollections are distorted by other interviews. Unfortunately, due to the difficulty of trying to schedule interviews with successful and busy lawyers, this was a luxury I attained on only a couple of occasions. Further, and while not applicable in this study, it provides other researchers in multiple researcher teams with the full content of the interview as opposed to just condensed notes.

The second step in the analytical process involved synthesizing the findings of the individual cases according to integration type. These findings are presented as follows:

Chapters 6, preservation mergers; Chapter 7, absorption mergers; and Chapter 8, symbiosis mergers. Finally, the third step involved a comparison of the findings across the three integration types. This comparison is presented in Chapter 9.

4.6 Summary Review of the Research Approach

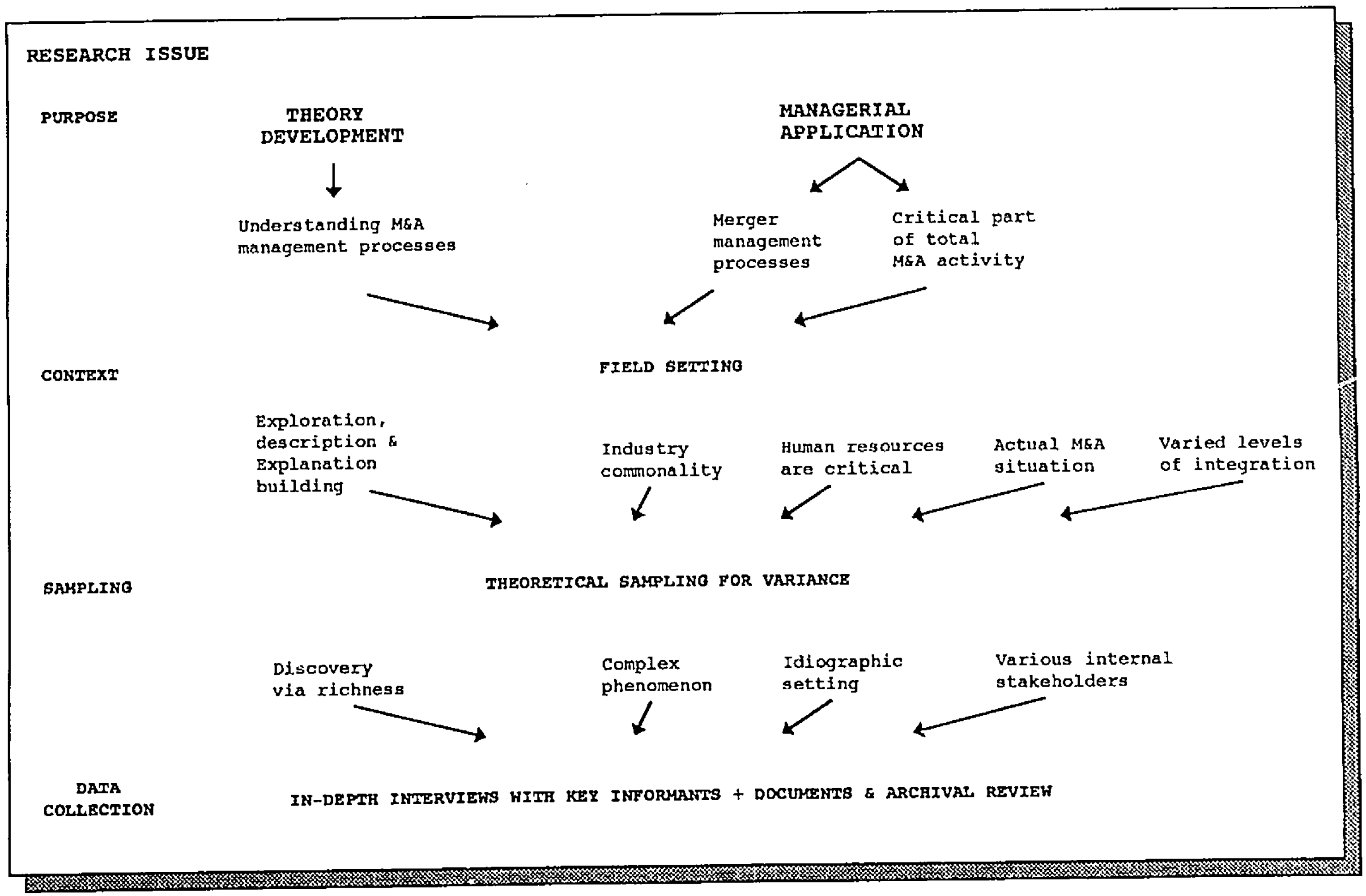
Figure 4.3 provides a summary review of the research approach. First, the purpose of the research was to improve our understanding of merger management processes, a critical part of the total M&A process, in order to help us better understand why some M&As succeed and other fail. Due to our current limited understanding of these processes, it was argued that a field setting is the most appropriate research context. Also, as part of the research goal was explanation building, it was argued that we should take a theoretical sampling approach based on such factors as industry commonalty, M&As where human resources are critical, and M&As where varied levels of integration are present. Further, due to the complexity of the phenomenon, the idiographic nature of each M&A, and the existence of various stakeholders forming each M&A, it was argued that data collection should be through in-depth interviews with key informants, triangulated with document and archival review.

In Conclusion

In his Nobel Memorial Lecture (December 11, 1974) entitled "The pretence of knowledge," the economist Friedrich von Hayek stated that in disciplines:

> "that deal with essentially complex phenomena, the aspects of the events to be accounted for about which we can get quantitative data are necessarily limited and may not include the important ones ... in the study of such complex phenomena ... which depend on the actions of many individuals, all the circumstances which will determine the outcome of a process ... will hardly ever be fully known or measurable" (Hayek, 1989, p.3).

Figure 4.3. Summary Review of Research Approach



He also stated that:

> "in the social sciences often that is treated as important which happens to be accessible to measurement. This is sometimes carried to the point where it is demanded that our theories must be formulated in such terms that they refer only to measurable magnitudes" (p.3).

Indeed, these sentiments have been echoed by many other researchers, including Eisenhardt (1991), Mitroff and Mason (1982), Morgan and Smircich (1980), and Parkhe (1993). Therefore, considering the current stage of understanding of merger management processes, the maximally efficient methodology for the advancement of M&A theory is one that encompasses exploratory, descriptive, and explanatory research.

A case research approach can facilitate each of these requirements (Yin, 1989). The power of the case research method has been described as stemming from its:

> "capacity to aid theory development beyond the immediate case on hand, not through *statistical* generalization (as in most quantitative studies), but through *analytical* generalization in which the researcher tries to generalize a particular set of results to a broader theory through induction" (Parkhe, 1993, p.251).

Further, the methodology employed in this study included: "a priori specification of constructs, population specification, flexible instrumentation ... cross-case analysis tactics, and several uses of the literature" (Eisenhardt, 1989, p.546). Indeed, it is argued that case research has the potential to expose researchers to the purest of 'raw data'; not data that has been pre-determined, pre-specified, or restricted in one way or another; but data that comes direct from the mouths of informed participants. The resulting key challenge of this research approach was one of locating the global in the local (Hamel, Dufour & Fortin, 1993).

CHAPTER 5 - PROFESSIONAL SERVICE FIRMS

As discussed in Chapter 4, the research sample comprised law firm M&As. Law firms are categorized as professional service firms (PSFs) and because PSFs are different from other organizational types (*e.g.*, Greenwood, Hinings & Brown, 1990; Howard, 1991; Mintzberg, 1979; O'Dwyer, 1992a), some background on their idiosyncrasies will be provided here. The key areas which will be addressed include:

(1) why study such firms;
(2) some data on PSFs;
(3) the distinctive characteristics of PSFs, including:
   → nature of professional services,
   → ownership and governance;
(4) the dynamics of the tripartite relationship between firm-professional-client; and,
(5) a review of research on M&As involving these organizational types.

5.1 Why Study PSFs?

Service activities represent up to two thirds of GNP in the major industrial countries. In 1985, 70% of the Canadian work-force was employed in the service sector (Grubel & Walker, 1989), and a similar proportion has been reported for the U.S. (Geddes & Lawrence, 1992). Services have dislodged manufacturing as the major engine for growth, and are an important component of the economy of many countries (Porter, 1990). However, data, analysis, and understanding of the service sector is at best considered superficial (*e.g.*, Habib & Victor, 1992; Jones, 1990).

In management research it is recognized that the concepts, theories, and organizational paradigms that are applicable to manufacturing may not necessarily fit the special problems of the service organization. As a result researchers, largely in the 1980s, began to focus specifically on service organizations and their unique organizational characteristics and dynamics. However, the resulting output has tended to be of only a broad nature, gaining generalizability at the expense of accuracy. Therefore, if we are to go beyond our present theoretical level of understanding, and if we are to be of use to business practitioners in the service sector, it is time to go into more depth in our research of the service sector (Larsson & Bowen, 1989).

Many authors believe that management as a traditionally conceived hierarchical function will disappear (*e.g.,* Schein, 1989). Others have commented that PSFs, which have traditionally used project teams, are emerging as the best model for tomorrow's organization in any industry (*e.g.,* Peters, 1993). Further, PSFs are sufficiently different from industrial corporations to warrant special attention (Hinings, Brown & Greenwood, 1991). However, considering that our understanding of the service sector has been classed as superficial, then our understanding of PSFs could be classed as minimal. Indeed, there is little research that aids us in understanding PSFs. The "neglect of such organizations in the literature" (Greenwood, Hinings & Brown, 1990, p.752) and the need for research into this distinctive organizational form has only recently been recognized. The following discussion will outline what is known about PSFs, from an organizational perspective but first, some data will be presented concerning their economic impact.

5.2 Some Data on PSFs

Table 5.1 presents a list of the three largest Law Firms, Benefits/Human Resources Consultants, and Accounting Firms (each ranked by revenue) in Canada. If these firms had been included in the Financial Post's "Top 500 Canadian Corporations - 1995" KPMG would have been ranked number 255 and McCarthy Tétrault would have been ranked 470, by revenue. Also, all three law firms would have been ranked in the Top 600 corporations. Indeed, a number of these PSFs have as many if not more employees that many of the top 500 Canadian Corporations. Further, at the international level, it is interesting to note that "worldwide in 1991, the big six [accounting firms] took in nearly $30 billion - not much less than Ireland's GDP" (Economist, 1992, p.19) and employed in excess of 375,000 staff. Therefore, it can be seen that these are not inconsequential organizations from either an economic or an employment perspective.

Table 5.1. Large Canadian Professional Service Firms

Firm Name	1994 Revenue $m	Part-ners	Prof. Staff	Total Staff	No. of Offices
Law Firms:					
McCarthy Tétrault	165^{e}	337	212	1,235^{e}	8
Fasken Martineau	100^{e}	189	134	725^{e}	3
Blake, Cassels & Graydon	95^{e}	156	158	710^{e}	3
Benefits/Human Resource Firms:					
William M. Mercer	107	110	n/a	808	14
Towers Perrin	78	58	n/a	555	4
Watson Wyatt Worldwide	59	220	n/a	362	7
Accounting Firms:					
KPMG	475	676	3,570	4,695	69
Deloitte & Touche	406	559	3,088	3,590	61
Ernst & Young	366	479	2,567	3,475	28

Source: Financial Post 500 - 1995 (Summer 1995, pp.175-178); n/a = not available;
& ^{e} = estimated based on industry averages.

5.3 Distinctive Characteristics of PSFs

The professional partnership is the dominant organizational form found in PSFs. Two key features distinguish professional partnerships from other types of organizations: "the structure of ownership and governance and the nature of the primary task" (Greenwood *et al.,* 1990, p.729). First, we will examine the distinctive characteristics of the services provided by these organizations, and then we will discuss the ownership and governance structure.

Nature of Professional Services

Service organizations exhibit a number of characteristics that differentiate them from manufacturing organizations. Central to these differences is the presence and role of the customer in the organization through their participation in the service process. Other distinctive features of services include their intangible nature (they cannot be felt, tasted or touched in the same manner in which goods can be sensed), their perishability (one cannot easily store services), their heterogeneity (the quality and essence of a service can vary from producer to producer, from customer to customer, and from day to day), and the fact that, due to the producer-customer interaction, the organization's staff and facilities become marketing tools. Indeed, staff and facilities can provide some tangible evidence about the intangible service offered. Service organization employees (that is, People) become the fifth 'P' to be added to the four 'P' marketing mix model of product, price, promotion and place (Judd, 1987).

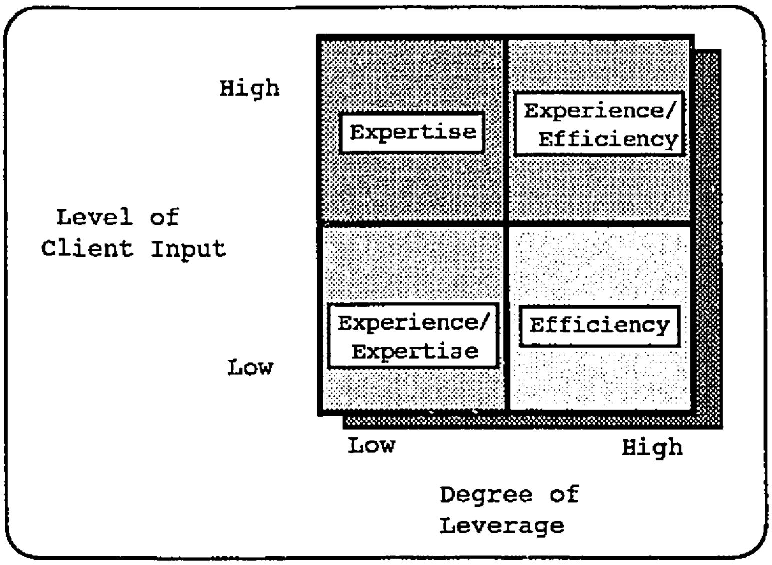
Professional services, in particular, have been classified as personal-interactive (Mills & Marguilies, 1980). This is due to the high degree of service customization, and the high degree of customer participation and interaction in the service provision. Consequently, the service encounter is one of mutual adjustment between the service provider (professional employee) and the client. The client must provide information to the professional in order for the professional to be able to complete the task, as each task generally possesses a certain uniqueness.

Existing services classification schemes in the literature were largely developed for the purpose of classifying <u>all services</u> (*e.g.*, Huete, 1987; Lovelock, 1983). Such an approach achieves generalizability at the expense of accuracy. Being general, many services classification schemes have tended to stereotype and, consequently, these schemes cannot be directly applied in analyzing every type of service. In particular, professional services are stereotyped as always incorporating high levels of client input and low potential for standardization. As a result, the PSF was considered the most dynamic of service organizations:

> "dynamic in the sense that each task and even each interactive episode requires novel solutions, with the decisions being made by the employee tending to be complex and judgmental" (Mills & Marguilies, 1980, p.264).

This description does not reflect the reality of the broad range of services provided by most PSFs. Consequently, O'Dwyer (1992b) developed a typology of services provided by PSFs. This typology was developed through an iterative process of model development and practitioner verification. Building on aspects of services previously identified in the literature, partners in PSFs were interviewed to determine their views of each aspect and the utility of each aspect in classifying professional services. The resulting typology is presented in Figure 5.1. This typology is based on two dimensions: level of client input; and degree of leverage. These two dimensions can be used to differentiate between various types of professional services.

Figure 5.1. Typology of Professional Services



Client input in professional services. Professional services are information-based services (Mills, Hall, Leidecker & Marguilies, 1983), with information flowing in both directions between client and professional. Some services require lower levels of Client Input than others. For example, executive search services require input largely at the start and end of the assignment with the search professional working independently in the middle, developing a short-list of potential candidates for the client. On the other hand, strategic planning services exhibit a more continuous exchange of information between the client and the professional throughout the service provision process. Services which require a high degree of Client Input into the service process will also generally require a higher degree of client contact and interaction. As such, Client Input in professional services may be considered the antecedent of client contact and interaction with the professional.

Leverage[4] in professional services. Professional services invariably include a high level of labour intensity which is why professional firms generally charge for their services on a time basis. Therefore, a key economic variable for PSFs is time, specifically billed time (Nees, 1986). Also, a key aspect of a PSF's profitability is the Degree of Leverage achieved by the firm. Generally, the greater amount of junior time included in the service, the greater the level of firm profit (Greiner & Metzger, 1983). Consequently, this production related aspect is considered extremely relevant to differentiating types of professional services.

Standardization is a classic productivity improvement procedure. Despite the uniform classification in the literature of professional services as being of high complexity and requiring high degrees of customization, this is not always the case in reality. In attempts to improve productivity, quality, market share and profitability, PSFs have pursued and continue to pursue a strategy of standardization wherever possible. Standardization allows for delegation of work to more junior staff, thereby increasing Leverage and, it is hoped, profitability.

Indeed, reflecting the diversity within professional services, such services have been classified as providing three key benefits to clients. These are expertise, experience, and efficiency (Maister, 1986). Further, the type of service provided interacts with the Degree of Leverage in a PSF. For example, expert services will tend to be predominantly performed with a high level of senior time and reducing amounts of manager time and junior time. Experience services will tend to involve similar amounts of time from each level, and efficiency services will tend to have a high level of junior time with reducing amounts of manager and senior time. It should be noted that as with other products, professional services have a life cycle. Indeed, a partner in an international management consulting firm estimated that some managerial consulting services (*e.g.*, knowledge

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4 Leverage refers to the blended billing rates of different levels of a firm's staff - junior staff, managers and senior staff, colloquially referred to as 'grinders,' 'minders,' and 'finders,' respectively. Professional charges are usually related to the amount of time spent on a project. Therefore, the greater the number of hours that can be managed and charged the higher the profitability of the firm. Consequently, the greater the ratio of junior staff to senior staff, that is, the more junior staff managed by each senior staff member, the higher the leverage and the higher the potential profitability.

based proprietary services) went from expert to efficiency in as little as five years, as knowledge of, and use of such services became more widely spread.

Some key differences between expertise, experience and efficiency type services are as follows.

Expertise is sought by clients with complex and unusual problems requiring a high degree of service customization. In such cases clients will seek out professionals who have expertise with respect to their specific problem. These types of situations often involve unique or novel applications of a professional's expertise. The uniqueness and creativity required of expertise related services means that such services do not lend themselves to standardization and allow for little delegation to junior staff.

Experience is sought by clients for problems and services which, although not unique to one client, also require customization in the application of a professional's experience in dealing with the specific client's needs. These types of services do not easily lend themselves to standardization. Some standardization, for example, in the form of checklists of work to be done or areas to be covered may be possible and some delegation, to more junior staff, of less critical tasks will also be possible.

Efficiency is sought by clients who are essentially looking for the lowest cost, fastest turn-around time, producer of the required service. In such cases the client is looking for little customization and views the service as a commodity product. Considerable standardization and delegation to junior staff is possible here.

From a practitioner perspective, included in Figure 5.1 are indications of how the three broad types of client needs satisfied/value received by clients of expertise, experience, and efficiency are encompassed by the typology. Examples of services within each quadrant include: (1) expertise - tax planning for a multinational corporation. Such services have a high level of Client Input and low potential to delegate work to junior staff; (2) efficiency - basic tax returns, wills, and simple property transactions. Such services have a low level of Client Input, largely initiating the service, and can be largely performed by junior staff; (3) experience/efficiency - audits. Such services have a high level of Client Input as it is each client's financial statements and systems that are being audited, but audit procedures, particularly since the 1980s, are increasingly being standardized (Palmer, 1989) and allow for a high Degree of Leverage; (4)

experience/expertise - legal services associated with privately negotiated mergers and acquisitions. Often in such situations the lawyer is responsible for taking the agreed upon 'heads of terms' and drafting the necessary resulting documents. While client input may be relatively low, the uniqueness of each M&A permits little delegation to junior staff.

Just as the type of services provided by PSFs differ from those provided by other organizations, so also does the ownership and authority structure differ from that found in most corporations. These issues will now be discussed.

Ownership and Governance in PSFs

A characteristic of many of the established professions, and a goal of aspiring occupations, is the community of a profession. Goode (1957) argued that each profession is a 'community' by virtue of the following characteristics:

(1) Its members are bound by a sense of identity.
(2) Once in it, few leave, so that it is a terminal or continuing status for the most part.
(3) Its members share common values.
(4) Its role definitions vis-a-vis both members and non-members are agreed upon and are the same for all members.
(5) Within the areas of communal action there is a common language, which is understood only partially by outsiders.
(6) The community has power over its members.
(7) Its limits are reasonably clear, though they are not physical and geographical, but social.
(8) Though it does not produce the next generation biologically, it does so socially through its control over selection of professional trainees, and through its training processes it sends these recruits through an adult socialization process (p.194).

This 'sense of community' can be seen in the authority and ownership structure of PSFs. The basis and distribution of authority in autonomous professional organizations is unique in its emphasis on collegiality, autonomy, and peer evaluation. The complexity of these organizations has resulted in the development of an alternative organizational model, the '**P^2 Form**' of organization, representing the complexity of the interaction of the **p**rofessional and **p**artnership aspects of such organizations (Greenwood *et al.*, 1990). A partnership ownership structure is distinctive for a number of reasons, including:

(1) Each firm is owned equally by all partners in the firm.

(2) Partners are jointly and severally liable for debts incurred by the partnership. In essence, each partner has unlimited liability for the partnership debts. Consequently, each partner's personal assets can be seized to satisfy the debts incurred by the partnership in the course of its business. For example, as a result of "the liquidation of Laventhol & Horwarth, formerly the seventh largest US accounting firm ... the average Laventhol partner will have to contribute between $90,000 and $100,000" (Macklin, 1992, p.3).

(3) Each partner has one equal vote in matters that require the agreement of the partnership at large, such as amendments to the partnership agreement. For example, in the accounting profession, KPMG would require the agreement of a certain percentage (usually greater than 75%) of its 676 partners in its 69 offices across Canada to vote in favour of an amendment for it to take place.

(4) In effect, the 'shareholders' attend and work in the organization daily. They expect to be involved in, and indeed will have to be involved in, any strategic decisions if they are to be successfully implemented (Howard, 1991).

(5) As a firm grows, management by all partners increasingly becomes unwieldly and less feasible. As size increases, the partnership at large generally delegates its policy formulation decisions to an elected executive committee (similar to a board of directors in a corporation) who in turn appoint a managing partner and management committee (similar to the top management group) to handle implementation and day-to-day running of the firm. All these positions are filled by partners, and are usually for fixed terms. Therefore, it can be seen that ownership, management, and operations are fused in PSFs (Greenwood *et al.*, 1990).

In summary, PSFs have diffused authority and governance systems which have more in common with a political system than with the normal corporate governance system. However, from the previous discussion of the nature of PSF services, we can see that clients often play a significant part in the service provision. This client involvement can have the effect of compounding what is already a complicated relationship between the professional and the partnership (or firm). The dynamics of this relationship will now be discussed.

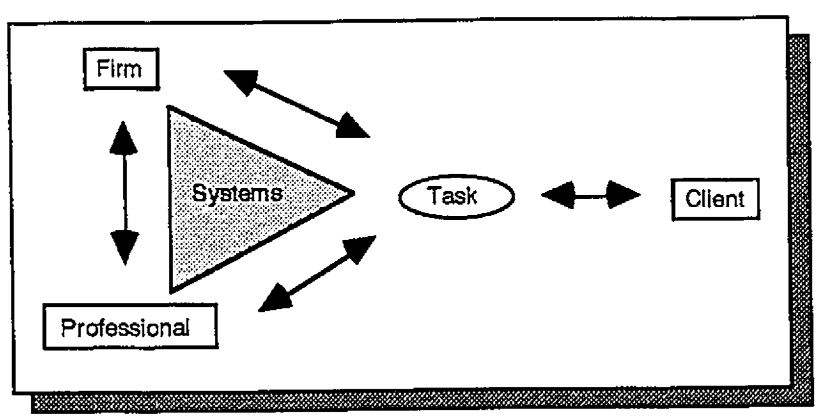
5.4 The Tripartite Relationship in PSFs

Maister and Lovelock (1982) described the tripartite relationship that exists between the client-**broker**-firm in facilitator services, for example, employment agencies and real estate brokerage operations. These firms facilitate market transactions, such as buying and selling goods and services. Similarly, a tripartite relationship also exists in PSFs, among the Client-**Professional**-Firm. However, it is modified by two factors:

(1) the service or task performed by the professional employee, and
(2) the organizational systems found in PSFs.

This tripartite Client-Professional-Firm relationship in PSFs is presented in Figure 5.2 and is described below (O'Dwyer, 1993).

Figure 5.2. Professional Service Firms: A Tripartite Model



Task. Unlike facilitator services, each PSF usually provides a wide range of services or performs a number of tasks for clients. Similarly, a wide range of services is provided across the professions. For example, a law firm may offer services in corporate and business law, civil litigation, real estate and commercial law, labour and administrative law, intellectual property rights, and family law, to name but a few.

Consequently, the dynamics of the relationship between the Client-Professional-Firm in each of these situations can be completely different. In particular, with respect to efficiency services (*e.g.*, small real estate transactions), a prime criterion in selecting the Professional-Firm may be price related; while for expertise services (*e.g.*, advice on intellectual property rights) it may be a certain professional's expertise, with price being of little significance.

Specifically, a client requiring expertise based services is likely to make his or her choice based on the reputation of the individual professional, as opposed to the reputation of the firm. In such a situation, the greatest power in the relationship will be between the professional and the client, with the firm being the weakest party. Conversely, in situations where the client requires efficiency based services, the power in the relationship will be between the client and the firm. These differing power relationships have the potential to create large differences in the 'equality' of partners in a PSF, allowing situation to arise where, in effect, some partners are considerably 'more equal' than others.

Power in PSFs is derived from four sources: expertise, ownership, business generation ability (colloquially referred as 'rain making' ability), and structure. All partners are equal owners. Expertise and business generation ability are very much person specific. Traditionally, due to the diffuse authority structure within PSFs, the power residing in structure has not been significant; expertise and business generation ability reigned supreme. This is still very much the case, although it is increasingly being recognized that with growth and size PSFs need to develop more focused authority or management structures and systems if these firms are to be managed effectively (Howard, 1991).

However, because professional expertise has been viewed as the greatest source of power in PSFs (Hinings *et al.*, 1991), at least historically, it can be argued that this power source is a necessary if not sufficient requirement for a professional to be effective in a management position in a PSF. Additionally, and based on our discussion of the nature of the professional task, it can be seen that business generation ability will differ depending on the nature of the task associated with the professional's specific expertise. Indeed, it can be argued that professionals providing 'expert' services are more likely to be seen as rain makers than professionals (who are also experts) who are providing 'efficiency' services. Therefore, a professional's specific expertise or task will affect his/her power potential in a PSF.

Systems. The second moderator of the tripartite Client-Professional-Firm relationship is organizational systems. Several frameworks, typologies and models have been presented to describe the activities of service organizations, including PSFs (*e.g.*, Larsson & Bowen, 1989; Lovelock, 1983; Mills & Marguilies, 1980). These classification schemes describe PSFs as being associated with high input uncertainty, high output uncertainty, and reciprocal service design. It has been noted that due to the related performance ambiguity and transaction uncertainty, organizational systems (the specific structure and control systems) in such firms play a critical role in controlling the tripartite Client-Professional-Firm relationship (Jones, 1987).

Specifically, professional organizations are those where professional employees have considerable responsibility for defining and implementing the organizational goals, for setting performance standards, and for ensuring that standards are maintained. Individual professionals are expected to be highly skilled, highly motivated, and to have internalized professional norms so that little hierarchical control is required. As a result, many of the traditional supervisory and control procedures are transferred to the individual professional employee in the form of self-supervision and peer control. Despite this, organizational systems can play a significant part in controlling the Client-Professional-Firm relationship in PSFs. In particular, firm governance and human resource systems are considered critical in managing these organizational forms. However, due to the limited research into PSFs, we are not in a position to specify the nature or impact of these systems in such organizations.

One of the few available studies of organizational systems in PSFs examined strategic management in a large geographically dispersed Canadian public accounting firm (Greenwood *et al.*, 1990). They found that operating control was decentralized from national headquarters to the local offices; market and financial control was generally a bottom up process except where the local office's performance was below average, then head office got involved; and strategic control was in low to moderate use, and when strategic planning did take place, it was a very iterative process done by way of negotiation and consensus building. It was noted that "authority in a professional service firm is conferred upwards" (p.748).

Unfortunately, the above discussion is of a very generalized nature because "there is little empirical evidence to support prescriptions for success in managing" PSFs (Howard, 1991, p.116). Next, we will consider what is known about M&As involving PSFs.

5.5 Mergers and Acquisitions of PSFs

As previously noted in the literature review, discussions of managerial interventions in M&As are usually normative and/or anecdotal. This is also the case for PSF mergers and for law firm mergers, in particular. For example, a very detailed checklist of administrative or content issues to be dealt with in a law firm merger is provided by Akins (1983), and a law firm merger case history is described by Brill (1989), who concluded by stating that "most [law firm] mergers don't make sense" (p.34). The only study of merger management processes in PSFs that I located was by Greenwood *et al.*, (1994). Indeed, they acknowledged the general lack of research on merger management processes, and the particular dearth of M&A research with respect to PSFs.

They studied a merger between two large accounting firms in Canada using a longitudinal case research approach. The merged firm had "53 locations across Canada" which suggests that it was one of the top four firms in the country. However, the research focussed largely only on the impact of the merger on two local offices in a large Canadian city. The merger was classed as one of equals, which I find surprising when one considers that one firm employed approximately three times as many staff as the other. This would tend to suggest that, based on numbers alone, it could not be one of equals. The unique strategic advantages of the merger were seen as stronger international affiliation and acquisition of strength in additional industry areas, for one firm; and strength in Quebec and additional capability for the second firm.

Interestingly, while the literature generally concludes that issues of organizational fit in M&As are neglected (*e.g.*, Jemison & Sitkin, 1986) such was not the case here. Considerable time and attention was given to implementation issues before, during, and after the merger. Additionally, while previous studies of M&As emphasized problems surrounding the human side of M&As, for example, "job dissatisfaction, high level of stress, tension and anxiety, ... diminished productivity and higher than normal turnover of personnel. Few of these were noticed in the merger" (Greenwood *et al.,* 1994, p.247).

The problem areas that did surface were those specific to accounting firms: (1) some partners were dissatisfied with the availability of information on partnership income distribution (one firm had a system where partners knew what each partner earned, while in the other firm partners were not aware of what other partners earned); (2) managers were concerned about the potential negative impact the merger might have on their career opportunities; and, (3) there was a difference between firms on how the audit task should be completed (essentially related to professional standards, one firm's approach was considered obsessive and bureaucratic, while the other firm's approach was considered sloppy).

Two additional points are worth noting: (1) the nature of the work process meant that it was unnecessary to have people from each firms working together which, in turn, restricted integration efforts; and (2) the partnership basis of governance "is a form of governance conducive to the kind of involvement usually associated with the effective ***initiation*** of change, but one which can also constrain the use of more directive actions that may be necessary to ***retain*** the commitment of individuals and groups during the unfolding implementation of change" (Greenwood *et al.* 1994, p.254). It can be seen that both of these issues revolve around the unique nature of both professional services and the authority structure in PSFs, issues that have been addressed previously.

Daniels (1991), in his theoretical paper on law firm expansion, discussed what he considered were some of the main barriers to merging law firms:

> "[firms] may have different underlying styles of practice, internal governance mechanisms, compensation schemes, promotional policies, administrative structures ... [and given the] fairly narrow time-frame ... it can be predicted that these problems will be compounded ... especially with the preponderance of consensus based governance mechanism that implicate more diffused, prolonged, and often, less bold, decision-making" (p.43).

In summary, by drawing from the theoretical work of Daniels (1991) and the more empirical work of Greenwood *et al.,* (1994), we can list the following issues as being worthy of special attention in examining M&As of law firms:

→ Governance structure,
→ Partner compensation system,
→ Professional career system,
→ Professional standards, and
→ Work processes.

However, due to our current limited understanding of PSFs in general, and PSF M&As in particular, we are not in a position to hypothesize the specific implications of these various issues for PSF M&As.

In Conclusion

Chapter 4 described the research methodology chosen to examine merger management in law firms, a type of PSF. Therefore, this chapter presented some background information on PSFs in order to assist the reader in understanding certain of the critical idiosyncrasies of this organizational type. The next four chapters, then, will present the results of the research on 10 Canadian law firm mergers.

CHAPTER 6 - ANALYSIS AND FINDINGS: PRESERVATION TYPE MERGERS

This chapter, and the following two chapters, will present the analysis and findings of the research for each of the three merger integration types of: preservation, absorption, and symbiosis. Then, in Chapter 9, the summary findings across the three integration types will be presented.

There were five cases of a preservation type. In discussing these cases I will first present some background information about each of the merging firms. Second, the mergers will be described following the 5 Ps of purpose, posture, position, process, and performance, as previously presented in the research framework. Finally, the lessons learned from these mergers will be presented in the discussion section. Please note that representative comments made by informants will be interspersed throughout the following discussion, where appropriate for clarification. In the interest of clarity of presentation, these comments will be accompanied solely by quotation marks, and all emphases are the author's.

6.1 Background Information

These mergers took place as follows: one in 1988; two in 1989; and two in 1990. Each of these mergers was between firms from different provinces in Canada. Indeed, it was noted by one informant that:

> "the cultures of the various areas of the country are sitting around the board table when we meet ... and represent a microcosm of the country."

Also, each merger involved a size differential between the merging firms, in terms of professional staff numbers, of at least three to one. In other words, each preservation merger involved a larger and more dominating firm, and a smaller and less powerful firm[5]. Table 6.1 provides some brief details of the researcher's interpretation of the character of the firms in each merger and of their interaction post merger.

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[5] In the following discussion, firms denoted with the letter 'A' (*e.g.*, Pres [preservation]-1A or firm A) will always refer to the larger firm in the merger, and firms denoted with the letter 'B' (*e.g.*, Pres-1B or firm B) will always refer to the smaller firm.

Table 6.1. Description of the Preservation Firms

	Firm A	Firm B
Pres-1	• Established, stable • Full service • Culturally open and diverse	• "Young, entrepreneurial" • Boutique • "Very open" and "very vocal"
	Within firm A "there's such a diversity of people, all different natures, cultural backgrounds, ethnic backgrounds and everything else, a very mixed bag ... You have to be flexible dealing with people, it's how you get the best people and keep them." This openness allowed firm A to accept firm B who they acknowledged "were totally distinct from the culture here ... but they're actually really, really nice people." Indeed, it was recognized that had the merger required that both firms operate out of the same office, it "would not have worked at all."	
Pres-2	• Established, stable • Full service • "We're a pretty conservative outfit ... we don't have a lot of cultural mix"	• Young with "aggressive lawyers" • Boutique • "Aggressive marketers"
	These firms were like "day and night." "It was almost a physical reaction when they [firm B] all first came to our boardroom ... immediately there was no connection." Firm B informants also confirmed that "there was an immediate clash of personalities ... there were just too many differences."	
Pres-3	• Established, stable • Full service • "Formal and reserved"	• Young and growing • Limited full service • "Formal and hierarchical"
	A number of senior partners in firm B "had been with large firms and had had senior management roles in large firms and that made a big difference because they understand the culture of a large firm, and they understand the relationships we have [in firm A], and they are all quality people. So when they come to talk to us, it's a true partner to partner conversation."	

Pres-4	• Established, stable • Full service • "Run through a committee structure"	• Young and growing • Limited full service • "Run in a very collegial way"
	The merger was "with people with similar practices, similar styles of practicing law, similar ways of doing things."	
Pres-5	• Established, stable • Full service • "This place is run by consensus"	• Established, stable • Full service • "Democratic"
	"We were firms that had the same sort of strengths and practices."	

The aggregated summary evaluation of the performance of the 10 mergers was rated according to a four point scale of: failure, somewhat successful, moderately successful, and very successful. This overall evaluation was based on the researcher's relative assessment of each merger's scores on the five dependent measures used in this research[6]. The summary evaluation of these five preservation type mergers is presented in Table 6.2.

6.2 **Purpose** (Motivation, and Strategic Intent)

The dominant motivation and strategic intentions for each of the mergers is presented in Table 6.3. In summary, while the common motivation across all five mergers was growth, it should be noted that as one informant commented:

> "I think the general consensus [among law firms] is that growth doesn't make you any more productive or profitable. All you do is increase your risk, but not necessarily your reward. **We've never grown on the basis of, 'It's important to be the largest firm.'"**

6 The detailed performance scores for the preservation mergers are presented in Table 6.6.

All informants spoke of their growth being "client or market driven." Secondary motives included: for Pres-1B a belief that the merger would help the stability of the partnership; and for Pres-2B the belief that the merger would offer some of the senior partners the opportunity and personal challenge of being actively involved in the management of a larger organization.

Table 6.2. Summary Evaluation of the Mergers' Performance

Pres-1	was **moderately successful** but had yet to realize the merger's full potential. For example, "we [the merged firm] have an extraordinary client list and we don't use it. It's a wasted resource, it's terrible."
Pres-2	was a **failure**. The firms demerged two years after the merger. "A very disastrous merger ... money was lost on both sides and it was very unpleasant ... very traumatic."
Pres-3	was **moderately successful** but, as with Pres-1, the merger had yet to realize its full potential. It was felt that the merger "was coming along gradually."
Pres-4	was **very successful**. "Everybody is really pleased and happy with it. It was just overwhelming that everything had worked and everybody was pleased with it."
Pres-5	was also **very successful**. "The merger went very well ... very easy [to do] ... we did it in a fairly efficient way, and we don't regret it ... I can't think of anything [we should have done differently]."

The strategic intentions for four of the five smaller merger parties, or B firms, was a combination of 'dot' (or geographic expansion), 'menu' (or increasing the range of service,) and 'bulk' (or critical mass issues) (Maister, 1994). This is not surprising considering that these four firms employed, on average, 25 lawyers (including partners) and had 60 total staff. The strategy of the fifth smaller firm, Pres-5A, was solely dot. This firm was already full service with more than 75 lawyers.

The strategy behind the mergers for four of the five large merger parties, or A firms, was dot. For the fifth firm, Pres-2A, the primary strategy was menu, that is to say, they wished to merge with a boutique firm whose practice area complemented theirs. The secondary part of the strategy of Pres-2A was dot.

Table 6.3. Purpose: Motivation and Strategic Intent

<table>
<tr>
<td>Pres-1</td>
<td>
The common motivation was growth. The primary method of achieving this growth was through the formation of a national firm. In particular, for firm A, firm B's region was "a major market with certain of our key clients. We were looking for a firm which could bring the strength of a national firm to their local connections and practice."
A secondary motivation for firm B was a problem between the partners. "We had one partner in particular who was very difficult and we feared that it [the partnership] would just break up. So [the merger] was a good vehicle with which to go forward and insulate the practice from any individual interpersonal problems."

The main strategic intent was Dot, that is to say, "there was a strategy to create a national law firm." Also, for firm B there was an element of Menu and Bulk in their intentions. The merger would allow them to develop and build additional practice areas (menu). Additionally, for their existing practice areas there was a bulk attraction. For example, "I was constantly finding it difficult to get the right expertise. Now I've got a telephone book with many partners across Canada and if I've got a problem I can call them up. So in that way it's been significant."

The relative size of the firms, based on the number of lawyers, was 20:1, firm A:B. The strategic intentions may be summarized as follows:
<table>
<tr><td>Firm A:
• Dot</td><td>Firm B:
• Dot
• Menu
• Bulk</td></tr>
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</td>
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</table>

Pres-2	The primary **motivation** for both firms was growth. Both firms wanted to expand. In addition, certain senior partners in firm B were motivated by the prospect that they were "going to direct their [firm A's] marketing - it's not a small job, it's a huge undertaking." For these partners, the personal challenge in the areas of law firm "management and marketing" was an additional motive for the merger. The main **strategic intentions** for firm A were Menu and Dot. Firm B was attractive because "first of all it was a boutique so it fit very nicely ... a specialized area (menu) ... [with a] terrific reputation, terrific group of clients ... As a secondary benefit it was felt that it would give us a window on what was happening in [firm B's region]." Further, firm A wanted to expand on "a significant centre basis ... identify ourselves as a significant player in the Canadian economy" (dot). For firm B the merger provided "opportunities to do something different and be bigger (bulk) ... We do something they don't do and they do everything else (menu)." Also, firm A had a foreign office in one of firm B's major markets (dot). The relative size of the firms, based on the number of lawyers, was 9:1, firm A:B. The strategic intentions may be summarized as follows: Firm A: • Menu • Dot Firm B: • Bulk • Menu • Dot
Pres-3	Again, the main **motivation** was growth. **Strategically**, firm A was interested in "establishing a national presence" and wanted an office in firm B's region (dot). Firm B "had come to the conclusion" that, if they were to merge, a merger with a firm from Firm A's region made the most business sense (dot). Also, firm B felt that "there were areas of the law developing what we didn't have expertise in" and the merger would give them "access to this expertise" (menu). Further, the merger would give them access to resources that would allow them to do things "we didn't have the horses to do" (bulk). The relative size of the firms, based on the number of lawyers, was 6:1, firm A:B. The strategic intentions may be summarized as follows: Firm A: • Dot Firm B: • Dot • Menu • Bulk

<table>
<tr><td>Pres-4</td><td>

Their common **motivation** was growth, "where growth serves the client better ... we don't subscribe to bigger is better, what we want is quality all the way through."

"The primary reason was a vision this firm [A] had - that to meet clients' needs you have to be represented across the country and it didn't make sense not to be able to represent somebody wherever they were ... there was a **strategy** to create a national law firm" (dot).

For firm B there were also elements of menu and bulk in their intentions. "We thought that this might be a way of getting better advice for our clients [menu] and it really succeeded, I think, much better than we expected. It provides ability to grow in practice areas that you might not be strong enough in. It allows people to build a practice area with the assistance of your colleagues as opposed to going out and doing it on your own. Some of our practices areas that we've developed, quite material, they've developed because of the national size [bulk]. We certainly increased the resource base."

The relative size of the firms, based on the number of lawyers, was 4:1, firm A:B. The strategic intentions may be summarized as follows:

Firm A:
• Dot

Firm B:
• Dot
• Menu
• Bulk

</td></tr>
<tr><td>Pres-5</td><td>

Motivation: "we both had the idea at the time of expanding, of becoming a broader based entity."

Strategically both firms felt that their clients were "becoming much more national in approach ... business is becoming increasingly inter-regional or national ... we felt that it is more efficient to have one law firm taking care of the client throughout the country [dot]... and a lot of the time clients like to have one person who quarterbacks. So if the quarterback is using members of the firm throughout Canada it's an easier quarterbacking than it is using different law firms. You get more immediate attention. I wouldn't want to make too fine a point of it because theoretically there is no reason why a referred firm couldn't offer it as well but I think it's a little like saying if it's all in the family you are likely to be a little more efficient and a little bit more capable of getting the kind of service that you'd like to get."

The relative size of the firms, based on the number of lawyers, was 3:1, firm A:B. The strategic intentions may be summarized as follows:

Firm A:
• Dot

Firm B:
• Dot

</td></tr>
</table>

6.3 **Posture** (Approach Posture, and Investigation and Decision Making)

In all of these five mergers the approach posture was friendly and in each case it was the larger, or A, firm that initiated contact with the smaller, or B, firm. The merger discussions can be broken down into three separate stages, as follows:

- → identification of potential partner(s) and first approach;
- → preliminary discussions; and
- → the detailed negotiations and due diligence process.

Identification and First Approach

A number of informants likened the initial merger identification and approach process to "choosing a partner at a dance." Essentially, each of the A firms first examined all their potential 'dance partners.' Based on this examination they asked a number of them to dance. In some cases they were rejected outright, in other cases they danced for a time but then one or other or both parties decided not to continue dancing. By the end of the dance each of the A firms had found what they felt was a suitable merger partner. In turn, from the B firms' perspective, each of these firms had, at least once, either declined an invitation to dance or danced for a while and then sat down again. In all cases it was the larger, A, firm that made the first advance. In no case did the B firm initiate the approach.

Also, it should be noted that in Pres-4, after the dance both firms decided to "live together" (entered into to a preferred referral arrangement) for a number of years prior to formally merging. In a similar vein, it might be stated that in the case of Pres-5, both firms were already living together when "merger mania" hit the legal profession as they had an informal referral relationship in operation and were happy with their existing partner. Table 6.4 presents a summary of the identification and approach process for these mergers.

Overall, at this stage, firms were trying to determine if the other firm was interested in merging, and whether or not such a merger appeared to make sense from a business perspective, at a very conceptual level of analysis. For example, firms were seeking answers to the following types of questions:

"Was there an underlying business rationale for this merger?"

"How could we make 2 + 2 = 5, not 4?"

Table 6.4. Identification and First Approach

	Firm A	Firm B
Pres-1-4	Each of these four A firms took a very rational approach to identifying potential merger partners. For example, (a) "I'd like to think we did it in a very business-like fashion ... we took a list of the top firms ... we ended up with a few ... and we sat down with each of them." (b) We "went through a whole process of due diligence and selected a number of different firms" to approach.	Each of these four B firms was approached by a number of firms wanting to merge with them. For example, (a) "we had a number of approaches from local, national and international firms." (b) "We were approached by a number of firms both here and from Toronto, wanting to merge with us."
Pres-5	Both these firms had a referral relationship going back a number of years prior to the merger. Again, as in the other four cases, it was firm A "who were interested in, sort of, intensifying the relationship at their end or putting out feelers to us [firm B] as to whether or not we would be interested" in merging.	

Preliminary Discussions

In all of these mergers, the preliminary discussions were between senior partners in each firm. Overall, this stage of the talks revolved around issues of compatibility or 'fit.' There were two critical aspects to compatibility:

(1) each firm's approach to practicing law, or organizational and people fit; and
(2) "business issues of how we would put this thing [the merger] together," or strategic fit.

Organizational fit. In this area of fit, there were two key issues that had "go/no go" implications with respect to the proposed merger. These were:

- → firm governance; and
- → remuneration of partners.

Each of these issues had the potential to end the merger talks and, indeed, had been the cause of some of these firms breaking off talks with other potential merger partners in the past. It was considered important to determine, early on, if both firms had similar views on how the merged firms would be governed. There had to be agreement on how the firms would 'fit' together from an organizational structure perspective. In all these preservation mergers, the general approach was one of a decentralized organization with considerable autonomy remaining with each local office (this will be discussed in more detail later, under the heading 'position'). For example:

> "We, at a fairly early stage, decided that it was going to be **a decentralized model and we weren't going to try and affect the way each office ran; and they weren't going to change us and we weren't going to change them.** Each office had to have their autonomy and originality that they had before. We wanted to combine and get the best of what a merged firm in size and all the rest of it would do ... I call it **knowledge leverage.**"

Also, partner compensation, both the amount, and the manner in which it was calculated were discussed at this stage of the talks. In all cases, it was felt that the average net income per partner should be similar between firms, and that the range from lowest to highest paid partner should also be similar *i.e.,* that the each firm's "partners' compensation grids" should be similar. This was to ensure that the firms would be "economic equals" or that there would be an economic 'fit' between the firms.

Further, it was felt that the criteria used to calculate partners' compensation, or the manner in which each firm "split the pie," should be similar between the firms. In general, there is a continuum of how firms 'split the pie': from highly objective or numbers driven also known as "eat what you kill," to highly subjective, based more on impressionistic information. Again, it was felt that there should be a 'fit' between firms in how they 'split the pie.'

Firm governance and the partners' remuneration system were seen as two of the most important indicators of the "culture or personality" of a firm. In essence, the organizational fit discussions concentrated "mainly on philosophy" and what people considered important in practicing law and managing a law firm. For example:

> "How do you deal with this? How do you feel about training people? How do you feel about how you share the pie? What's your direction? What are the things that are important to you? and so-on. As a result, there were some who weren't interested in us because they didn't want to do the things the way we wanted to do them and there were certainly others that we just wrote off our list because their philosophy and their approach to how they ran their practice and so-on just simply wouldn't fit us. **That's not to say they were wrong, just simply they were different.**"

Strategic fit. The second critical area of compatibility was strategic fit. The strategic fit discussions concentrated on "making a business case" for the merger and being more specific on 'How 2 + 2 would equal 5.' For example: "What could we do together that we couldn't do alone?"

A key question here was whether or not the firms had any major clients conflicts, from either a legal or business perspective. Again, very early in all the discussions, the firms compared their lists of major clients to ensure that there were no major legal conflicts[7] or business conflicts[8] between them. In general, no firm was prepared to loose a major client in order to make a merger happen. Therefore, there had to be a 'fit,' in the sense of there being no conflicts between the firms' clients.

Overall, during the preliminary discussions, the firms were trying to determine if they could work together, and what the benefits of doing so would be. However, if either side felt that they could not work with the other side then the talks would go no further. For example,

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7 A law firm is prohibited by law from acting for both sides in the same action. Therefore, in a merger situation, both firms need to compare client lists to ensure that the merger would not create such a situation, or conflict.

8 For example, some corporate clients do not wish to have their legal advisors also advising their competitors.

> "There are a myriad of different factors [involved in mergers] but it all comes down to people. The real content is about knowing the people and the quality of the people."

> "You've got the problem of finding compatible people."

> **"They have got to be people you feel comfortable working with."**

Detailed Negotiations and Due Diligence

In Pres-1, Pres-2, and Pres-3 these initial discussions took approximately three months. At that stage, both sides were interested in principle in merging and more detailed negotiations commenced. The detailed negotiations and due diligence took approximately six months. In Pres-4 and Pres-5, these firms had entered into referral relationships prior to merger. As a result, the detailed negotiations and due diligence took slightly less than six months.

Detailed lists and descriptions of the information that was exchanged during this stage of the discussions can be found in the normative writings of various law firm consultants (*e.g.,* Akins, 1983; Mudrick, 1988). Table 6.5 presents a summary of how the firms viewed their investigation and due diligence process. All parties involved in these five mergers were satisfied that their due diligence, with respect to objective matters (*e.g.,* clients, staffing, financial details and so forth), was optimal and, indeed, nothing negative was discovered afterwards.

Both firms in Pres-2 felt that the issue of "people fit" between the firms was very poorly handled. Essentially, only the negotiating committee from firm A met the firm B people. For example:

> "Nobody really met them ... So anyway, the merger got approved and there was a big fanfare and we met them all [firm B partners] for the first time and ... immediately there was no connection ... **you had a very isolated process where there was very little input. You had a cultural difference and you had a recipe for disaster** ... it was very easy for people [in firm A] just to turn off and say, 'That's it, that's your deal not mine.' So it was really doomed from the start."

Indeed, it was noted that if more people from firm A had met with the people from firm B, prior to the merger consummation party, then "the whole merger process would have been stopped."

Table 6.5. Investigation and Due Diligence Process

	Firm A	Firm B
Pres-1 Pres-4 Pres-5	• Optimal on all dimensions • Optimal on all dimensions • Optimal on all dimensions	• Optimal on all dimensions • Optimal on all dimensions • Optimal on all dimensions
Pres-2	• Optimal on objective matters • Deficient on people issues "You had a very isolated process where there was very little input [from the partners at large in firm A] ... we met them all [firm B partners] for the first time ... immediately there was no connection ... it was almost a physical reaction." "That merger would never have worked and it wasn't just their fault ... We never wrapped our arms around them. I think they felt rejected before they arrived."	• Optimal on objective matters • Deficient on people issues Firm B had met with only a few firm A partners prior to the merger and these partners were not fully representative of firm A as a whole. After some early meetings firm B recognized that "there were cultural differences, chemical differences, style differences ... [firm A partners] would never make us the subject of a Sunday evening dinner invitation."
Pres-3	• Optimal on objective matters • Deficient on people issues "The decision to go with them was a fairly poorly informed decision."	• Optimal on all dimensions "Because we were smaller ... everybody was fully involved and knew about everything."

Somewhat similarly in Pres-3, "the decision to go with them [firm B] was a fairly poorly informed decision [in firm A]." Indeed, it was noted that:

> "the background of the merger was a reflection of some internal management issues here [at firm A] ... We were a bit dysfunctional [from a firm management perspective], but we have since dealt with that issue."

Fortunately for both parties their cultures were more similar than different. This was attributed to the fact that a number of the senior partners in firm B :

> "**had been with large firms ... they understand the culture of a large firm,** and they understand the relationships we have [in firm A], and **they are all quality people. So when they come to talk to us, it's a true partner to partner conversation.**"

Another important issue that had to be resolved during the due diligence process was firm financing. There were two approaches to financially structuring these mergers. In the Pres-1, Pres-2 and Pres-3 mergers, firm A purchased firm B and the partners in firm B then contributed to the capital account of the new firm at a level similar to their new partners from firm A. In the Pres-4 and Pres-5 mergers, the firms combined their balance sheets and individual partners adjusted their capital accounts up or down as required. Essentially, in all five cases, whether one firm purchased the other or combined their balance sheets, the financial implications of the merger were dealt with through the partners' capital accounts. All the firms were financed by a mixture of bank debt and partners' capital or equity. Figure 6.1 presents the continuum of how bank debt and partners' capital may be mixed in order to finance a firm.

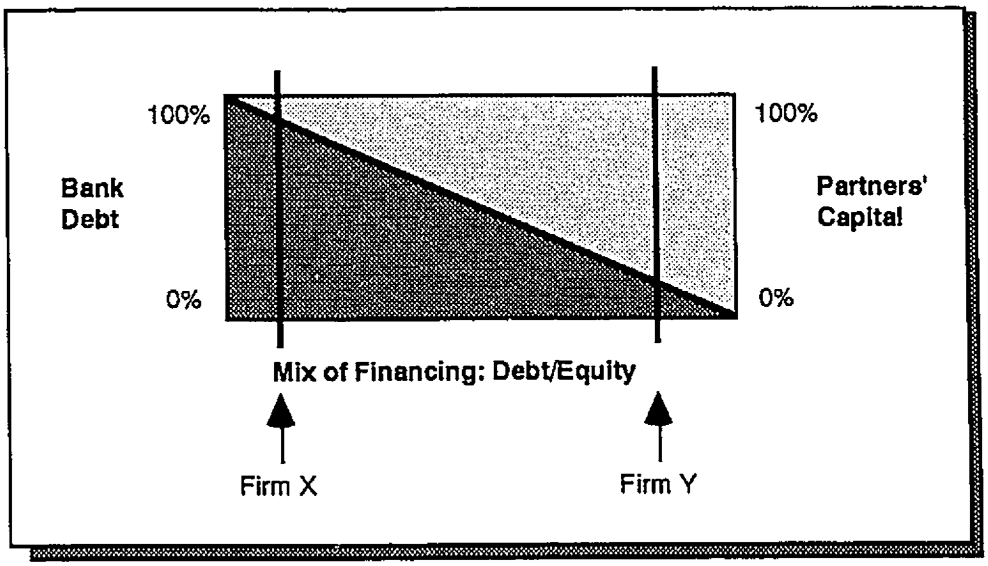
Consider then, a merger between two firms at either extreme where one firm is largely bank financed and the other is financed by partners' capital, for example, as indicated by firm X and firm Y in Figure 6.1. If it is decided that the merged firm should be financed largely by partners' capital, similar to firm Y and considered the more conservative approach to firm financing, then the partners in firm X will have to replace the firm's bank debt with their own funds. Whereas, if it is decided to follow the firm X model, then the partners in firm Y will be able to free up their capital when it is replaced by bank debt.

In all of these five mergers, the firms either had a similar mix of financing or the mix of the larger firm was less conservative than that the smaller firm, and was the model adopted for the merged firm. Consequently, in no case did either firms' partners have to individually contribute new funds to the partnership. Indeed, in one of the mergers, the opposite was the case. For example:

> "what we did was basically sell our practice to the new partnership and then we contributed as much [capital] as the others but **firm A was almost exclusively**

debt financed whereas we had large capital accounts ... So one of the economic benefits for us was that it freed up our capital accounts."

Figure 6.1. Financing a Law Firm



6.4 Position (Integration Type, and Integration Dimensions)

With the exception of Pres-3, the integration intent for all of these mergers was preservation, that is to say, a decentralized structure. The general orientation of all B firms was that they wanted to retain a large degree of operational autonomy but were happy to have strategic responsibility centralized. For example:

> "**we didn't want to become a centralized operation.** We wanted to retain our individual culture and our individual administration and so forth while recognizing at the same time that there are savings to be made in terms of, say, common computers and all that stuff."

> "They [firm A] were people who did not want to dominate us ... **they weren't going to mess around in our business ... and we never would have undertaken the merger if that's the way it had looked to us."**

"The running of the office is essentially left up to us."

Complementing this orientation, the A firms with the exception of Pres-3A were prepared to allow the B firms considerable operational autonomy. For example:

> "**the problem from our perspective was how to set up some kind of organization which would effectively integrate firm B without stifling the small entrepreneurial business base which they had established.** So we had to come up with a structure which in effect loosely integrated them into us, while giving them the independence that somebody many miles away needed."

> "We decided each office would run locally, would run the way it had before [the merger]."

Initially, in the Pres-3 merger, firm A intended to centralize as much as possible.

> "While we did have jurisdictional dichotomous views on how much authority firm A should exercise over us, I have to say, whenever we dug in our heels, they always backed off ... I suppose the problem was in terms of administration management ... There were a lot of difficulties for our [administrative] people and a lot of friction at that level, that we didn't have at the partner level ... **We wanted to maintain an autonomy in terms of administration ... and it took a long time for firm A, as a matter of fact probably until a year ago** [three years post merger], **to back off ... we have been able to maintain an autonomy that I don't think firm A ever expected us to have** ... firm A has had to step back and reassess the way they viewed us and there has been a lot of change made. Through all these years that we've been together now, they've only just begun to understand the kind of autonomy that we want to maintain and how to respect that and work with it."

Indeed, firm A informants commented that they increasingly "let them [firm B] run their own shop the way they want."

Integration Dimensions

In all cases there was limited integration from the perspective of the five integration dimensions of: systems, staffing, structural, strategic, and cultural. The formal integration that did occur largely only involved the administrative systems and to a lesser extent the organizational structure. Related to the structural integration were the more informal integration efforts related to building interpersonal bonds across the various offices in each firm.

At the formal level, in all cases the A firms immediately wanted to standardized the accounting systems and the word processing systems. This was achieved in all cases but with varying degrees of ease. For example:

> "they [firm B] had a much better word processing system but they agreed that they would integrate into our system and they went through two years of absolute hell and it showed their metal. They persevered through it, they're very vocal and they let us know that their system had been better but they soldiered through it with us."

> "We [firm B] have agreed, just a short time ago [three years post merger], that we are going to have a common accounting system."

In the Pres-1, Pres-2 and Pres-3 mergers the relationship between the parties involved is best summed up by the following comment:

> **"You can sympathize with them [firm B] a bit because, I guess, it's like big brother here in firm A always saying, 'This is what we want to do' and if you're out in firm B you kind of sometimes dig your heels in.** In this last go around we had every office up and integrated and everything, and firm B made some noises that they weren't too keen about this and that. So we just left them alone and eventually they came to us and said, 'Hey, we want to be on the system.' They had heard about it from others and it worked out real well. They were happy."

Pres-4 and Pres-5 felt that they had evolved to perhaps the most ideal situation where between the offices:

> "it is a lot of best practices [from an administration perspective]. **What we do is best practices.** We identify a problem, we bat it around and we can usually come up with the best approach to it."

6.5 Process

In general, the firms recognized that they needed "to maintain the decentralized model but at the same time use all the benefits of being centralized." The major centralization that did occur was achieved through the creation of an organization level or committee within the firm's organizational structure that dealt with firm-wide or national issues. In some cases this committee existed prior to the merger, in other cases it was created post merger. In either case, firm B had representation on the committee. This committee dealt with strategic issues, for example, developing new practice areas or building existing ones, enhancing local office expertise, and building the firm's image nationally and internationally. Across the firms, its role tended to be "largely a steering committee that deals with a few issues that are of national import, as opposed to any of the detailed issues." It provided guidance more so than direction.

The critical integration that did occur was more informal in nature. It revolved around building interpersonal bonds across the firm. For example, most firms held firm-wide partners' meetings approximately once a year, and ensured that all important committees had representation from the various offices. However, it was felt that the practice group level served as the best basis for integrating the various offices within each firm. The practice area level was "where there is some commonality." For example:

> "working together in practice groups is very good ... you get to meet with those dealing with common problems, with common backgrounds and knowledge and so forth, so in that sense it works well. One region might be doing what might be viewed as a rather specialized thing which we haven't gotten around to doing, but which they have. **We all benefit from that because then we can offer that expertise.**"

6.6 Performance

Table 6.6 presents the scores on the performance measures for each of the mergers. Overall, the merger had the greatest impact on the B firms in these preservation type mergers. In particular, due to the large size difference between the firms in each merger, it was felt that the impact on the A firms for measures 1 and 2 was minimal and, therefore, not relevant. The net income per partner (NIPP) measure was based, for consistency of comparison, on the average NIPP for year three post merger. The employment figures were based on the number of professionals employed three years post merger. Specific numbers were provided for measures 1 and 2 but are not included here in the interests of confidentiality. The scores for measures 3 to 5 were based on the averaged responses of the informants, by firm. The 'summary evaluation' rating represents the researcher's relative evaluation of each of the mergers based on a detailed knowledge of their outcome.

Table 6.6. Preservation Type Mergers' Performance Scores

	Pres-1		Pres-2		Pres-3		Pres-4		Pres-5	
	Firm A	Firm B	Firm A	Firm B	Firm A	Firm B	Firm A	Firm B	Firm A	Firm B
1. Change in net income per partner	N/A	Increased	N/A	Reduced	N/A	Increased	N/A	Increased	N/A	Increased
2. Change in number of lawyers	N/A	Increased	N/A	Reduced	N/A	Increased	N/A	Increased	N/A	Increased
3. Change in client service	Slightly better	Slightly better	No change	Worse	No change	Slightly better	Slightly better	Slightly better	Slightly better	Slightly better
4. Change in professional satisfaction	No change	Slightly better	No change	Worse	No change	Slightly better	Slightly better	Better	Slightly better	Better
5. Achieving merger goals	Most	Half	None	None	Half	Half	Most	Most	Most	Most
Summary evaluation	Moderately Successful		Failure		Moderately Successful		Very Successful		Very Successful	

The failed merger, Pres-2, is so evaluated because the firms demerged two years after merging. The difference between the firms rated as 'moderately successful' as opposed to 'very successful' is largely attributable to the fact that both Pres-1 and Pres-3 had yet to fully capitalized on their merger's potential. For example:

> "I think the local offices are more satisfied [with the merger] because they had the choice to come, stay or go ... It really doesn't make any difference here [in firm A]. Sort of nice to say, 'Well, we're a national firm, we've got national clients who use our [various] offices.'"

> "It could work better than it does."

> "There is still not a lot of professional talk back and forth in terms of sharing expertise or sharing knowledge ... it's coming along gradually."

In comparison, Pres-4 and Pres-5 were much more aggressive in trying to capitalize on their merger's potential. For example:

> "[Both firms wanted to create] that spirit of enterprise, a common enterprise. What we wanted was a common approach, not a selfish approach but a common approach ... Everybody went in with this spirit. **It was a spirit of doing things in common and not a takeover bid, it was a merger in the true sense.**"

> "We wanted to combine and get the best of what a merged firm in size and all the rest of it would do ... I call it knowledge leverage ... and it's getting better and better all the time."

The key difference between the 'very successful' and 'moderately successful' mergers was more in the speed with which they exploited their "knowledge leverage" potential. As was previously noted, "we have an extraordinary client list and we don't use it. It's a wasted resource, it's terrible." However, both Pres-1 and Pres-3 still had that potential to exploit. Indeed, it was acknowledged that:

> "**you always have to keep working at it** and recognize that differences will remain as long as the first generation is there. There are bound to be cultural differences and you have to be sensitive to them ... **you can't just wake up one day and say, 'The merger is done.'** That's where you would run the risk of problems, of the situation unraveling, if it seems you are not sensitive to the differences."

6.7 Discussion

There were a number of similarities and differences across each of these five mergers. The following discussion will highlight some of the more important ones.

Similarities

The similarities are best discussed under three main headings:

- → Clearly defined reasons for merging,
- → Selecting a merger partner, and
- → Validating the merger partner.

Reasons for merging. All the firms had a clear understanding of why they wanted to merge and what they wanted to achieve through the merger. Indeed, all the firms had performed some form of rational analysis with respect to what they wanted from a merger and had clearly defined goals or a business rationale for the merger. The primary motivation for these mergers, for all firms, was growth. In addition, one firm felt that the merger would "insulate the practice from any individual interpersonal problems" and another firm felt that it would provide the senior partners with more challenge in the areas of firm "management and marketing." As previously discussed, the various strategies adopted by the firms to achieve their growth can be largely captured under the headings of Dot, Menu, and Bulk.

Selecting a merger partner. Essentially, selecting a merger partner involved finding a 'strategic fit' between firms. Consequently, the various reasons for merging helped determine potential merger partners. As is evident from the earlier discussion, most of the A firms' strategic intent was Dot which fitted with, or complemented, the B firms' goals of Menu, Bulk, and Dot. Again, the identification process was done "in a very business-like fashion."

Validating a merger partner. Finally, validating a merger partner involved two separate stages. The first stage generally revolved around finding a merger partner where there was a good 'organizational fit' or 'people fit.' The key questions here were: "Can we work with these people?" and "Would we be happy referring our clients to them?" Essentially, both sides had to feel that the other side was made up of people "you feel comfortable working with." The second stage, then, involved the more detailed due diligence process and information exchange.

All the firms involved in these mergers had either broken off discussions or rejected the advances of at least one other potential merger partner. The reasons for not pursuing these discussions included: lack of strategic fit; lack of people fit; client or client business conflicts; and incompatibility of partner's earnings between firms.

Overall, all of the firms involved knew what they wanted, searched for a firm they wanted or waited until they were approached by a firm they wanted, and then verified to ensure that the other party was really what they wanted. Indeed, it was noted that:

> "**these things are largely based on trust ... It all comes down to people,** then you've got the problem of finding the compatible type of people. All lawyers can be jerks but at least they're [firm B] our kind of jerks, as opposed to somebody else's kind ... so you need your kind of person that fits your firm ... **because, again, you're in a people business, a service business.**"

Differences

The differences between the firms were more process oriented and were not a question of presence or absence of something but rather the degree or level of presence. These differences revolved around how the merger was sold to the partnership at large within each firm and the resultant buy-in or commitment to the merger. Consequently, the differences were tied into the leadership or governance style, and the communication process related to the merger.

In each firm there was at least one key individual, if not more, who was the "architect" behind the merger. All of these 'merger architects' spoke about having "a common vision" of how the merger would make "2 + 2 = 5, not 4" and how the merger would add value. In general, this added value was to be created by "knowledge leverage" through cross selling. Two main ingredients were required if cross selling was to take place within the merged firms: (1) people fit; (2) commitment to the new combined firm.

Both these ingredients were inter-related. Further, developing these two ingredients in these mergers required certain leadership and communication actions.

First, people fit exists at both the professional and personal level. A necessary condition was "mutual professional respect on both sides." No one wanted "to practice with people who are not, first of all, first rate lawyers." "Secondly, [they] have to have that personal quality ... the same value system" about the practice of law .... "people you feel comfortable working with."

Most respondents felt that it was relatively easy to determine the professional reputation of a firm, for example, through using their own personal networks within the legal community and those of their fellow partners. Assessing the personal fit was a much more difficult task. This was generally assessed on an on-going basis throughout the merger discussions and negotiations. Also, there were often planned interactions or meetings of representative groups in each firm to help assess the people fit between firms, for example, meetings of people from similar practice areas.

In Pres-2 the interpersonal fit was not well assessed. Indeed, it was noted that the people in these firms "were like day and night." Due to the autocratic nature of the leadership and governance style in firm Pres-2A, the merger discussions were a:

> "very isolated process where there was very little input [from the firm A partners at large] ... nobody was ever introduced to them [firm B]."

Consequently, the lack of fit did not become apparent until after the merger was consummated. Further, due to the lack of involvement of firm A partners in the process, when the problem became known:

> "it was easy for people just to turn off and say, 'That's it, that's your deal not mine.' So it was really doomed from the start." "People [in firm A] would look at them and say, **'I'm not taking that person to my client.' ... [firm A partners] didn't trust their new partners to have access to their clients."**

Indeed, it was noted that if more people from firm A had met with the people from firm B prior to the merger, then because of the lack of fit, "the whole process would have been stopped." In this case, then, there was neither people fit nor buy-in to the merger.

Compared to Pres-2, the firms involved in Pres-1 and Pres-3 were more successful in assessing the people fit. Some of the noticeable differences included ensuring that the merger negotiating committees were representative of their overall partnerships, and also, these firms held many more meetings to allow partners from each firm to interact. However, neither of these firms was as successful as the firms involved in Pres-4 and Pres-5 in creating a sense of commitment to the new combined firm. For example, in one of the moderately successful mergers, it was noted that:

> "as far as [firm A] was concerned, there were just a few partners out of [the whole partnership] who were really involved in this at all ... and so **there wasn't the same sense of awareness or consensus that the movers and shakers had in terms of putting the deal together** ... there are just so many partners that not everybody can have a say and it ends up that a lot of the unwashed are just sort of told that this is going on and they don't have much involvement in it, although they have a vote."

Consequently, the B firms in Pres-1 and Pres-3 felt like "the mouse sleeping with the elephant," it was the B firms in both these mergers that were most proactive in trying to capitalize on the potential of their merger.

The firms involved in Pres-4 and Pres-5 exhibited the most commitment and enthusiasm for their mergers. Also, there was a greater identification on the part of all informants with the merged firm, as opposed to their individual firms pre merger. In both of these mergers, considerable emphasis and importance was placed on people fit issues during the negotiation process. For example:

> "our business strategy is, in all these things, to find the best people and be comfortable with the people and their abilities. **If you are not comfortable with the people, all the negotiations and all the agreements that you can develop aren't going to hold the thing together** ... The beginning and end is confidence in the people because I think you can work out these mechanical and governance type problems if you've got people that you respect, and really like, and want to work with."

The result of this approach was that:

> "we all took the view of, 'What's the best for the firm as a whole?' In other words, there was very much that spirit of enterprise, if you like, **it was a common enterprise that we were going into.**"

In addition, it was noted that the resolution of issues in the post merger period was characterized by a "spirit of compromise" on both sides. Indeed, it was felt that it was this:

> "**spirit of compromise**" or as others noted "a will to make it work ... that will ultimately determine whether a merger will work or not. **It's like a catalyst in a chemical process. If it's not there the process won't start.** You can't force it together, it won't stay together. It's like oil and water, it will separate [without it]."

That spirit of compromise came from "the recognition of the larger good of the whole firm." It was felt that achieving this type of relationship "takes extraordinary leadership from the people who want to make it work" and these people have to actively communicate and sell the merger throughout the firm.

In a similar but different fashion, it was noted that in one of the moderately successful mergers the senior group in both firms also had:

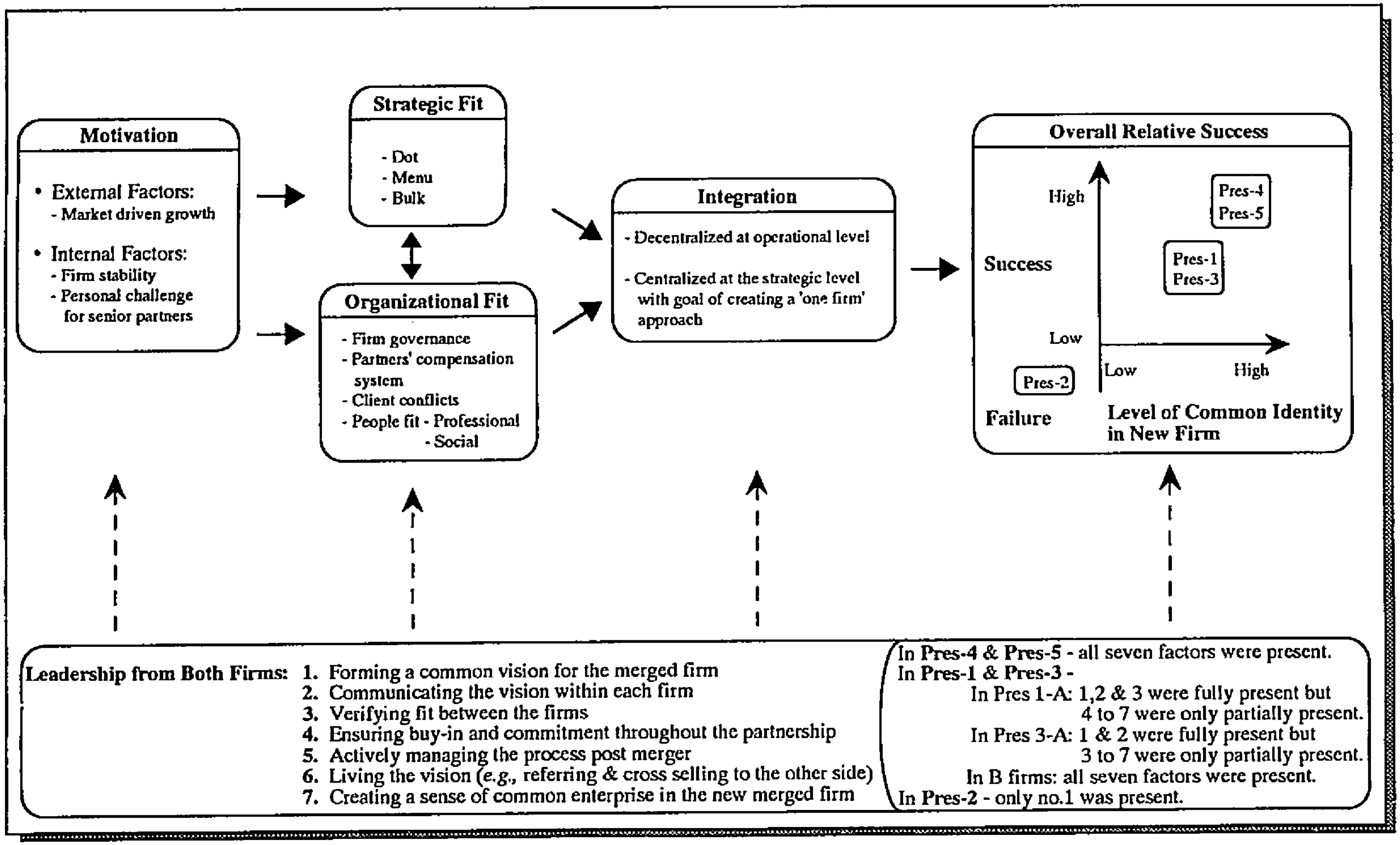
> "a vision ... had the will to do it ... It's very important, you have to have the will to do it and you have to lead doing it ... There was a will on both [sides] to make this thing work." Particularly in the initial post merger days "**it's very important [to have] the ability to compromise and to have understanding [of] the other party's point of view.**"

Unfortunately, in this case, while "the leadership of [firm A] bought into the idea" or the vision behind the merger, "it was something not necessarily appreciated by the partners at large." In this merger, it was felt that sufficient effort was not expended by the leadership of firm A in trying to create that sense of common identity across the firm as a new whole.

"A firm is defined by some sense of common purpose, common approaches and shared underlying values." Creating this commonality is the responsibility of the leadership of a firm. In Pres-4 and Pres-5 a definite sense of common identity was formed. Pres-1 and Pres-3 had yet to develop that same sense of common identity for their merged firms.

Figure 6.2 presents a summary of the above discussion, displaying some of the key aspects of the merger process that were evident in these five preservation type mergers. Also presented is the 'overall relative success' of each of the mergers compared

Figure 6.2. Key Aspects of the Merger Process in the Preservation Type Mergers



with a dimension referred to as the 'level of common enterprise' exhibited within the new merged firm. Essentially, the 'level of common enterprise' represents the nature of the relationship within the merged firms according to whether there was still an "us and them" as opposed to a "we" orientation and is based on the researcher's relative assessment of each of the mergers.

In summary, there was a sound underlying business rationale for all five mergers. The merger failure was largely due to poor people fit which was not discovered during the merger negotiations. The four successful mergers all had good people fit. The critical difference between the 'very successful' and 'moderately successful' mergers was related to the degree to which a new common sense of identity was created for the combined firm. This new common identity was created by the efforts and commitment of the leadership group in each firm who communicated the vision for the merged firm, who articulated how the "2 + 2 = 5, not 4," and who evangelized the merger throughout the partnership at large. Finally, these efforts were continued long after the merger was consummated.

6.8 Epilogue

Within each merger it was recognized that making the merger work was an on-going process. The four continuing mergers were studied between four and five years after they took place. However, it was noted that:

> "the biggest problem we face, of course, is the perennial matter and that is people who feel that their identity is being swallowed by this mad organization, and they want to practice within a small office. The nature of the law firm is anybody can leave any time they want, or any group can leave. **So you always, constantly, have to have the reason to be together.** It can fall apart anytime whether it's national or not. I think self interest keeps it together. I think that as long as all of us perceive that we are benefiting from the merger, it will stay together. The moment any large group perceives that it's to their detriment, then you fall apart."

Further, the legal profession:

> "is so much a personal business, whether we're talking about personal relationships with clients or personal relationships amongst the partners because

> the **partnership is nothing more than a group of individual who get together for this common purpose which can disappear in the blink of an eye."**

Therefore, you have to work constantly on building and maintaining these relationships, be it a merged firm or otherwise.

Finally, it was also recognized that these 'preservation type' mergers, between firms from different geographic locations, differed from those involving firms where they combined their offices in the same location. For example:

> "we didn't have to come to grips with some of the things you would have to come to grips with if you were to put two law firms together in the same city."

Indeed, it was generally felt that had any of these four continuing mergers required that the firms share offices then there would have been serious integration problems. For example, in at least two of the cases, it was felt that such a merger "wouldn't work, that would not have worked at all." This was largely attributed to the fact that each firm had a different style "in the way they deal with each other" as partners. This issue will be discussed later.

The following chapters will deal with mergers between firms in the same city, who come together in shared offices. There are two merger types dealing with these situations: absorption (Chapter 7), and symbiosis (Chapter 8).

CHAPTER 7 - ANALYSIS AND FINDINGS: ABSORPTION TYPE MERGERS

There were three cases of an absorption type. In discussing these cases I will first present some background information. Second, the mergers will be described following the five concepts of purpose; posture; position; process; and performance as previously presented in the research framework. Finally, the lessons learned from these mergers will be presented in the discussion section.

7.1 Background Information

All three mergers took place in 1989. Each one involved firms with offices in the same city and resulted in the firms eventually coming together in shared offices. Also, each merger involved a size differential between the merging firms, in terms of professional staff numbers, as follows:

Abs-1A:Abs-1B ... 3:1
Abs-2A:Abs-2B ... 3:1
Abs-3A:Abs-3B ... 2:1

In other words, each absorption merger involved a larger and more dominating firm, and a smaller and less powerful firm[9]. Table 7.1 provides some brief details of the researcher's interpretation of the character of the firms in each merger and of their interaction post merger.

[9] In the following discussion, firms denoted with the letter 'A' (*e.g.*, Abs [absorption]-1A or firm A) will always refer to the larger firm in the merger and firms denoted with the letter 'B' (*e.g.*, Abs-1B or firm B) will always refer to the smaller firm.

Table 7.1. Description of the Absorption Firms

<table>
<tr><th></th><th>Firm A</th><th>Firm B</th></tr>
<tr><td rowspan="2">Abs-1</td><td>• Young, "entrepreneurial"
• Litigation, real estate, small private corporate
• Aggressive and democratic</td><td>• Established, stable
• Mainly public corporate
• Formal, conservative and hierarchical</td></tr>
<tr><td colspan="2">Both sides acknowledged that the dominant culture in each of their firms was very different. However, there were also various sub-cultures within each firm. Indeed it was noted that because "there are so many dimensions of differences between partners" in firm A, people in firm B had little trouble finding like-minded people in firm A, and vice versa.

In many respects the prior sub-cultures within each firm were largely aligned with each of the practice areas. For example, litigation and real estate in firm A, and mainly corporate in firm B. Consequently, the merged firm had, at least, three sub-cultures which reflected the three main practice areas. "There was that difference between people, their mentalities and it's there today."</td></tr>
<tr><td rowspan="2">Abs-2</td><td>• Established, stable
• "Broadly based firm," somewhat full service
• The firm was "by no means a single culture"</td><td>• Established, stable
• Corporate boutique
• "Business law practice ... let's go hustle and get the business"</td></tr>
<tr><td colspan="2">"During the negotiations, as we got to know each other, we actually found out we liked each other. That is, we were culturally similar ... ultimately a very compatible group. This was critically important."

Overall, it was felt that "both firms were open and not monolithic in their views."</td></tr>
<tr><td rowspan="2">Abs-3</td><td>• Established, stable
• Large litigation and small corporate group
• "Established and conservative"</td><td>• Young and growing
• Large corporate and small litigation group
• "Up and coming, aggressive young business firm"</td></tr>
<tr><td colspan="2">"The people who came in [from firm B] tended, for the most part, to be sole practitioners. They liked each other a lot, but they didn't interact a lot professionally ... Now on our side, we've always had a lot of big projects so people got thrown together. They [firm B] tended to be more independent with more one on one relationships with their clients. There's not the need for a team approach. So putting those two groups together has been a bit hard. You tend to have two solitudes to some extent."

In hindsight, it was commented that "culturally, if you really compared the two firms hard, you might not have done it."</td></tr>
</table>

The summary evaluation[10] of the three absorption type mergers is presented in Table 7.2.

Table 7.2. Summary Evaluation of the Mergers' Performance

Abs-1	was **very successful**. The merged firm had "a broader base of clients ... a broader type of work done for clients ...[and has] allowed us to try new things, bring people in and support them."
Abs-2	was **very successful**. "We have substantially broadened out the office." "It has allowed us to service clients we otherwise wouldn't have obtained." "Corporately we have grown one hell of a lot."
Abs-3	"was **somewhat successful**," not "as successful as people hoped it would be." We "didn't think it through enough up front." "Where the merger was supposed to really happen" had two very different types of practices, which ensured that "the merger could never have worked the way it was first intended to."

7.2 **Purpose** (Motivation, and Strategic Intent)

The dominant motivation and strategic intent for each of the mergers is presented in Table 7.3. The common motivation of all four firms involved in Abs-2 and Abs-3 was growth. Each of these firms had gone through some form of strategic planning process and identified a merger as being the best method for achieving that growth. In addition, a secondary motive for firm Abs-2B, was risk and uncertainty reduction. Within this firm there were some concerns over leadership succession which the merger would remove.

For both firms involved in Abs-1, the primary motivation for the merger was risk and uncertainty reduction. In particular, firm Abs-1A felt overly exposed to its litigation

10 The detailed performance scores for the absorption mergers are presented in Table 7.6.

business and wanted to diversify into other areas of law. Firm Abs-1B had internal problems within its partnership group which were threatening the survival of the partnership. The merger provided an external triggering event which would allow the partners to deal with these internal problems. Also, both firms in Abs-1 shared a secondary motive of growth. Merging would allow the combined firm to offer a wider range of services than either firm could offer alone which, it was believed, would allow it to compete more effectively in its market.

Table 7.3. Purpose: Motivation and Strategic Intent

<table>
<tr><td>Abs-1</td><td>
Both firms shared similar motives, although for somewhat different reasons. Their primary motivation was risk and uncertainty reduction or defensive reasons. Firm A felt exposed because it was dependent on its litigation area for a great deal of its fee income. Firm B had "an intractable problem" associated with one of its partners which was causing "turmoil" within the partnership and had already led to a number of partners leaving the firm. Consequently, it was left with a "choice to cut back to a corporate boutique or merge to be full service." Merging was "considered the best option" and as it would require the partners to "dissolve the partnership." It also provided a means of dealing with their "intractable problem." A secondary motive for both firms was growth. Both firms wanted to expand.
For both firms the strategic intent was a mixture of menu and bulk. Merging would allow the combined firm to offer a wider range of services [menu] to a wider range of clients than either firm could offer alone. In addition, the increase in size would make it "much more visible" and allow "investment in some more esoteric [practice] areas" [bulk]. In particular, firm B was bringing a relatively large and predominantly "public company" corporate practice to firm A who had only a small and predominantly "private company" corporate practice.
The strategic intentions may be summarized as follows:
<table>
<tr><td>Firm A:</td><td>• Menu
• Bulk</td><td>Firm A:</td><td>• Menu
• Bulk</td></tr>
</table>
</td></tr>
</table>

Abs-2	The primary **motivation** for both firms was growth. Both firms had strategic plans that were expansion oriented. Firm A wanted to expand its "quite small" corporate practice group and firm B, which was largely a corporate boutique firm, wanted to develop into a full service firm. In addition, within firm B, there were some concerns over leadership succession. For example, "leadership in the firm was becoming an issue ... there was not a complete vacuum but perhaps some problems ... there wasn't really a good succession plan. [The merger] was a safe harbour ... They [firm A] were pretty deep in competent people." The main **strategic intent** for both firms was menu. For example, "we [firm A] were doing fine in litigation but we didn't have a large enough business law component ... to take advantage of our connections" [menu] and firm B was a boutique business law firm merging with a firm that "didn't have a business law group but had everything else" [menu]. In addition, the merger would "substantially broaden out the office" for firm B and give them access to greater resources [bulk]. The strategic intentions may be summarized as follows: Firm A: • Menu Firm A: • Menu • Bulk
Abs-3	The main **motivation** for both firms was growth. "We compared strategic plans that we'd each done and they [firm B] seemed to be talking about the same type of things as us." The primary **strategic intent** for both firms was menu. For example, "we [firm B] were too weighted on the business side and firm A had a heavy leaning on the litigation side ... It looked like there was a complementary function there [menu] ... That was the simple idea." Firm A "had the target of strengthening [and adding] breadth and depth" to their corporate department. Firm B also felt that "we could probably work more effectively and take on new challenges better in a larger framework" (bulk). The strategic intentions may be summarized as follows: Firm A: • Menu Firm A: • Menu • Bulk

The strategic intent behind the mergers for all the firms was a mixture of menu and bulk. In all three of these absorption type mergers, the A firms were limited full service with small corporate law departments. Consequently, all the A firms were seeking potential merger partners whose main strength was in the corporate area. In turn, all B firms were essentially corporate boutiques and, as such, complemented the A firms. For example:

> "We [firm A] had been looking for a number of years at some sort of strategic acquisition in a corporate commercial area to basically beef up that area." For firm B, the merger was **"an attractive thing because they were a whole lot of things that we weren't ... They were very strong in areas we weren't and they were quite small in our area."**

In essence, in all three of these mergers there was "a lot of complementarity" with respect to the particular practice area strengths that each firm was bringing to its particular merger. Indeed, all three mergers shared similar strategic intentions and were attempting to achieve similar outcomes. All the firms were "looking around for a firm that was shaped opposite" to them, in terms of services offered, in order to create a merger that would "play to their mutual strengths."

7.3 **Posture** (Approach Posture, and Investigation and Decision Making)

In all cases the approach posture was friendly. In Abs-1 and Abs-3 it was the smaller, or B, firm that initiated contact with the larger, or A, firm. In Abs-2 it was the reverse. The merger discussions can be broken down into three separate stages, as follows:

- → identification of potential partner(s) and first approach;
- → "social occasions"; and
- → the detailed negotiations and due diligence process.

Identification and First Approach

Table 7.4 presents a summary of the identification and approach process for the mergers.

Table 7.4. Identification and First Approach

	Firm A	Firm B
Abs-1	Both firms were "equally interested" as "each firm had something the other wanted ... they needed each other." Also, "after a couple of discussions it was felt that the personalities would fit."	Firm B approached firm A. Firm B had two criteria in selecting potential merger partners: (1) there had to be a fit between the firms with respect to the practice groups in each firm, (2) while also recognizing that there are "personalities that you can and can't work with" and "after a couple of discussions it was felt that the personalities would fit."
Abs-2	"We struck a subcommittee, a search committee, and quite early on firm B was identified as a possibility." "Once we identified that it was a legitimate business purpose from both sides, then, the questions began - in terms of due diligence, did we make sense culturally, can we work through problems like where people fit?"	"Firm A approached us. We had a strategic plan that we were working on. We were in the process of developing [the firm] and it was basically a form of internal growth but there was always a caveat, and that was that if an appropriate merger opportunity came along we would look at it. But with that caveat, it would have to right for business reasons."
Abs-3	"We [firm A] didn't actually go out soliciting but we looked around at other firms to say, 'Well, what about that firm? What sort of match would it make?' We looked at some firms and just concluded, without even speaking to them, that we would never live with those guys, that sort of thing ... then all of a sudden I received a call from firm B."	Firm B approached firm A. "It really boiled down to our guy saying to their guy, 'You know, maybe our two firms ought to get together, we might really create something.' So it really grew out of that."

All of the firms involved in these mergers took a very similar approach to the merger talks. At this stage all firms were interested in determining if:

→ the merger made sense from a business perspective, or was there a 'strategic fit' between the firms? and

→ would they be able to work with the people from the other firm, or was there an 'organizational or people fit' between the firms?

Essentially, these were issues of compatibility of the firms' practices and people. When it was felt that the firms appeared to be compatible, which was based largely only on meetings between the senior negotiators, the negotiators in each firm took the merger proposal "to their executive committee as one which warranted serious examination by a negotiating committee." Each firm then struck a merger negotiating committee to "carry out the investigation and negotiations, and then to report back to the partnership as a whole.

Social Interaction

All six firms involved in these mergers were very concerned with ensuring that there was a good people fit between the firms. Consequently, at the same time as the detailed talks were in progress, various types of social events were organized such as dinners or cocktail receptions, to increase the number of partners interacting between the firms. All firms recognized that:

> "it was critically important that we'd get along. That if we thought that they were a bunch of jerks or *vice versa* we wouldn't have done it ... So **it was important to make sure that the people on both sides felt that the degree of compatibility would allow us to work together** ... that there was a commonality of emphasis that would work ... So, the personal chemistry issue was a very important issue."

> "Very quickly we did a social thing. We had dinner with a few, sort of, opinion leaders. Not just formal management but also with the opinion leaders from each firm."

Detailed Negotiations and Due Diligence

In each of these mergers the initial discussions took no more than one month. At that stage, both sides were interested in principle in merging and more detailed negotiations commenced. For example:

> "Each firm's executive committee, in relatively short order, struck [merger] committees and they got together and agreed to exchange things like client lists and lists of lawyers and then we ventured into more delicate things like compensation and gross billings."

The detailed negotiations and due diligence took between six and nine months to complete. Table 7.5 presents a summary of how the firms viewed their investigation and due diligence process. All parties involved in the Abs-1 and Abs-2 mergers were satisfied that their due diligence was optimal. Neither firm in Abs-3 felt that the due diligence process was handled satisfactorily.

In all these mergers, the issue of governance of the merged firm was easily agreed. Generally, there was a transitional agreement for the first two years post merger, which ensured proportional representation for the B firms on the various committees of the new merged firm. After this transitional period, the dominant view was that "the partnership makes the decisions and they [firm B] will be at the partnership table."

In none of these mergers did the issue of client conflicts cause any serious problems. However, the following issues were problematic and took time to resolve during the detailed negotiations:

Merged firm name. In both Abs-1 and Abs-2 "there was a real struggle over name ... such a critical issue. It was a deal breaker." It was eventually resolved through discussion and compromise.

Firm financing. In all three mergers, the merging firms had different capitalization structures in place. In general, one firm was largely bank debt financed and the other was largely partners' capital financed. In two of the mergers it was acknowledged that they "totally underestimated the task of integrating the financing systems." In all cases the new financing structure was a mixture of debt and capital. For the partners who came from the more debt financed firms, it was noted that "on a personal level it wasn't a lot of fun" as they were personally required to contribute additional capital to the merged firm which was over and above that which they had invested in their predecessor firm.

Table 7.5. Investigation and Due Diligence Process

	Firm A	Firm B
Abs-1	• Optimal on all dimensions	• Optimal on all dimensions
Abs-2	• Optimal on all dimensions	• Optimal on all dimensions
	All of these firms felt that they "got what they wanted ... it was straightforward ... with full disclosure."	
Abs-3	• Negligent on both objective matters and people issues	• Negligent on both objective matters and people issues
	Overall, it was felt the while there was full disclosure on both sides, "the merger occurred without the full degree of understanding" of the differences between the firms. **"The feeling was that we could have done a lot more homework."** "There were different approaches to the way things were done [in each firm] because one was, for the most part, litigation driven and the other was, for the most part, business or commercial driven. So **you had different underlying philosophies**, and with almost every decision you were just coming at it from two different sides of the coin."	

Partners' compensation. In both Abs-1 and Abs-2 there were some anomalies in trying to fit the partners' compensation grids together. Essentially, the B firms had a wider spread from highest to lowest in their partners' remuneration than the A firms. In both cases it:

> "came down to a handful of individuals, most of whom were on the executive [in the B firm], effectively writing personal cheques by saying, **'Look, you can take me** [my personal compensation] **down so we can make it work.'**"

> "We established a grid prospective and my personal compensation came down significantly in order to make this thing work."

Overall, the firms in Abs-1 and Abs-2 were satisfied with their due diligence and, in hindsight, felt that there was "nothing they would have done differently," although in each of these mergers the negotiations were not always easy. There were many similarities in these firms' experiences during the negotiations. For example, in each merger, a merger document or 'merger prospectus' was prepared which:

> "had everything in it. By the time the partners came to vote they knew where they were on the grid. They knew what department they were going to be in and with whom. **There was a really good understanding up front of the merger contents, so afterwards, business was very much as usual.**"

> "[The day the merger took place] was business as usual for everybody, the difference was that we were working on stationery that was different."

Further, the talks took place between people who were committed to making the merger work and were prepared to compromise where necessary. For example:

> "People wanted the merger to succeed. **They wanted it to work and if that meant we had to give in on something then just give in and let's make this work.** It [compromise] was done from both sides."

> "People were flexible and open to compromise."

> "There were actually a lot of gentlemanly gestures made [by both sides] during the meetings."

> "The thing that came through in all of this was that we found that in the course of the discussions we thought about the practice of law the same way ... and **there was a lot of give and take.**"

The negotiations in Abs-3 provide a contrast to those of Abs-1 and Abs-2. In Abs-3, after some initial meetings, both sides felt that they:

> "seemed to be talking about the same type of things." "Then very quickly we did a social thing. We had dinner with the opinion leaders from each firm and **everybody got along famously on the social level which was interesting because it tended to forestall a more, kind of, hard-nosed and in-depth analysis.**"

> Indeed, it was felt that "**the actual negotiations went remarkably smoothly.**" "We tried to do it just on principle and good faith and hand shakes, with the idea that it would work out and the actual written agreement was just three pages long. Just very short, point form."

However, in hindsight, it was noted that due to the decision to proceed with matters agreed on only in principle, some differences were not fully uncovered or acknowledged.

> "The feeling was that we could have done a lot more homework ... but, you know, if we had done things differently maybe it never would have happened, you would just scare people off. **In other words, if you went into too much detail on the financial/capital side and wrote a 150 page document before you merged, I think that would have scared everyone off.**"

In contrast, in both Abs-1 and Abs-2, the negotiations did not go "remarkably smoothly" and a detailed merger document was produced which did not "scare everyone off."

7.4 **Position** (Integration Type, and Integration Dimensions)

The integration intent for all these mergers was absorption, that is, the smaller B firm was absorbed into the larger A firm and became subject to the administrative and organizational systems of the larger firm. For example:

> "We weren't under any illusions that we were being folded into Firm A."

> "We were not offended by accepting the larger side's systems and procedures, **it doesn't make sense for the smaller side not to adopt the larger side's** [administrative systems]."

> Pre merger, one Firm B partner stated that it would be "**a take over and not a merger**. That's the way he put it and that's the way it turned out."

Integration Dimensions

Integration took place on all five dimensions included in the research framework: systems, staffing, structure, strategic, and culture. In each of these mergers, because the individual firms were based in different office locations at the time of the merger, there was limited physical integration at that time. Full physical integration took place between two and three years later, depending on the particular merger, when suitable premises were found.

At the time of the merger, there was some swapping of staff between offices. All these movements were based on trying to ensure that people in the same practice areas or departments were located together in the same office location. Similarly, when the various office locations were consolidated in one location a great deal of attention was focused on ensuring that people were physically located in areas that would improve interaction within the office.

In general, the **organizational systems** of the A firm were used in the merged firm. For example:

> "All our policies were quite different and you have policies on parking, the amount of money you paid for meals, on overtime, the way things are approved, who can sign a cheque. There were differences between the firms where the staff was concerned about basic benefits, vacations, and working relationships with lawyers. For firm B it was difficult. They had to change everything. **They were really the ones that changed.**"

From a **staffing** perspective, in all three mergers it was agreed pre merger that there would be no staff lay-offs in the first year. Indeed, with one or two exceptions, over-staffing following these mergers was dealt with through attrition. With regard to staff pay and benefits:

> "while there were some staff [pay] differentials [and] benefits differentials ... **generally, we tried to find some sort of middle ground or solution that was better than either** ... the staff ended up getting probably the best of both worlds."

The organizational **structure** was largely unchanged, except that the various departments increased in size. From a **strategic** perspective there was a definite awareness within the firms that they should now market themselves as a full service firm attempting, where possible, to feed work to all areas within the firm. Indeed, from a marketing perspective a promotional campaign was launched by all three merged firms commencing on the day of the merger.

From a **cultural** perspective, it should be noted that each of the four firms that came together in Abs-1 and Abs-2 were culturally quite different, when one considers the dominant cultures of each of the firms. However, both the A firms were very "pluralistic" or "open and not monolithic in their views." This openness and the existence of various sub cultures allowed the A firms to accept firms that were culturally different than the dominant culture of their firm - a case of variety being able to accept variety. For example, "we've got a tremendous individualism that you don't see in other law firms." Indeed, in Abs-2, in a survey carried out four years post merger, "one of the strengths of the [merged] firm that was identified was the tolerance for individual initiative."

Abs-1 and Abs-2 appeared to have created a true cultural mosaic and "[the merged firm] has its own identity, its own culture now." In contrast, Abs-3 had yet to settle down four years post merger. For example:

> "You get this departmental orientation versus the full partnership and you get that clash [between litigation and commercial]."

"This departmental orientation" is, in part, a reflection of the dominant cultures of the two predecessor firms that came together to form the merged firm.

7.5 Process

The integration process varied according to one's position in the firms' hierarchy. At the partner level in Abs-1 and Abs-2, everyone was fully informed of the **content** and personal implications of the merger prior to voting on it. For example, the 'merger prospectus' detailed:

> "**how [the firms] would fit together and it was done basically by departments** and then what you would do is shift all of these people and say, 'OK, you're in that department and you're in that department."

Consequently, when the merger was consummated it was largely a case of "business as usual" for the lawyers. The **process** of integration took place post merger. As noted previously, each of the individual firms had representation on all the important committees in the merged firm. While this promoted integration, it was felt that achieving true integration and capitalizing on the merger's full potential required hard work in the area of cross selling and referrals. For example:

"it seems to have worked because there **are always a few people who want the merger to work. It is your senior people: they make a point, when they have a deal, of calling in different people from different areas and getting them to work together.** Then, when they work together they either connect or don't, and if they connect then you know they'll be working together again. **The senior people set the example. They try to promote the merger.**" "I mean we were doing that before the merger as well. We worked hard at it with varying degrees of success and we continue to do it."

"The merger was sold by the vision, the concept and the slogan, '**The whole is stronger than the sum of the parts.**' And in both firms **there was a strong enough senior group who wanted it, and made it happen.**"

In contrast, in Abs-3, because a lot of the detail was left to be sorted out post merger, partners only had an 'in principle' knowledge of the merger's impact. However, it was felt that the merger:

"was being done for a good reason ... So the rationale was there and it was a good rationale but then we had to do the selling after the fact. **We didn't have people sold [on the merger] when they went into it.**"

A critical problem with Abs-3 was that:

"everyone knew what had to happen but **no one was really pushing it all the way through.**" "The key to it is you've got to have the key people, the leaders in the separate sides have got to have enough common ground that they have a view of where things are going ... **I'm not sure we had a common view of where things were going to go but the key people got along well and had enough respect for each other, not necessarily the shared view.**"

Further, "if people don't have a sense that the people who are driving them know where it's going to end up, then they start worrying about where it's going to end up and what it's going to mean to them individually. And when people are worried about things, it's a problem. They're insecure about it, they fight about it. Not concentrating on what they should be doing and getting on with work, and that's very disruptive to the firm. So **if you don't have a sense that we know where we're going and how we're going to get there, it becomes a lot more problematic for everybody.**"

In contrast, the other two mergers can be characterized by the following comment:

"We're not perfect, but we **know what we are trying to do and we're trying to do it** but it's not always easy."

In general, associate lawyers were informed that discussions were taking place prior to the merger but support staff were not officially informed "until the deal was signed." Post merger associates and secretaries moved if the partner they worked with moved. Integration of the support staff was the responsibility of the chief operating officer. Overall, very little thought was given pre merger to the impact of the merger on the support staff.

In all three mergers, full integration could not take place until the merged firm was located in shared offices which took place two to three years post merger. Some informants felt that the delay was beneficial as it "allowed a slower integration," while others felt that the sooner you co-locate the sooner you can get the benefits of full integration. In either case, it was generally felt that the "move was a bigger challenge than the merger," which might suggest that it was just as well that consummating the merger was not further complicated with the problems of moving offices at the same time.

7.6 Performance

Table 7.6 presents the scores on the performance measures for each of the mergers. The net income per partner (NIPP) measure was based, for consistency of comparison, on the average NIPP for year three post merger. The employment figures were based on the number of professionals employed three years post merger. Specific numbers were provided for measures 1 and 2 but are not included here in the interests of confidentiality. The scores for measures 3 to 5 were based on the averaged responses of the informants, by firm. The 'summary evaluation' rating represents the researcher's relative evaluation of each of the mergers based on a detailed knowledge of their outcome.

The reduction in average net income per partner in Abs-1 was recognized and jointly agreed to pre merger and was a result of increased costs associated with their new premises. Overall, in the Abs-1 and Abs-2 mergers, all sides involved felt that the firms:

"merged pretty well ... We're one firm now."

"It has its own identity and it's different [than either of the precursor firms]."

In comparison, in Abs-3, the merger "seemed like it was a never ending battle ... it has been a struggle." All informants in this firm felt that the merger was neither very successful nor was it:

> "a failure either. It has been disappointing, but it has had other positive spin-offs." For example, in "firm management. It precipitated a real self examination here, [now] we're actually ahead of the issues. The firm is better."

Table 7.6. Absorption Type Mergers' Performance Scores

	Abs-1		Abs-2		Abs-3	
	Firm A	Firm B	Firm A	Firm B	Firm A	Firm B
1. Change in net income per partner	Reduced		Increased		Reduced	
2. Change in number of lawyers	Increased		Increased		Reduced	
3. Change in client service	Better	Better	Better	Slightly better	No change	Slightly better
4. Change in professional satisfaction	Better	Better	Better	Better	No change	No change
5. Achieving merger goals	Most	Most	Most	Most	Few	Few
Summary evaluation	Very Successful		Very Successful		Somewhat Successful	

The difference in performance between the 'very successful' mergers and the 'somewhat successful' merger can be attributed to a lack of effective leadership in Abs-3 when compared to Abs-1 and Abs-2. For example, it was commented in Abs-3 that:

> "if we were to do something different, **we should have laid down a little more clearly what we thought we could accomplish, and where we were going to go, and how we were going to get there** ... we simply got bogged down in the micro stuff of lawyers."

7.7 Discussion

There were a number of similarities and differences across each of these three mergers. The following discussion will highlight some of the more important ones.

Similarities

The similarities are best discussed under three main headings:

- → Clearly defined business reasons for merging
- → Selecting a merger partner
- → Validating the merger partner

Clearly defined business reasons for merging. All the firms had a clear understanding of why they wanted to merge and what they wanted to achieve through the merger. Indeed, all the firms had performed some form of rational analysis with respect to what they wanted from a merger and had clearly defined goals or a business rationale for the merger.

The motives for these mergers, included growth, defensive reasons, and internal firm problems related to their partner group. As previously discussed, the various strategies adopted by the firms to achieve their goals and/or deal with their problems were Menu and Bulk. In each merger the firms complemented each other, thereby giving the merged firm "more breadth and depth" and allowing it to do things neither firm could do alone.

Selecting a merger partner. In each of these mergers, the merging firms had some knowledge of each other because they were practicing in the same market area. For example, "neither of us were unknown entities. Some of us knew some of them both professionally and socially." Further, in every case the initial approach between the firms was always between senior partners who knew each other, either professionally or socially. Indeed, even before the firms met, it was felt that there would be a complementary relationship between the firms from a practice area perspective because of each firm's knowledge of the other firm. For example, "we [firm A] decided that what we had to do is get some firm that's quite one dimensional to plug into our matrix."

In addition, each firm had some feel for whether or not there would be an organizational fit between the firms. For example, "in a big firm like ours, we have partners who have spouses in other firms, good friends in other firms, and they know a little about the culture." Essentially, selecting a merger partner involved identifying a firm where it was felt that there would be a good 'strategic and organizational fit.'

Validating the merger partner. Validating the merger partner, then, involved verifying that there was both a strategic and organizational fit between the firms. In all cases it was felt that the process of establishing that there was a **strategic fit** between the firms was a relatively straight forward and objective task, requiring an analysis and comparison of lawyers' practice areas and specialties within each firm. As previously noted, this was done by departments or practice areas. For example, the firms would mix the lawyers together by department and then "you would look at each department and say, 'Wow, every department we have is stronger.'"

In all cases it was felt that there was a good strategic fit between the firms. For example, in Abs-3 it was commented that "it didn't look too bad on paper." Indeed, in each case:

> "Each firm had something the other wanted."
>
> "A perfect fit from a market perspective ... We knew **technically it would fit together**, we knew the mix was good."

The second aspect of fit was **organizational fit**. In these absorption mergers where the firms were going to come together in shared offices and both firms' partners would have to work side by side, the concept of 'organizational fit' had two major parts to it and each of these parts had a number of sub parts, as follows:

→ Key organizational systems:
- governance system
- partners' remuneration system
- firm financing

→ People fit:
- social fit
- professional fit
- practice style fit

Key organizational systems:

As previously discussed, the issue of firm governance was resolved based on a transition process where membership of the various committees was based on proportional representation for a transition period of approximately two years. The issue of partners' compensation was resolved through compromise and personal sacrifice on the part of some of the senior partners and "opinion leaders," particularly in the B firms. However, it should be noted that in no case were the firms widely different in their approach to partners' compensation.

The differences in firm financing proved contentious in all three mergers but particularly so in two of the three, where it was acknowledged that:

> "we glossed over the significance of forming a new capital structure ... a very major difference."

> "That was quite something because we were being forced to introduce to firm A, the larger firm, **the whole notion of partners having to contribute capital to the business**. That's been the biggest administrative hurdle."

Indeed, from a basic financing perspective, it can be argued that all a firm is doing by changing from bank debt to partners' capital is taking a liability in the firm's name, and for which each partner is "jointly and severally liable" in the event of default, and allocating it on a partner by partner basis. Further, some firms pay interest on these loans and in others it reduces the interest charge and, in turn, increases the profits available to the partners for distribution. Overall, the net income effect on the partners should not be material. Those who believe in using partners' capital believe the effect to be more philosophical or psychological in nature. They believe that when partners personally have a sizable loan in their name as opposed to joint liability for a firm loan, that they are more committed to the firm and tend to be more firm oriented.

People fit:

From a 'people fit' perspective, in each case, all firms were very aware of the need to ensure "that the personalities would fit." One part of this fit was called "social fit" and simply referred to whether or not the partners from each firm could get along "on the social level." For example:

> "You get a comfort level over a period of time with the people that you're dealing with and **you fervently hope that the partners you're dealing with are like the rest of the partners, and that is why we had the social exchanges** and people developed a comfort level as a result of them."

On another level was the question of 'professional fit' which referred to whether or not the firms shared the same work "ethic" particularly with respect to honesty and the quality of work. This concern over work ethic was tied into the fact that in a partnership all partners are liable for their fellow partners' negligence. Consequently, in accepting new partners, partners need to feel comfortable that their new partners operate, at least, at the same level of professionalism. For example, in one of the mergers it was noted that "there was a [professional work] ethic involved in the firms and both firms basically shared that ethic."

Essentially, both the 'social' and 'professional' fit concerns revolve around the issue of ensuring that the merger in[illegible] "people you could work with" and in each of these mergers it was felt by both sides t[illegible] this was indeed the case. The third aspect of people fit, *i.e.*, practice style fit, will be dealt with below.

Differences

As previously noted, there were many similarities between Abs-1 and Abs-2. Consequently, the major differences between the mergers can be examined by considering the differences between these two mergers and the Abs-3 merger. There were three main differences between these mergers and the less than hoped for performance of Abs-3 can be attributed to these differences. The three major differences were:

- → The investigation and decision making process
- → Practice style fit - both between and within practice areas
- → Leadership

The investigation and decision making process. A key difference between the Abs-1 and Abs-2 mergers, and the Abs-3 merger was related to the investigation and decision making process. In the first two cases the firms performed a detailed examination and prepared a detailed plan of how the firms would fit together. This detailed plan was broken down by department and detailed where every lawyer fitted in the plan. As a result, and as noted previously, when the partners came to vote on the merger they knew exactly how the merger would personally affect them.

In contrast, in the Abs-3 merger, both firms acknowledged that they had not "gone through the level of detail before the merger" that they should have and had not done a "hard-nosed and in-depth analysis" of the firms and how they would fit together.

> "A lot of the actual details of the merger were worked out after the merger occurred."

> "That was lacking ... We got caught up in the positive reasons, what you want out of the thing ... and **didn't really think through enough up front.**" "In hindsight, I would have to say that we somewhat naively glossed over the significance of things."

The critical problem, which was not identified because of the inadequate due diligence, was a lack of fit between the corporate groups of the two firms. Yet, strategically "the merger was supposed to happen on the corporate side. The other groups were relatively unaffected by the merger." Further:

> "**The real merging aspect was in the corporate department.** The two corporate departments were ... quite a mix of personalities and practices and clients and strengths and so on ... The corporate group [in firm B] was very heterogeneous, a loose affiliation of isolated lone rangers ... and the so-called 'trying to team' approach hasn't been effective" or appropriate.

Consequently, and because of the deficient pre merger examination of the firms "the merger could never have worked as it was first intended to."

Practice style fit. The lack of fit between the corporate practice groups in Abs-3 revolved around practice style issues. It should be noted that there does not have to be a total fit with respect to practice styles and indeed there is often a variety of practice styles within any one firm. For example, a number of informants referred to the "pluralistic, partisan, politicized, and relatively fragmented world of law firms." Indeed, even prior to the merger there were at least two sub-cultures within both Abs-1A and Abs-2A. These sub cultures were largely aligned with each of the practice areas. For example:

> "[One] area worked as a team, they took care of their junior people, fairly and very possibly more than fairly. Whereas in [another] there was no sharing, it was 'this is my practice, leave me alone.'"

Considering that in each of these three mergers there was a coming together of firms that had largely different practice areas, these differences had the potential to cause some culture clash between the firms. Indeed, this did occur in Abs-3 but did not in the other two more successful mergers.

Essentially, we can look at the situation from the perspective of a within firm and between firm comparison. Many law firms exist and have learned to function with many differing sub cultures. While it is possible to describe the dominant culture of a firm, this description may not adequately capture the full cultural variance **within** that firm. Such is the case with the descriptions of the firms presented previously in Table 7.1. Therefore, from a **between** firms comparison perspective, while both sides would agree that these descriptions accurately reflect the dominant culture of each firm, they would also agree that anomalies exist within each firm. In particular, in the larger or A firms involved in Abs-1 and Abs-2, both firms had a number of different sub cultures prior to the merger. Further, it was felt that in Abs-2 "both firms were open and not monolithic in their views."

The result was that in Abs-1 and Abs-2 people in the B firms found like-minded people in the A firms and *vice versa*. The dominant culture of Abs-1 and Abs-2 is now an amalgam of the prior individual firms. In essence, the A firms had a continuum of cultural variety prior to the merger which allowed them to accept the additional variety found in the B firms. A question of variety being able to deal with variety, as proposed by Ashby's law of requisite variety (Miles, Snow and Sharfman, 1993).

Consider, then, the Abs-3 merger. As with the other two mergers, there was a good 'strategic fit' of the firms' different practice areas from a market perspective. However, in this merger the A firm had a **very dominant** litigation culture and the B firm had a **very dominant** corporate/commercial culture. Indeed, in hindsight it was commented:

> "that culturally, if you really compared the two firms hard [carefully], you might not have done it [the merger]."

Consequently, what created a good 'strategic fit' also gave rise to a poor 'organizational fit' due to the differences between the strong dominant cultures of the individual firms which were derived from their predominant practice area cultures. This misfit between different practice areas was further complicated by a misfit between the cultures of the corporate/commercial practice areas of the two firms, or **within that practice area in the merged firm**. In the A firm the corporate group had more institutional clients and operated on more of a team basis, whereas in the B firm the corporate clients were more entrepreneurial in nature and were serviced more on an individual lawyer basis.

Essentially, there was a difference in the nature of the work performed within the corporate area in the merged firm which was a result of a difference in the type of clients of the two predecessor firms. One group had clients who required more of a team approach, while the other group had clients who required the lawyers to operate largely as "sole practitioners." This difference provided little opportunity for integration to take place. As a result, while there was a 'social fit' and a 'professional fit' between the firms there was not a 'practice style fit.' For example:

> "We've [firm A] always had a lot of big projects so people got thrown together. They [firm B] tended to be more independent with more one on one relationships with their clients. There's not the need for a team approach. So **putting those two groups together has been a bit hard. You tend to have two solitudes** to some extent."

> "**Where do you get the synergy?** We've actually had to really work at finding opportunities to cross sell and even then it's really tricky. It's been a struggle."

Figure 7.1 presents a comparison of the relative cultural overlap between the firms in the three absorption mergers together with a list of some of the dimensions of differences that can exist between partners in a partnership.

Leadership. The leadership difference revolved around how the merger was sold to the partnership at large within each firm and the resultant buy-in or commitment to the merger. As such, it was more process oriented and was not a question of presence or absence but was more a question of the degree or level of its presence.

In both Abs-1 and Abs-2, the senior group or leaders of the various firms were very committed to the merger and to making it work. For example:

> "The senior people were working to, and wanted to, make it [the merger] work ... building consensus among the partners ... **a lot of strong leadership ... very, very married to the merger concept.**"

> "A strong enough senior group on both sides wanted it and made it happen. They were committed to it. However, success required flexibility and compromise."

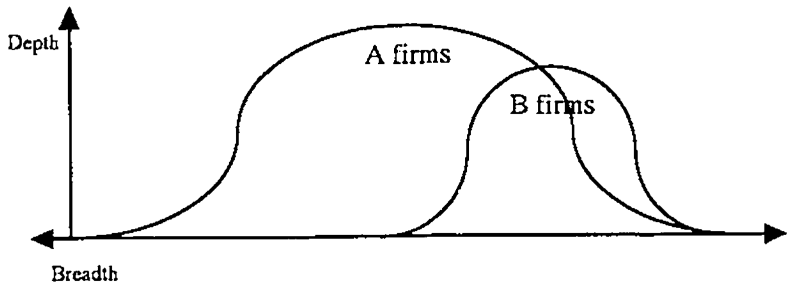
Indeed, in all these firms the senior groups were very aware that it was "essential, at the end of the day, that there be a solid political consensus in favour of the merger." In addition, leading and managing the merger process did not end once the merger took place. In both these mergers the leadership groups continued to work at capitalizing on the potential of the merger. For example:

> "Cross-selling we started to communicate immediately and **we're still communicating that** ... During that first year and since, there was an incredible amount of time consumed trying to build the [merged] firm and to get people to cross-sell and use other people. That consumes an inordinate amount of time."

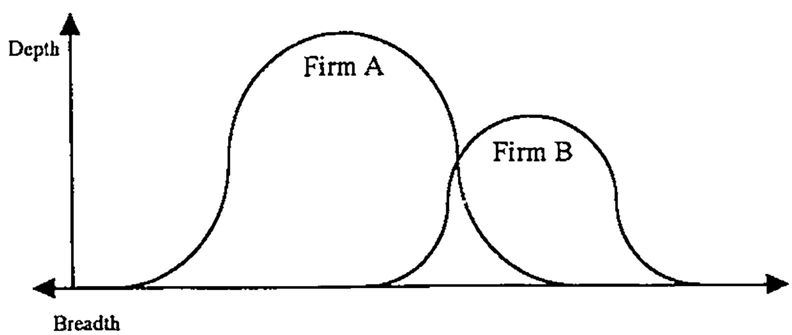
Further, it was also noted that the leaders in these firms "led by example" in this effort. In contrast in Abs-3, it was acknowledged that there was a lack of leadership from the senior people both pre merger in selling the merger, and post merger in implementing it. In the absence of strong leadership:

> "people just started focusing on issues which were really small issues and couldn't get over them." "Seeing the bigger picture is sometimes a problem [for lawyers]."

Figure 7.1. Relative Cultural Overlap Between Firms



Abs-1 & Abs-2
(size relationship 3:1)



Abs-3
(size relationship 2:1)

Some Dimensions of Differences between/within Law Firm Partnerships

Progressive	Conservative
Open	Closed
Team oriented	Individual oriented
Win/Win	Win/Lose
Aggressive	Languid

"There was a lack of congruity or common philosophy ... **There wasn't enough universal buy-in ... It boils down to a lack of communications and leadership within the firm** ... You have to have overall direction and certainly the merger proved how important that was."

"One of the things we [lawyers] hate to acknowledge is that we like to have a leader. We like to have somebody who will make the decisions, who will do the right thing, and who has got the vision so we can get on with things. As long as we trust them, things will move along smoothly ... **The leader of the firm has to go around to the troops and talk to them, let them know that 'Yes, there is somebody in charge. Yes, there is a goal. Yes, there is a vision.' That was one of our critical shortages.**"

In summary, in Abs-3:

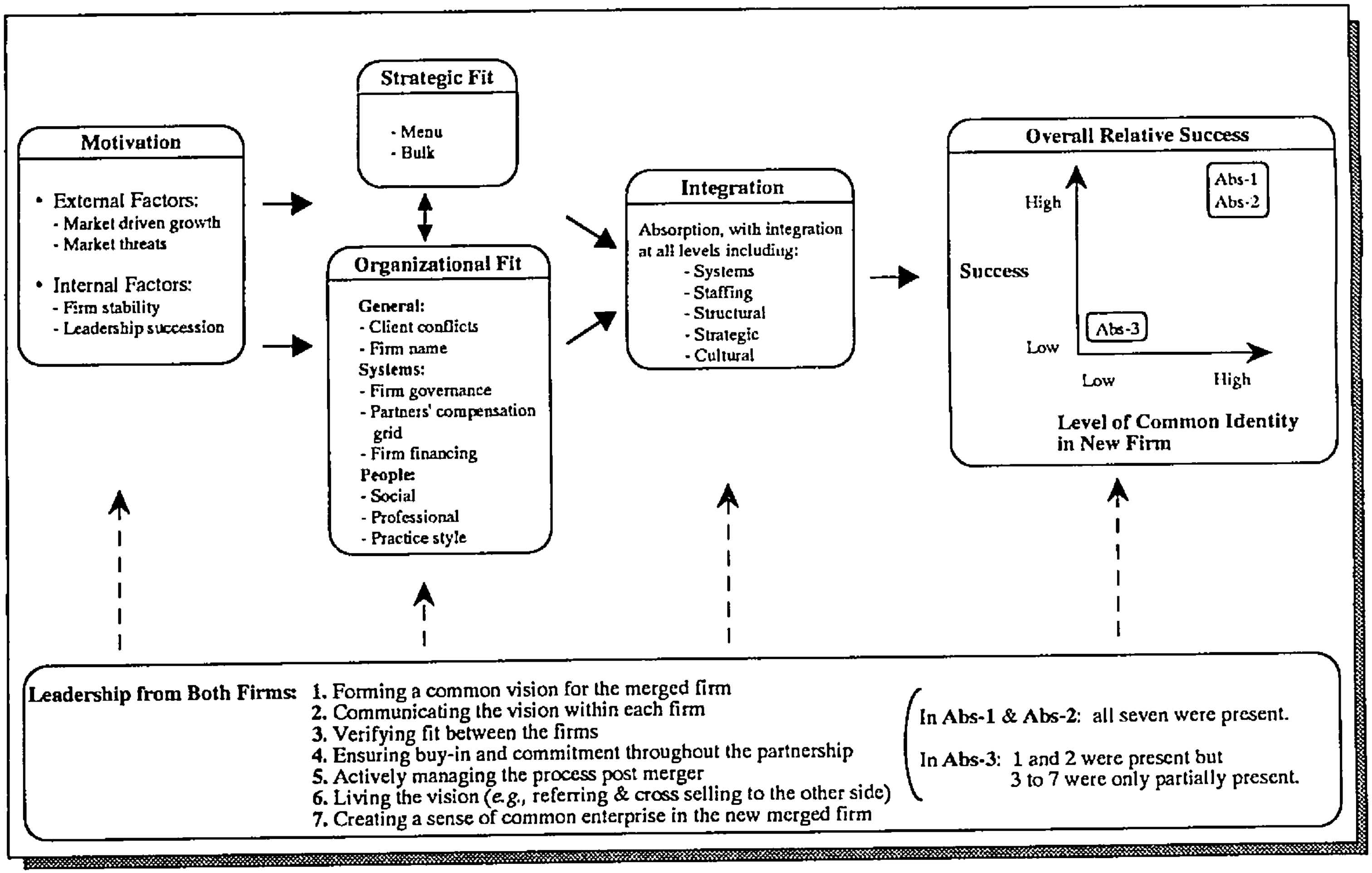
"people believed that it was being done for good reasons ... There were strengths to the different firms that came together but there were different philosophies and management styles. Take the best of both and put them together and it made a lot of sense ... But then people got mired in the mud while trying to get through ... **If you are going to get through a merger you've got to have people who are able to just drive through some of that stuff.** There are going to be some difficult decisions that come up that people are going to be very interested in and possibly personally hurt by. So you've got to have people who at least are going to listen and do their homework but once the decision is made, it's done and you drive on ... **You need somebody who will stand up and say, 'We're driving the merger forward' and keep people involved and get across the opinion that there is someone at the helm who knows where the ship is going and its goals ... You need someone who is really taking charge of it and driving it forward.** That's the thing we didn't do nearly as effectively as we should have."

In conclusion, Figure 7.2 presents a summary of the above discussion, displaying some of the key aspects of the merger process that were evident in these three absorption type mergers. Also presented is the 'overall relative success' of each of the mergers compared with a dimension referred to as the 'level of common enterprise' exhibited within the new merged firm. Essentially, the 'level of common enterprise' represents the nature of the relationship within the merged firms according to whether there was still an "us and them" as opposed to a "we" orientation and was based on the researcher's relative assessment of each of the mergers. For example:

"[The merger firm] has its own identity now, it own culture now."

"There are so many dimensions of differences between partners [in any law firm]: conservative or progressive; positive or negative; open or closed; it goes on. But **we are one firm now.**"

Figure 7.2. Key Aspects of the Merger Process in the Absorption Type Mergers



In general, in all three mergers there was a sound underlying business rationale for the merger and a good strategic fit. In addition, they all had good people fit at the social and professional level. The critical difference between the 'very successful' mergers and 'somewhat successful' merger was related to the degree to which the firms integrated and coalesced forming something new. Were they able to make '2 + 2 = 5?'

Abs-1 and Abs-2 did so and the result was a merged firm with a common sense of identity that was an amalgam of the identities of the predecessor firms. This new common identity was created by the efforts and commitment of the leadership group in each firm who communicated the vision for the merged firm, who articulated how the "2 + 2 = 5, not 4," and who evangelized the merger throughout the partnership at large. Finally, these efforts were continued long after the merger was consummated. In both firms it was recognized that "it is never done."

In Abs-3, the merger is still at '2 + 2 = 4' and has yet to realize any major added value from the merger. In essence, there was a solid underlying business rationale for this merger. Unfortunately, because the partners from each firm got along so well during the initial merger meetings, no in-depth analysis of the organizational fit of the firms was performed. In addition, there was a lack of fit between the corporate practices of the two firms, and it was in the corporate department that the merger was really to happen. Compounding these problems was a lack of strong leadership in either firm "to carry it through."

However, it should be noted that despite not being a pre merger goal in Abs-3, a second order benefit of the Abs-3 merger was in terms of firm management and leadership. For example:

> "Both firms needed better management." "Both firms had not the level of management that they needed to carry on ... The merger accelerated problems that were going to happen to both firms, anyway."
>
> "Part of our success is that we went through a bunch of change, and it was good for us ... the merger gave an excuse for the mother ship to do things that were against its principles. **It forced crisis upon us.**"
>
> "The unfortunate thing is that we didn't recognize improved management as a big goal. We ended up with it and we needed it."

Indeed, all Abs-3 informants felt that the merger had [four years post merger] started to:

> "settle down ... **It's going to take another couple of years before it's really done.** You almost need a generation change. You're still going to have some of the old history and old baggage until you get new people who have come right through the system. People who were relatively new to the game when the merger happened who then are becoming the new movers and shakers. That probably puts you in the 10 year range for that to happen."

In Conclusion

The three critical differences (investigation, practice style fit, and leadership) between the two more successful absorption mergers and the less successful one can be considered to be inter-related or at least to have had a compounding effect on each other. For example, in Abs-3 and as discussed above it was noted that there was a deficient pre merger examination by each of the merging firms; there was a major practice style difference between the corporate departments of each of the firms; and there was a lack of strong leadership in the merged firm post merger. However, if a proper due diligence had been performed it is likely that the practice style fit problem would have been uncovered pre merger, which would then have forced the leadership group in each firm to re-examine and redefine their vision for the merged firm. This, in turn, would likely have forced them to take a more active role in selling the vision pre merger, and in managing the integration process post merger.

Further, even if the practice style fit was not uncovered pre merger it was felt by all informants that if the merged firm had had stronger leadership post merger then the difficulties that the merged firm went through could have been minimized. Leadership "was one of our critical shortages ... **You need someone who is really taking charge of it and driving it forward.**"

The next chapter will deal with symbiosis type mergers. These mergers involved firms in the same city, who shared offices but, in contrast to absorption mergers, involved firms of similar size in terms of number of professional staff.

CHAPTER 8 - ANALYSIS AND FINDINGS: SYMBIOSIS TYPE MERGERS

There were two cases of a symbiosis type. In discussing these cases I will first present some background information. Second, the mergers will be described following the five concepts of purpose, posture, position, process, and performance as previously presented in the research framework. Finally, the lessons learned from these mergers will be presented in the discussion section.

8.1 Background Information

Both these mergers took place in 1990. Each one involved firms with offices in the same city and resulted in the firms eventually coming together in the same offices. Also, each merger involved firms of almost equal size, in terms of professional staff numbers[11]. For example:

> "Each [was] approximately the same size, when you take the gross number of lawyers in each firm. So **you had the coming together of two firms that were equals, which is not often the case.** In fact, **it was a true merger** in that sense as opposed to the takeover of one or the other."

> "**There wasn't any clear dominance.** It was a true merger."

Overall, there were many similarities between these mergers. For example, they both had very similar goals, went through a very similar merger process, encountered very similar problems and, in turn, had yet to achieve the full potential of their merger.

Table 8.1 provides some brief details of the researcher's interpretation of the character of the firms in each merger and of their interaction post merger.

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11 In the following discussion, unlike the previous two discussions of the preservation and absorption mergers, **the meaning attached to** using the letter 'A' (*e.g.*, Sym [symbiosis]-1A or firm A) or the letter 'B' (*e.g.*, Sym-1B or firm B) in denoting the firms is that the **A firms** were stronger in corporate and weaker in litigation and the **B firms** were stronger in litigation and weaker in corporate.

Table 8.1. Description of the Symbiosis Firms

	Firm A	Firm B
Sym-1	• Established, stable • "Strong commercial" • "Stiff white collar approach"	• Established, stable • "Strong litigation firm" • "Roll up your sleeves"
	Firm A was "quiet and reserved ... conservative." Firm B viewed firm A as a "bunch of Barry Manilows." In contrast, firm B was "a more volatile office." Firm A viewed firm B as a "bunch of Rolling Stones." "Did either side realize that they were quite different personalities? No." The merger had come together on the litigation side, but "we're still working like hell on the corporate/commercial side."	
Sym-2	• Established, stable • "Large corporate and small litigation" • "Very numbers driven and more of an 'eat what you kill' approach"	• Established, stable • "Large litigation and small corporate" • "Lean and mean in our approach but more collegial in nature"
	"They [firm A] came over pretending to be a nice homogeneous group of individuals and, in fact, they had a very serious internal schism. The merged firm inherited some of that factionalism." "At the litigation level there weren't any significant differences [but] we had greater difficulty integrating at the corporate level. We were having difficulty fully integrating [the corporate group]" because of the existence of "an irritation group" who had a "different vision" for the merged firm. This group eventually left the firm three years post merger. It was felt that the departure of this group would allow the firm to more fully capitalize on the true potential of the merger.	

The summary evaluation[12] of the two symbiosis type mergers is presented in Table 8.2.

12 The detailed performance scores for the symbiosis mergers are presented in Table 8.6.

Table 8.2. Summary Evaluation of the Mergers' Performance

Sym-1	was **moderately successful.** The merged firm "can be more things to more clients" than either of the individual firms could be. "2 + 2 = 5, in effect." However, because of the differences in the "personalities of the partnerships ... We're still trying to implement a real [one] firm concept."
Sym-2	was **moderately successful.** The merger "allows us to offer service in more areas than before ... The additional resources have allowed us to add people and expand the range of services offered. So that's the kind of thing that we were looking to have happen and it actually happened." However, the existence of an "irritation group" of partners prevented the merged firm from achieving full integration and the merger's full potential. For example, "I cannot think of a single group or individual in this firm that could cause the level of disruption that they caused by their opinions. There's nothing of them left ... We're currently making sure that we are off and running in the same direction and working together."

8.2 **Purpose** (Motivation, and Strategic Intent)

The dominant motivation and strategic intentions for each of the mergers is presented in Table 8.3. The common motivation of all four firms was 'risk and uncertainty reduction' or "defensive" reasons. As mid-sized firms, they felt that they had to either grow or "skinny down and become a boutique firm." All firms preferred the growth option and merging was seen as the best method for achieving that growth because, in comparison, "just growing from within takes forever." It was felt that a merger would allow the combined firm to offer a wider range of services than either firm could offer alone which, in turn, would allow it to compete more effectively in its market.

In addition, a second defensive motive for firm Sym-2B was the need to deal with some 'deadwood' partners. It was felt that a merger would provide "an external event that would allow" them to do this in the least acrimonious manner. In particular, a merger requires a new partnership agreement which in turn requires the dissolution of the existing individual firm partnerships. This, in and of itself, can provide some impetus for partners to be more 'hard-nosed' in their criteria for partnership. Also, in considering who is to be accepted back into the new partnership it can be argued by one side that it is the other firm who will not accept someone into the new partnership thereby reducing the potential for personal animosity between existing partners. For example: "It allowed us to slough off our non-profitable lawyers through the vehicle of the merger, whereas it might not have been possible otherwise."

The strategic intentions behind the mergers for all the firms were a mixture of menu and bulk. In both mergers, the A firms were mid-sized firms with strong corporate law departments and small litigation departments. Consequently, the A firms were seeking a potential merger partner whose main strength was in litigation. In turn, both B firms were mid-sized firms with strong litigation departments and small corporate departments. Essentially, each merger involved predominantly corporate firms merging with predominantly litigation firms, or *vice versa.*

Table 8.3. Purpose: Motivation and Strategic Intent

Sym-1	The primary **motivation** was risk and uncertainty reduction. "For both firms that certainly would have been number one ... The national firms weren't coming, they're here. What are we going to do about it?" "The national law firm momentum was going and it was seen as a major threat in our market place." "We would merge and consolidate to form a major firm ... a significant force to be reckoned with ... That defensive aspect appealed to both firms ... who were sort of saying, 'We are exposed.'" There was also an "aggressive or positive rationale to create a major firm where we would spread our risk ... industry-wise, client base and another really important one is practitioner-wise." For both firms the **strategic intent** was part menu and part bulk. "The commercial stuff we [firm A] brought to the table, they didn't have ... We each brought something different to the table, there was a complement there (menu) ... Doing a deal would instantly put us [both] on the map ... in terms of visible critical mass ... the back-up, the resources and service lawyers that you need to sell services to large sophisticated clients (bulk)." The strategic intentions may be summarized as follows: Firm A: • Menu • Bulk Firm B: • Menu • Bulk

Sym-2	The primary **motivation** for each firm was risk and uncertainty reduction. Both firms "were, kind of, mid size, full service law firms but they didn't offer those auxiliary services that people were looking for." "We [firm A] saw this [merger] as a necessity for survival in the legal community." In addition, both firms wanted to grow, "to get to a size to attract a new class of client and to continue to serve your top end client." In addition, firm B had a problem "with a lot of 'deadwood' [non-profitable partners] ... Serious, serious problem. It was clear to us that we would either have to break up the firm and start over with smaller groups, or look for some serious fix ... In part, they [firm A] were dealing with their deadwood problem and if nothing else, it [the merger] was an external event that allowed us to do the same." The main **strategic intent** for both firms was a mixture of menu and bulk. "We'd be merging a large litigation component with a small litigation component and a small corporate component with a large corporate component. So they both, kind of, come out equally sized ... The two together were very complementary (menu). Also, it would give us the certain critical mass that would allow us to do very big litigation and very big corporate transactions that we didn't have before ... It gave us a much better base to operate from (bulk)." The strategic intentions may be summarized as follows: Firm A: • Menu • Bulk Firm B: • Menu • Bulk

Overall, in both of these mergers there was "a lot of complementarity" with respect to the particular practice area strengths that each firm was bringing to its particular merger. For example:

> "The difference between our two firms, and it was one of the things that made the merger attractive, is that our firm was very, very strong in litigation ... [Firm A] was much stronger in corporate. **So we each brought something different to the table.**"

Indeed, both mergers shared similar strategic intentions and were attempting to achieve similar outcomes. "It was a mutual thing" with each firm looking to find a similar sized firm "that was imbalanced towards us [in terms of services each provided]."

8.3 **Posture** (Approach Posture, and Investigation and Decision Making)

In both mergers the approach posture was friendly and it was the A firm that initiated contact with the B firm. The merger discussions took approximately six months in each case and can be broken down into three separate stages, as follows:

- identification of potential partner(s) and first approach;
- preliminary discussions; and
- the detailed negotiations and due diligence process.

Identification and First Approach

Table 8.4 presents a summary of the identification and first approach process for these mergers. Once it was established that both firms were interested in merging and that "it was a mutual thing," the firms started having preliminary discussions among the merger committees which were formed by each of the firms.

Preliminary Discussions

At this stage all firms were interested in determining if "conceptually" the merger made sense. For example, the discussion revolved around:

> "philosophy and what each firm wanted from the merger ... to see if there was going to be a synergy to allow us to expand our client bases beyond what they were in our firm and their firm. Could we develop this third client base outside ourselves? Why was this [merged] firm going to be different or unique? **If we can't drive this beyond what it is, is it worthwhile doing it?**"

> "First thing, the two firms started having discussions amongst [the merger committees] as to philosophy and what each wanted [from the merger]." "**The initial discussions were conceptual.** 'What's this new firm going to look like? **What are we going to create?**' It was important selling it to both sides because the first report we [the merger committee] brought back to the partnership was, 'Here's who we're talking to about merging. Here's what we perceive will happen. Do we go to the next stage now?' **So if it didn't go past the first level, it wasn't going to go anywhere.**"

> "Initially, there was limited exchange of financial information, identification of clients and there was an identification of partners. **If there was an obnoxious**

so-and-so that you weren't prepared to be a partner with; **if the firm is drowning in red ink**; or **major client conflicts**; it wasn't going to go ahead."

Table 8.4. Identification and First Approach

	Firm A	Firm B
Sym-1	Firm A had approached three other firms with a view to merging. All three merger "dances came to nothing." Two were principally for financial reasons. Firm A partners "were making more money on an average per partner basis ... the income disparity was too big." Firm A then approached firm B.	Firm B "had looked for probably two years prior to doing this merger at the possibility of doing something" and had had discussions with two firms which were unsuccessful. "They [firm A] were, as we were, annoyed that some of these earlier dances were unsuccessful. We didn't want to mess around and have this one not work. If it wasn't going to work, we said to each other, we're going to find that out quickly and not waste each other's time."
Sym-2	"In the two years preceding, we [firm A] sought a merger with a firm of comparable size ... We thought that to survive we were going to have to develop a broader client base and become more of a full service firm. We wanted to add departments to the firm ... We had actively pursued a merger with another firm but it was rejected because there was a big difference in philosophies in terms of billings, collections, and management styles." Firm A then approached firm B.	"We had come up with a sort of preliminary list and they [firm A] were certainly on the list in high regard." "The triggering event was when two of our partners had lunch with one of the partners on the firm A side and he said that firm A was kind of scouting around to do some growth and [one of our lawyers] who at the time sat on one of our committees known as the Strategic Planning Committee said, 'Well, we're kind of looking around to grow' and then they talked a bit."

Detailed Negotiations and Due Diligence

Once each of the firms felt that there was "a desire on both sides to do the deal" they advance to more detailed discussions. For example:

> "**We got past the first hurdle and into stage two which was more detailed** financial disclosure, more detailed client lists, a little more conceptual planning, what the name would be, very important."

> "We then went into **detailed discussions of things like, who's going to be here? Who's not going to be here?** What about the baggage problems? What about accounts receivable, accounts payable, the debts, the tax consequences? **So it was a two stage, if not three or four stage process.**"

These discussions centered on:

- → whether or not the merger made sense from a business perspective, or was there a 'strategic fit' between the firms? and
- → would they be able to work with the people from the other firm, or was there an 'organizational or people fit' between the firms?

Essentially, these were issues of compatibility of the firms' practices and people. Table 8.5 presents a summary of how the firms viewed their investigation and due diligence process. All firms were satisfied that their due diligence with respect to the "concrete things" was optimal but felt that they were deficient with respect to the "soft issues ... the people things."

Investigation of the 'Hard Issues.' In both mergers, the issues of governance of the merged firm, partners' compensation system, firm financing, and firm name were resolved by negotiation and compromise. For example, some more senior partners had to make some "personal sacrifices" to help fit the compensation grids together in each merger. However, in general, the firms involved in each merger were very similar in these areas. For example, with respect to firm governance and partners' compensation, there was generally a transitional agreement for the first two years post merger which ensured equal representation of the pre merger firms on the various committees of the new firm. After this transitional period:

"things were left to be voted on in an election, the same as it had before [the merger]."

"After that we would let the chips fall where they may."

Table 8.5. Investigation and Due Diligence Process

	Firm A	Firm B
Sym-1	• "Optimal on the concrete things." • Deficient on people issues	• Optimal on hard issues • Deficient on people issues
	"We should have had more exposure of the two groups of lawyers to each other so that we'd get a better sense of what marriage was like. **We needed to break down this best behaviour thing.** I mean we had meetings. We had some committees, some practice session meetings and stuff. You know you have a very small group of people who were in constant contact, that group of people committed to the merger, and everything they flowed back to you was positive. Then there's the rest and that's where the basic information for a decision is."	
Sym-2	• Optimal on hard issues • Deficient on people issues	• Optimal on hard issues • Deficient on people issues
	While there was a "very good exchange of information" on objective matters, such was not the case on "people issues." "One thing we didn't do enough of is, **we didn't have enough face to face meetings with the people who would be our future partners.** There were some key people, from both sides, who met on one or two occasions but it's very difficult from little chance meetings to really know what people are like, and I don't think we got enough feel for what certain people were like."	

Overall, in both mergers, all firms felt that the investigation and decision making process was:

"optimal on the concrete things. That's all pretty routine stuff, but we spent a huge amount of time on that."

"We did a good job of due diligence. There were no real surprises in terms of numbers, clients, hidden liabilities or anything of that nature."

The output, in both mergers, was a very comprehensive 'merger prospectus' which detailed, for example, how the new merged firm would be governed, the compensation system, how the various departments would be structured, and how the merger would affect each of the partners individually. For example:

"A detailed financial and information package was exchanged [prior to merger]."

"We put out a [merger] prospectus [prior to the merger]."

Investigation of the 'Soft Issues.' At the same time as the detailed talks were in progress, all firms organized various types of social events to expand the number of partners interacting across each of the firms. However, all of the firms felt that they only "saw a very small bit of the cap of the iceberg" with respect to "the differences in the personalities of the firms." For example:

"**It comes to that issue of the difference in the personalities of the firms, but we did a lot of that.** We brought people together. We had what we call section meetings, people who work in the same areas got together and spent hours together. We did a whole bunch of that. A lot more than any other firm that I've ever heard of. So I guess it's really a question of degree. How far do you go? It's like getting married. You can date somebody a long time, go to bed with them, even. **You're still never sure if the marriage is going to work because everybody is on their best behaviour.**"

"You go off to a cocktail party or you sit around a boardroom table and you discuss how you practice, and how this cultural issue would be solved and how that cultural issue would be solved, and **if people aren't entirely candid** with you, then, how from a due diligence point of view do you form your impression? I look back and I ask myself, **'How would we have found out?' I don't know.**"

8.4 **Position** (Integration Type, and Integration Dimensions)

The integration intent for all these mergers was symbiosis. For example:

> "Don't forget, we were merging two firms that each had about the same number of lawyers, so neither firm was absorbing the other."

> "You can call it **a true merger or a merger of equals** ... All the issues such as technology, law firm management and all that was dealt with as if you had two equals."

Integration Dimensions

Integration took place on all five dimensions included in the research framework: systems, staffing, structural, strategic, and cultural. In both mergers, "most of the issues came together relatively easily." Indeed, all firms were surprised "how similar we really were and the lack of impediments [to merging]."

In each of these mergers, because the individual firms were based in different office locations at the time of the merger, there was limited integration at that time. Full physical integration took place one year later, on average. At the time of the merger, there was some swapping of people between offices. All these movements were based on trying to ensure that people in the same practice areas or departments were located together in the same office location. Similarly, when the various office locations were consolidated in one location a great deal of attention was focused on ensuring that people were physically located in areas that would improve interaction within the office. For example:

> "It was very slow coming together until we were actually physically together ... We put lawyers from the predecessor firms in every other office, integrating them."

Overall, the approach to integration with respect to organizational systems, staffing and structure:

> "was pretty well **a best system approach.** We had to go through the various ways a firm was run and managed and reconcile our two systems and more or less we struck compromises. We tried to pick, kind of down the middle, in choosing the new formats. **It was generally half and half.**"

For example, from a staffing perspective:

> "we had duplication in the personnel department, accounting department, the library, reception, everything, and so those were tough decisions. **At the end of**

> **the day it turned out to be 50/50. We tried to keep the best of their people and the best of our people while everybody was very cognisant of, and no firm wanted to appear to be, dominating the other firm.**"

However, it was noted that during the integration process:

> "**if you make 100 decisions that sort of go that firm's way**, or that predecessor firm's way you have to make sure **you make about 100 decisions that go the other firm's way.**"

> "Some sacred cows on both sides got dismantled, got slain."

The organizational structure was largely unchanged, except that the various departments increased in size. From a strategic perspective there was a definite awareness within the firms that they should now market themselves as a full service firm attempting, where possible, to feed work to all areas within the firm. In addition, the need to create a "new personality" for the merged firm was recognized in both mergers. For example:

> "We had to shake the office up, spend money on moving people around to different offices, effectively spread everyone out so there was a true physical mix. **So that then they would get to know their new neighbour, start to deal with their new neighbour and gradually the new personality [of the merged firm] would unfold.** That's been happening but it's not a quick thing. Never will be, because every time you get a new group of junior lawyers, every time you get a bunch of new partners, they bring a new personality mixture into it anyway. **So it's never done.**"

Indeed, in both mergers, it was felt that "at the litigation level there weren't any significant differences but **we had greater difficulty integrating at the corporate level.**" Further, in each merger, approximately 35% of the partners in one of the predecessor firms left the partnership during the initial post merger years. Most of these departures were from the corporate area and consequently, in both firms:

> "**We're still working like hell** [three years later] **on the corporate/commercial side** ... the merger hasn't fully [met our goals there]."

However, at the time of conducting the research interviews it was felt by both merged firms that "those who were going to leave have left and those who have stayed will stay" and that "most people [now] accept it [the merger]. 'We're in it, let's make the best of it.'"

8.5 Process

The integration process varied according to one's position in the firms' hierarchy. There are two main levels in the hierarchy of a law firm: professional staff (partners and associate lawyers), and secretarial and support staff. Overall, very little thought was given pre merger to the impact of the merger on the secretarial and support staff. Indeed, at the secretarial and support level it was felt that the merger process, in both mergers:

> "was very poorly handled because we didn't do a lot of communicating to them ... **The staff were feeling agitated because they didn't really know what was going to happen.**"

> "There was a lot of apprehension in the [secretarial and support] staff."

In contrast, the impact of the merger on the professional staff "was all sorted out a long time in advance of the merger. **The lawyers knew where they were going** [post merger]." In particular, at the partner level, the 'merger prospectus' fully set out the **content** and personal implications of the merger for each partner prior to voting on it. Consequently, for the partners, it was largely a case of "**business as usual on [merger day].**"

The **process** of integration took place post merger. For example:

> "We went to work quickly ... there was a conscious effort to make sure that there was a blending of the old two firms on all the committees ... we started having departmental meetings, corporate, real estate and litigation ... some partners' conferences and a few social functions."

As a result, "the morale of the partners and associates was fairly good because a lot more time was spent on them." However, both these mergers encountered "people problems" which resulted in the departure of a number of partners from each merged firm, as noted previously. These people problems existed within one of the merger partners prior to the merger but were not uncovered by the other merger partner during the negotiation process, despite determined attempts in both mergers to ensure that there would be a good 'people fit' between the firms. Consequently, these people problems were, in turn, inherited by the merged firm. Indeed, it was recognized that these problems were "management issues ... which had been brewing for some time," that had existed prior to the merger, and were not "merger issues" *per se* but they were problems that did not get resolved until after the merger occurred.

In the interest of confidentiality, the discussion of the nature of the people problems will not be attributed to a specific merger. In the first instance, the problem was attributed to a group of people who had "a really different vision of what the firm should be" ... "they always seemed to be on the outside" ... "they were not an easy group to work with." Their departure was seen as "the removal of a horrible hazard [to the merger]." In the second instance, it was acknowledged that "we were told that theirs was a more volatile office than ours. We just didn't appreciate how different." In both firms, management eventually ended up saying to these people:

> "**Either climb on board the merged ship or abandon ship.** You pick what you want to do. If you're not in support of us and want to be part of the solution, then we think you should leave ... either **F**it **I**n or '**F***oxtrot* **O***scar,*' **FIFO.**"

It should be noted that the management group in one of these mergers was a lot more forceful in following through than in the other merger. In hindsight, informants in both mergers posed a similar question with respect to these people problems:

> "**How do you really find out about the people** [pre merger]" if
> "**people aren't entirely candid with you**" or if
> "**everybody is on their best behaviour?**"

8.6 Performance

Table 8.6 presents the scores on the performance measures for each of the mergers. The net income per partner measure was based, for consistency of comparison, on the average NIPP for year three post merger. The employment figures were based on the number of professionals employed three years post merger. Specific numbers were provided for measures 1 and 2 but are not included here in the interests of confidentiality. The scores for measures 3 to 5 were based on the averaged responses of the informants, by firm. The 'summary evaluation' rating represents the researcher's relative evaluation of each of the mergers based on a detailed knowledge of their outcome.

In both mergers, all sides involved felt that their merger was successful. For example:

"This firm has never been more profitable." "Even considering that there's a recession, last year [the third year post merger] was the best year we ever had. I think it comes down to having a very diversified practice now. The diversification of the practice has really helped through the recession and that's a good strength."

"The merger has given us more depth and more specific kinds of experience that we didn't have before."

Table 8.6. Symbiosis Type Mergers' Performance Scores

	Sym-1		Sym-2	
	Firm A	Firm B	Firm A	Firm B
1. Change in net income per partner	Increased		Increased	
2. Change in number of lawyers	Increased		Reduced	
3. Change in client service	Slightly better	Slightly better	Slightly better	Slightly better
4. Change in professional satisfaction	Slightly better	Slightly better	Slightly better	No change
5. Achieving merger goals	Half	Half	Half	Half
Summary evaluation	Moderately Successful		Moderately Successful	

However, in each case it was also felt that due to the 'people problems' the mergers had yet to achieve their full potential. For example:

"The next few months should be a period of surging on in whatever direction, or consolidation, that is the basis for going forward ... talking and agreeing on where the firm is going."

"The personalities of the partnerships ... created an obvious need to try and develop a new personality for the firm. It's not there yet."

8.7 Discussion

In this section, the similarities between the mergers will be first discussed and then the problems and the reasons for these problems will be examined. As is evident from the previous discussion there were many similarities between these two symbiosis type mergers. For example:

→ The dominant **motivation** was risk and uncertainty reduction, or defensive reasons. They were "mid size firms ... to survive we're going to have to develop a broader client base and become more full service."

→ The **strategic intent** for all firms was a mixture of menu and bulk. "Each [firm] brought something different to the table."

→ In both cases, the **due diligence process** on "concrete things" was optimal but the "soft issues ... the people things" was deficient. This occurred even though all firms recognized the need for good people fit and organized a number of activities to provide social interaction between the firms. Again, in both mergers, people were not "entirely candid" and were "on their best behaviour" during these meetings.

→ In each merger the respective firms shared very similar **organizational systems,** for example, governance and partner compensation systems. "There were no issues where there was a lot of hard pounding or where people got stuck on things."

→ Overall, in both cases, it was felt that the merger had achieve approximately half of the **merger goals** that each of the individual firms had for the merger. The shortfall in both mergers was with respect to the corporate/commercial department.

→ This shortfall was attributed to "**people problems.**" In each case, these problems existed prior to the merger in one of the predecessor firms and were inherited by the merged firm.

→ These people problems resulted in both merged firms experiencing significant **partner 'fall-out'** during the first three years post merger. It was only then that the firms felt that they could move on and fully capitalize on the true potential of the merger.

The problems that were encountered in these mergers were attributed to a failure to uncover the "people problems" associated with each merger and revolved around the concept of 'validating a merger partner.' This involved verifying that there was both a strategic and organizational fit between the firms. In both cases it was felt that the process of establishing that there was a strategic fit between the firms was a relatively straight forward and objective task, requiring an analysis and comparison of lawyers' practice areas and specialties within each firm. This was not problematic. Indeed, in both mergers the output of this process was a very detailed 'merger prospectus.'

The second aspect of fit was organizational fit. Similar to absorption type mergers, and as previously discussed, the concept of 'organizational fit' had two major parts to it and each of these parts had a number of sub parts, as follows:

→ Key organizational systems:
- governance system
- partners' remuneration system
- firm financing

→ People fit:
- social fit
- professional fit
- practice style fit

Key organizational systems. As discussed previously, in each merger the key organizational systems of the individual firms "were unbelievably similar." As a result, the organizational systems agreed on for the merged firm did not require any changes that might "cause a revolution [by the partners] in either firm."

People fit. From a 'people fit' perspective, in each case, all firms were very aware of the need to ensure that "the partners ... feel comfortable with their counterparts on either side." Essentially, both the social and professional fit concerns revolved around the issue of ensuring that the merger involved people that were comfortable interacting socially and who trusted each other to do quality work. In each of these mergers it was felt by both sides that this was indeed the case.

The third aspect of people fit, 'practice style fit' or lack thereof, was the main source of the people problems in both mergers. In each case there was a group of partners whose practice style differed from the dominant practice style of the rest of the partnership. Based on the number of departures from each merger, this group represented over 15% of the partners in the merged firm. These problem people "had a really different vision" of how a firm should operate and, as a result, also had a different style of practicing. Essentially, these people operated largely as "sole practitioners ... overhead sharers" and were not interested in building a firm concept, were not "here for the firm." For example:

> "They didn't see the firm as an operation as, say, somewhat humane where you perhaps employed people and gave them a chance to do things and develop. They weren't keen on marketing, that was extra spending that wasn't necessary. They weren't keen on a lot of administrative services that were there ... **They wanted to make money, the most money they could make, and any dollar that wasn't going into their pocket was a dollar that had to be looked at. So it was a seriously different view [of the firm].**"

In both mergers, informants used similar words to describe these people. For example:

> "They were constantly bickering and fighting and nonsense."

> "A clump of people who were the complainers and moaners ... who, no matter what you did, no matter what you said, would never be happy."

The result of the presence of these people was that the firms were delayed in fully capitalizing on the true potential of their particular merger. The difference between the two mergers was that in one case the problem people left largely of their own volition but in the other case, while some left of their own volition, others "were asked to leave."

Indeed, in the firm that took a more proactive approach to the problem, the first post merger managing partner commented in hindsight that:

> "The single biggest thing I would have done differently is, **I would have been much more forceful and less tolerant of unacceptable partner behaviour** ... I was far too polite for too long ... And it would have made my life and everybody else's life a whole lot easier much quicker ... **I wouldn't have given myself as much time to quote 'have the necessary credibility to take tough steps.'"**

Figure 8.1 presents a summary of the above discussion, displaying some of the key aspects of the merger process that were evident in these two symbiosis type mergers. Also presented is the 'overall relative success' of each of the mergers compared with a dimension referred to as the 'level of common enterprise' exhibited within the new merged firm. Essentially, the 'level of common enterprise' represents the nature of the relationship within the merged firms according to whether there is still an "us and them" as opposed to a "we" orientation and is based on the researcher's relative assessment of each of the mergers. Indeed, in both cases, the firms were still "trying to implement a real [single] firm concept."

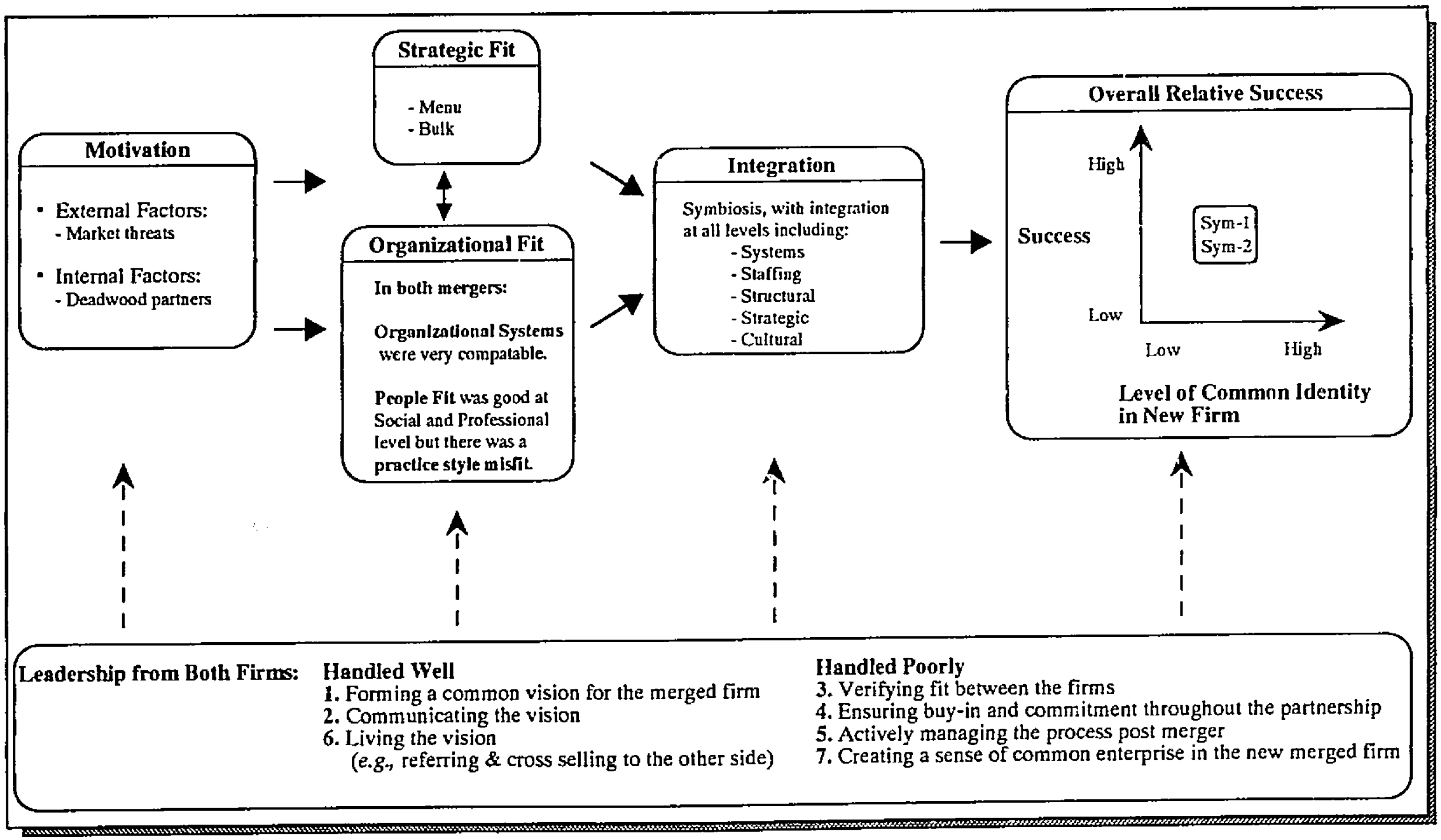
In Conclusion

Two points are worth noting here. First, the partners on the various negotiation committees in both mergers were very compatible at all levels. For example:

> "There was a desire on both sides to do the deal and, in fact, **they were people who were very comparable in terms of their philosophies or their wants** and, because of that, they **were able to accept ideas as they came along and could get you over the hurdles** [that came up during the merger negotiations]".

However, this compatibility masked the existence of people problems within one of the partnerships in each of these mergers. This was despite definite attempts in each merger to expand the interaction of partners beyond that of the negotiation teams. In both cases it was felt that there was a lack of candor and that people were on their best behaviour during these interaction meetings and, consequently, it was not until after the merger occurred that the people problems became evident. In both cases, informants were left asking a similar question:

Figure 8.1. Key Aspects of the Merger Process in the Symbiosis Type Mergers



> "In hindsight, the question is, 'How do you really find out about the people? **You can't live in their back pocket for a month watching how they interact with one another day to day.**"

The second point worth noting has to do with leadership. In both of these mergers there was a lack of strong leadership in the initial years post merger. For example, in one case the problem people issue was only resolved when these people essentially chose to leave voluntarily. In the other case, and as discussed previously, it was two years before conscious efforts were made to deal with the problem.

In both cases it was felt that because these mergers involved firms of equal size, all concerned wanted to try and ensure that no one firm dominated the other firm. As a result, the people in positions of authority in the merged firm were cautious and slow to use that authority, feeling that they first had to build the "credibility [with my new partners] to do some tough things." In both mergers, this lack of prompt action resulted in the merged firm being delayed in achieving the full potential of the merger. It was only with the removal of the people problems, or "horrible hazard," approximately three years post merger that these mergers were in a position to fully capitalize on their potential.

In summary, in both mergers there was a sound underlying business rationale for the merger and a good strategic fit. In addition, they had good people fit at the social and professional level. However, both firms had some 'practice style' misfit which took approximately three years to overcome. Indeed, one informant commented that:

> "[A law firm consultant] told us it was going to be **three years of post merger hell. We didn't believe him but that's the way it has turned out to be.** It's starting to settle down now [over three years later]."

CHAPTER 9 - COMPARISON ACROSS THE THREE MERGER TYPES

In this chapter the common patterns found across the three merger types of preservation (Pres, n = 5), absorption (Abs, n = 3), and symbiosis (Sym, n = 2) will be discussed together with the key unique aspects of each merger type (Miles & Huberman, 1994). This discussion will address the following topics: motivations for these mergers; timing of the negotiations; strategic fit; organizational fit; merger integration; and leadership. To conclude, the critical findings of this research will be presented.

9.1 Merger Motivations

The motivations for these mergers, presented in Table 9.1, were based on a mixture of external or market related factors, and internal factors. In seven of the ten mergers, the dominant motivation was growth "where growth serves the client better ... we don't subscribe to bigger is better. What we want is quality all the way through." In the other three mergers the primary motivation was defensive in nature with the firms believing that they were exposed and that a merger "was necessary for survival."

Table 9.1. Dominant Motivations in Each Merger

	Preservation	Absorption	Symbiosis
External Factors:			
Market driven growth	1A 2A 3A 4A 5A 1B 2B 3B 4B 5B	2A 3A 2B 3B	
Market threats	3B	1A 1B	1A 2A 1B 2B
Internal Factors:			
Firm stability issues	1B 2B	1B 2B	2B

Further, five of the firms involved in these mergers felt that a merger would help deal with some issues related to the stability of their partnerships. These issues included leadership succession problems, and problems with 'deadwood' partners and difficult partners. In this regard, the merger was seen as "an external trigger event" which allowed firms to do things that "might not have been possible otherwise." Essentially, prior to merging each firm dissolved its individual partnership and then joined the new partnership of the merged firm. This dissolution, then, allowed firms to deal with internal partnership problems "through the vehicle of the merger."

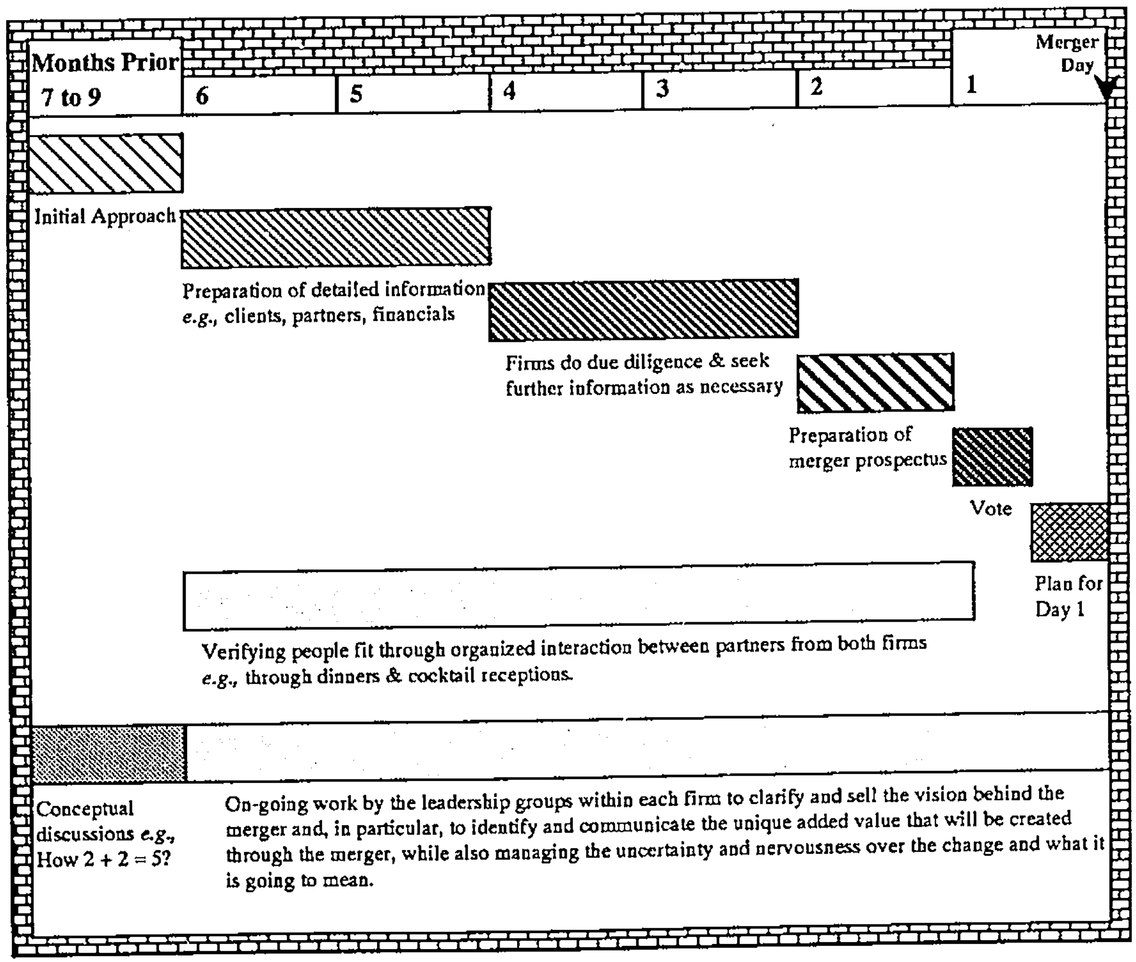
9.2 Timing of the Merger Negotiations

Figure 9.1 presents a summary of the general timing and major aspects of the merger approach, negotiations, and due diligence process that was evident in most of the 10 mergers. It should be noted that while there was a specific merger document prepared in each merger, for example, a new or revised partnership agreement for the merged firm, it was only in four of the mergers that a detailed merger prospectus was prepared (in two absorption and in both symbiosis types). The typical contents of such a prospectus was as follows:

➔ For each individual firm:
- History of firm
- Partner profiles
- Major clients
- Historical financial information and comparative analysis
- Billings and hours analysis
- Personnel

➔ For the merged firm:
- Merged firm financial projections
- Governance proposal
- Partners' compensation proposal
- Partners' compensation criteria
- Capital structure and equalization plan
- Plan for integrating the practice departments
- Plan for integrating the firms
- Technology integration plan
- Conflicts report
- Business development plan
- Merger documentation

Figure 9.1. General Timing of the Merger Approach, Negotiations, and Due Diligence Process



Also, it should be remembered that some firms did a better job than others in performing the tasks presented in Figure 9.1.

9.3 Strategic Fit

These various motivations led firms to seek merger partners where there would be both a strategic and organizational fit. From a strategic fit perspective, in all 10 mergers the firms wanted to ensure that "there was a clear business rationale for the merger." There were three dominant strategic orientations involved in these mergers. 'Dot' or geographic expansion (*i.e.*, another 'dot' on the map), 'Menu' or expanding the range of services available to clients, and 'Bulk' or reaching a certain size or "critical mass" which would allow a firm, for example, to invest in and develop new services for the future. Table 9.2 presents a summary of the various strategic intentions found in these mergers.

Table 9.2. Strategic Intentions in Each Merger

	Preservation	Absorption	Symbiosis
Dot	1A 2A 3A 4A 5A		
(geographic expansion)	1B 2B 3B 4B 5B		
Menu	2A	1A 2A 3A	1A 2A
(range of services)	1B 2B 3B 4B	1B 2B 3B	1B 2B
Bulk		1A	1A 2A
(critical mass)	1B 2B 3B 4B	1B 2B 3B	1B 2B

The strategy behind all the mergers of a preservation type was the creation of a "national firm." Each of these five mergers involved a larger full service firm that wanted to have an office in a different province in order to better serve its clients. Their main strategic intent was Dot. For the smaller firms in these mergers there were secondary strategic implications of both a menu and bulk nature. The exception here was Pres-5B which was already full service.

The strategy behind the symbiosis mergers was "together we are going to create a well rounded firm." Therefore, menu and bulk issues were prevalent in these cases. A similar strategy was behind the absorption mergers, except that these mergers involved firms of different sizes with, in each case, one firm at least twice the size of the other firm. The strategic intent for these larger firms was primarily menu. They were merging in order to add on or strengthen a particular practice area. For the three smaller firms the merger satisfied both menu and bulk needs. Overall, in the absorption and symbiosis mergers, firms were looking for merger partners that "were imbalanced towards" each other from a services offered perspective. That is, they were looking for a firm where there was a complementarity in the services offered by each firm.

In all 10 mergers, while different informants used somewhat different terms in defining what they were trying to get from the merger, the dominant intention was to "make 2 + 2 = 5, not 4." It was intended that this would be done through "knowledge leverage" which would be achieved largely through cross selling and referring within the new merged firm. Further, the firms who had achieved the most from their particular mergers had created a new identity that transcended the separate identities of the individual firms. Indeed, it might be stated that they had created a firm that was the '5' and not just '4.'

9.4 Organizational Fit

As previously discussed, the concept of organizational fit in law firm mergers and as elicited in this research has at least three parts: general fit, organizational systems fit, and people fit.

General Fit

Client conflicts. The general fit issues were common to all 10 mergers. In all cases, once it was felt that the merger made business sense and that there appeared to be some commonality in what each side wanted from a merger, one of the first issues that was discussed was client conflicts: conflicts of both a legal and business type. Conflicts had caused the cessation of merger talks for at least five of these firms in other negotiations and, indeed, some conflicts existed in eight out of these ten mergers but were not serious enough to cause the negotiations to be abandoned. In each case, the choice of which client to retain was based on what would be best for the future merged firm. These conflict discussions were often the first instance where firms had to be "flexible and compromise," providing each side with an indication of how the negotiations were likely to proceed.

Merged firm name. The second general fit issue was agreeing on the name for the merged firm. In five of these mergers this was "a non-issue and easily agreed," whereas in the other five it was "a deal breaker." In Pres-1, Pres-2, Pres-3 and Pres-4 it was not a issue because the smaller and always younger firms recognized that "the name with the national recognition" was the larger and more established firm and, consequently, they were happy to adopt this name. Similarly, in Abs-3, the smaller and younger firm acknowledged that the larger firm's name had much greater market recognition and accepted it as the name for the merged firm.

In contrast, in each of the other five mergers the issue of name "was a huge issue." It was felt by all of these firms that their "very identity" as a group was in their name and they were, therefore, "loath to simply give it up." Further, the smaller firms in the Abs-1, Abs-2, and Pres-5 mergers felt that "by having a mixed name, then, right away it looked like a merger and not like a takeover. The new name is symbolic of the fact that it is a merger, it sets the right tone." In a similar vein, the issue of name was most troublesome in the symbiosis mergers, which involved firms of equal size. Of all the issues that were discussed during the negotiations, this was the one that was more emotional than rational in nature. In each case this issue was eventually resolved through negotiation, compromise, and some novel rationalizations. For example:

> "We wasted four meetings on nothing but, 'Is this firm going to be A & B, or is this firm going to be B & A?' A & B was finally agreed upon based on the

rationale that none of the founding names in the B firm were still alive, whereas some of the founding names were still involved in the A firm."

Organizational Systems Fit

Firm governance. This was an issue that was discussed early in the merger talks and was rarely problematic or contentious. Governance arrangements varied by merger type. In general, in the preservation mergers, operational and local office issues were dealt with by the local office which had its own managing partner and managing committee. National issues and strategic issues were dealt with by a national committee, and each region had representation on this committee.

In both the absorption and symbiosis mergers there was generally a transition arrangement that ensured that for the first two years post merger there would be proportional representation for each firm on the key committees, for example, executive committee, management committee, and compensation committee. After that time, membership reverted to firmwide elections with no reference to predecessor firms. In three of these cases the firms had joint managing partners during this transition period.

Partners' compensation grids. The average net income per partner and the partners' compensation grids of each firm were always discussed early in the merger negotiations. Indeed, large discrepancies in either of these had been the cause of many of these firms breaking off discussions in previous merger negotiations. In five of the mergers, there were a few partners in one of the firms who agreed to accept a reduction in their remuneration in order to ensure that the grids were aligned. In every case, they were the highest earners and senior partners in their firms. For example:

> "We established a grid prospectus and **my personal compensation came down significantly in order to make this thing work** because I thought there were good future prospects, which has definitely proven true."

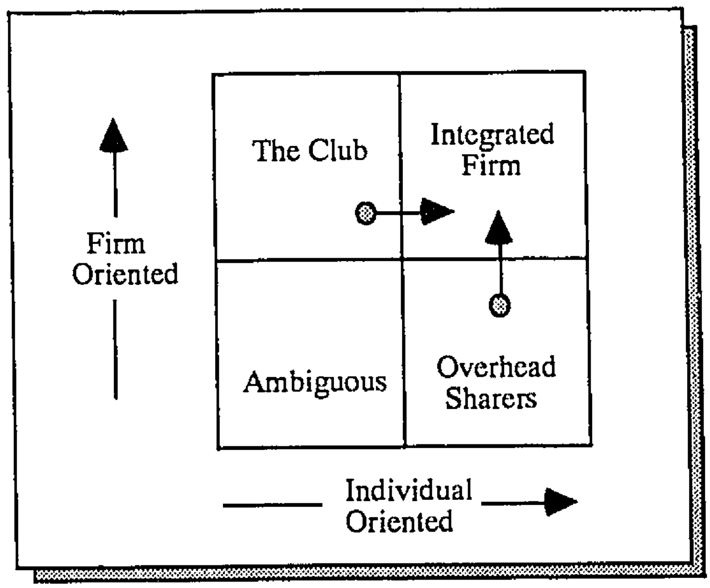
Partners' compensation criteria. Similar to the grid issue, partners' compensation criteria or "how we split the pie" was discussed early in the negotiations. Indeed, the compensation criteria were seen as a major determinant of a firm's character by defining what was valued in the firm. Variation in the criteria can range along a continuum from being very firm oriented where partners are evaluated on their overall contribution to the firm as a whole, to being very individual oriented where partners are evaluated based largely on the amount of fees that they have billed and collected. In this regard, Figure 9.2 presents four basic stereotypes of firms when seen as a reflection of their partner compensation criteria.

Consequently, firms were very aware of the need to choose a merger partner that shared similar views on what should be rewarded when it came to 'splitting the pie.' Indeed, partner compensation criteria were very similar in all but two of these mergers, requiring only minimal changes which were easily agreed upon. In the other two mergers, one absorption and one symbiosis, a new set of criteria was developed which was based on a compromise between the individual firms' prior formulas and agreement was also easily arrived at. In both cases, one firm was more firm oriented and the other was more individual oriented and the new criteria represented a shift to the 'integrated firm' orientation as depicted in Figure 9.2. Further, as a transition arrangement, in both symbiosis mergers the firms agreed that for the first year post merger they would first allocate the merged firm's profits between the predecessor firms and, then the individual predecessor firms' allocation committees would independently determine their partners' compensation for that year. For example:

> "We kept the compensation split separate for one year. And **by the end of that first year you'll know each other better and you'll trust each other better.**"

Firm financing. The issue of firm financing has been discussed in each of the three preceding chapters and Figure 6.1 presented a comparison of a debt financed firm versus an equity financed firm. This issue is considered important in assessing fit between firms not because most firms identified it as such, but because they did not. Indeed, most of the firms acknowledged that they "didn't spend a lot of time on financial consolidation issues." However, in the three absorption mergers the issue of how the merged firm would be financed proved very contentious (*e.g.*, "that has been the biggest administrative hurdle") because in each case one firm was mainly bank debt financed and the other was financed largely by partners' capital. The merged firm financing was a compromise, but even so the partners in one firm were required "to contribute capital to the business." Further, firm financing was not problematic in the preservation mergers because in every case the larger firm had a greater proportion of bank financing than equity financing and as a result the partners in the smaller firms received repayments from their capital accounts. In the firms which encountered difficulties with respect to firm financing, the issue continued to provide a source of ammunition to use against the merger for a number of years post merger.

Figure 9.2. Partners' Compensation Criteria and Firm Character



People Fit

In all of these mergers people were very aware of the need to ensure that their new partners would be "people you can work with." Indeed, seven of the firms involved in these mergers had previously aborted discussions with other firms because they felt that "we would never live with those guys." The issue of people fit had three identifiable parts to it: social fit, professional fit, and practice style fit. Table 9.3 presents a summary of these three aspects of people fit in each merger.

Social fit. This simply refers to whether or not one was happy to interact at a social level with partners from the other firm. Pres-2 was the only merger where there was poor social fit. For example:

> "There was a clash of personalities. There were cultural differences, chemical differences, and style differences [Firm A]."

> "The partners at large in firm A generally would never make any of us the subject of a Sunday evening dinner invitation."

In a similar vein, an informant from one of the symbiosis mergers recounted why they broke off merger negotiations with a firm:

> "We had had quite a number of meetings between management groups, a couple of other meetings between some finance groups and stuff like that. Then we had a dinner party and **people did not click at all. Our guys came back so turned off from the function that they said, 'No way, we're not interested. It doesn't matter what money or what other benefits you say are involved, we do not like these guys. We don't like enough of them.'** Our guys were just totally turned off and it was dead, the merger was dead."

Table 9.3. People Fit in Each Merger

	Social	Professional	Practice Style
Preservation:			
Pres-1	Yes	Yes	N/A
Pres-2	No	Yes	N/A
Pres-3	Yes	Yes	N/A
Pres-4	Yes	Yes	N/A
Pres-5	Yes	Yes	N/A
Absorption:			
Abs-1	Yes	Yes	Yes
Abs-2	Yes	Yes	Yes
Abs-3	Yes	Yes	Problematic
Symbiosis			
Sym-1	Yes	Yes	Problematic
Sym-2	Yes	Yes	Problematic

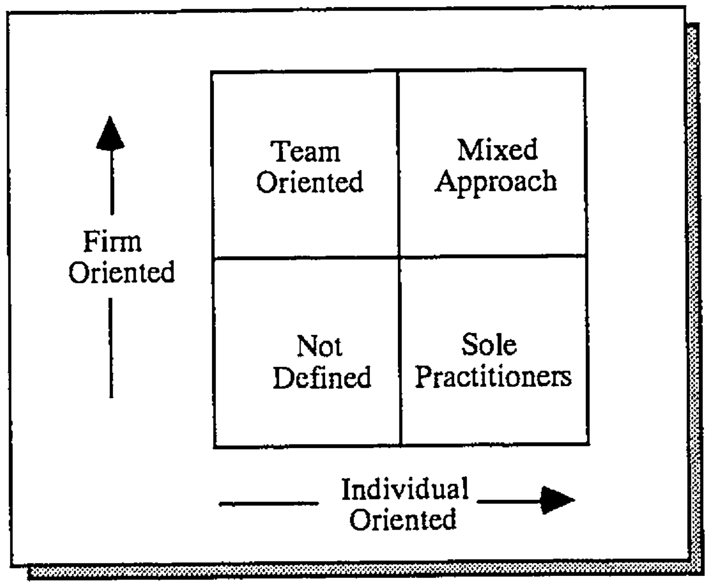
Professional fit. This refers to whether or not each firm felt that the other firm did as good quality work as they did. This was considered important, for example, due to the fact that partners are 'jointly and severally liable' for all debts of the partnership and, consequently, do not want to practise with people who might unduly expose them. The result of a good fit here was that both firms would have professional respect for each other. The question of professional reputation was examined by all of the approaching firms even before they approached the other firm. This was generally done by seeking information about the other firm from sources inside and outside their firm, trying to establish what sort of professional reputation the other firm had. Again, this was an issue that had caused some of these firms not to approach certain other firms because they had received feedback that questioned a particular firm's professionalism. In all of these mergers it was felt by both sides that there was a good professional fit. For example:

> "Professionally it was a total fit. There was always mutual professional respect on both sides. There was no question that we thought they were at the highest level of practice in their profession. And they similarly looked at us and said the same thing. They were a very professional enterprise and so **there were no professional problems.**"

Practice style fit. This refers to how partners in a firm practice and interact with each other. There was a continuum that was evident across all of these mergers of different approaches to practising within a firm. This continuum was firm orientation to individual orientation and is presented in Figure 9.3. The continuum parallels the partners' compensation criteria presented in Figure 9.2.

Practice style fit was not as relevant in the preservation mergers because the firms did not come together in shared offices and, consequently, the partners did not have to interact on a daily or regular basis. Practice style fit was the major cause of the problems encountered in both of the symbiosis mergers and in one of the absorption mergers. In all three of these cases, "the merger was really supposed to happen on the corporate side." However, in each case the corporate departments of the merging firms had different practice styles: one side was team oriented and the other was sole practitioner oriented. Indeed, in all three cases this was a reflection of the nature of the clients with whom each side was dealing. The team oriented side, in general, was dealing with larger, more institutional type clients that required a team approach to their work, and in the sole practitioner oriented firms the clients tended to be more entrepreneurial in nature, largely requiring a one-on-one relationship with their legal advisor.

Figure 9.3. Practice Style Types



These different styles made it difficult for the firms to capitalize on the benefits of merging these two groups as they tended to operate as "two solitudes" with little interaction between them. For example:

> "The real merging aspect was in the business department. The two business departments were quite a mix of personalities and practices and clients and strengths and so on. However, the business group [in firm B] was very heterogeneous, **a loose affiliation of isolated lone rangers and the so-called 'trying to team' approach hasn't been effective"** or appropriate.

> "**We're still working very hard on the corporate/commercial side.** The merger hasn't fully solved the problem in that sense."

> "At the litigation level there weren't any significant differences but **we had greater difficulty integrating at the corporate level.**"

As a result, while there was a 'social fit' and a 'professional fit' in these three mergers there was not a 'practice style fit' and the firms were left with the problem of:

> "**Where do you get the synergy?** We've actually had to really work at finding opportunities to cross sell and even then it's really tricky. **It's been a struggle.**"

Further, adding to this problem was a lack of strong leadership in each of these three mergers, the implications of which will be discussed below. Essentially, then, this aspect of practice style fit related to a difference **within a practice area.**

Another aspect of practice style fit relates to differences **between practice areas,** for example, between the litigation and corporate departments. These differences exist in all full service law firms and most firms learn to deal with them. However, where a merger is for menu type goals, then, by definition, one is trying to bring together firms with different practice areas and such a combination is going to add another dimension of potential difference. For example, in one of the absorption mergers it was noted that:

> "There were different approaches to the way things were done [in each firm] because **one was for the most part litigation driven** and **the other was for the most part business or commercial driven.** So you had different underlying philosophies, and **with most every decision you were just coming at it from two different sides of the coin.**"

9.5 Integration

Table 9.4 presents a summary of the average level of change in the five integration dimensions according to merger type. In general in the preservation mergers, the smaller or B firms retained operational autonomy for their local offices. There were some changes to their administrative and organizational systems in order to bring them in line with those of the larger, or A, firm. Also, strategic planning was centralized but with input from the local offices.

In the absorption mergers, due to the size differences of 3:1 in two of the cases and 2:1 in the third, it was felt that the smaller or B firms had to go through the biggest changes in these mergers. Indeed, when compared with the symbiosis mergers, this size differential made it easier for the absorption firms to come to an agreement on many of the negotiables in their mergers. For example, the merged firms retained the administrative systems of the larger firm in the merger as both sides saw that this would result in the least disruption and made the most sense from an economic perspective. However, in the two more successful absorption mergers, the larger firms were also aware of and sensitive to the needs of the smaller firm. For example:

"**They were losing their identity** and they knew it and so **you wanted to make them feel you were welcoming them and we wanted them to be part of it.**"

"It was definitely an acquisition but we never used that term. **We always called it a merger.**" [Firm A informant]

In contrast, in the symbiosis mergers "everything had to be negotiated." Indeed, in these cases, it was noted that it was important to ensure that no single firm was seen to be dominating which, in practice, meant that each firm experienced a high degree of change on all integration dimensions.

Table 9.4. Integration Dimensions and Level of Change

	Preservation		Absorption		Symbiosis	
	A Firms	B Firms	A Firms	B Firms	A Firms	B Firms
Systems	Low	High	Medium	High	High	High
Staffing	Low	Low	Medium	High	High	High
Structure	Low	Low	Medium	High	High	High
Strategic	Low	High	Medium	High	High	High
Cultural	Low	Low	Medium	High	High	High

9.6 Leadership from Both Firms

Leadership has been left until last in this discussion, although in all cases it pervaded the whole merger process both pre and post merger. It will be argued that the success or failure of these law firm mergers was largely attributable to the quality of leadership in the various firms. The whole concept of leadership is ambiguous in professional service firms (PSFs) where the emphasis is on collegiality, peer evaluation, and autonomy. Indeed, there is not the same institutional recognition of positional authority as there is in, say, a commercial corporation (Hinings *et al.*, 1991). However, in each of these mergers, informants identified leadership as a critical component in their outcome.

It is the ambiguous nature of leadership in PSFs that accentuated the role of leadership in these mergers. In essence, in each merger there was either one individual or a small group of individuals who were seen as the "merger architects" or the people driving the merger. In all cases these were senior and powerful partners within the firm who, in the absence of more hierarchical authority systems, were relatively free to initiate and advance a merger strategy. Further, these were the people who led the merger strategy, who led the merger talks and, in turn, had to take responsibility for their success or failure. It should be noted that in all but perhaps one firm, these people were working for the overall good of their firm and not for selfish reasons. Indeed, in five of the firms these people made personal financial sacrifices in order to fit their firms together.

Table 9.5 presents a summary of seven important leadership behaviours or leadership tasks that were identified as contributing to the success or lack of success in the 10 mergers, based on this researcher's evaluation of the research data. These seven behaviours are presented in a chronological fashion based on when they were evident during the merger process. However, all of these behaviours are interrelated and tend to feed on and reinforce each other. The combination of all seven represents a strong and powerful contribution to the success of a merger. In this table a '√' rating means a sufficient, or more than sufficient, level was present in the merged firm.

1. Forming a <u>Common</u> Vision for the Merged Firm

This behaviour was present in all 10 mergers and was related to each merger having a sound underlying business rationale that was mutually agreed on. In all 10 mergers both sides were only interested in proceeding if they could identify how the merger would make "2 + 2 = 5, not 4." Indeed, it was felt that the strength of this "common vision":

Table 9.5. Important Leadership Behaviours

	1. Common Vision	2. Communicate Vision	3. Verifying Fit	4. Getting Buy-in	5. Managing Post Merger Process	6. Living the Vision	7. Create Common Enterprise	Outcome
Preservation:								
Pres-1	√	√	√	Deficient in firm A √ in firm B	Deficient in firm A √ in firm B	Deficient in firm A √ in firm B	Deficient in firm A √ in firm B	Mod. Successful
Pres-2	√	Deficient	Deficient	Deficient	Deficient	Deficient	Deficient	Failure
Pres-3	√	√	Deficient in firm A √ in firm B	Deficient in firm A √ in firm B	Deficient in firm A √ in firm B	Deficient in firm A √ in firm B	Deficient in firm A √ in firm B	Mod. Successful
Pres-4	√	√	√	√	√	√	√	Very Successful
Pres-5	√	√	√	√	√	√	√	Very Successful
Absorption:								
Abs-1	√	√	√	√	√	√	√	Very Successful
Abs-2	√	√	√	√	√	√	√	Very Successful
Abs-3	√	√	Deficient	Deficient	Deficient	Deficient	Deficient	Low Success
Symbiosis:								
Sym-1	√	√	Deficient	Deficient	Deficient	√	Deficient	Mod. Successful
Sym-2	√	√	Deficient	Deficient	Deficient	√	Deficient	Mod. Successful

Key: √ = Present; Mod. = moderately.

> "will ultimately determine whether a merger will work or not. **It's like a catalyst in a chemical process, if it's not there, the process won't work.**"

Also, as noted previously, it was the "merger architects" or the people who were most strongly identified with pursuing a merger strategy who jointly developed the vision for the merger. For example:

> "There was one particular individual who was very aggressive about expansion. He was very keen to push out on all fronts and he ended up leading the merger talks."

> "The key to it is you've got to have the key people. **The leaders in the separate sides have got to have enough common ground that they have a view of where things are going.**"

2. Communicating the Vision within each Firm

Early in the merger process it was these "merger architects" who had to report back to their full partnerships, communicating the benefits of the merger or the vision for the merger and seeking approval to proceed with further negotiations. If the vision was adequately communicated, then at this stage each firm appointed merger committees to carry on the detailed negotiations. For example:

> "There was a vision and there was a catch phrase, **'The whole is stronger than the sum of the two parts.'**"

However, in Pres-2 there was little communication between the primary negotiator and the rest of the partnership. In retrospect it was acknowledged that:

> "**You had a very isolated process** where there was very little input [from the partners at large in firm A] ... He ran it [the merger negotiations], it was a one man band."

3. Verifying Fit between the Firms

All firms were aware of the need to ensure that there was a good fit between the firms. However, in four of the 10 mergers it was acknowledged post merger that a poor assessment had been made of this fit. There were three main reasons why these firms felt they had carried out an inadequate due diligence on the "people issues":

- inadequate partner interaction across the firms,
- masking effect of high people fit between the negotiating teams, and
- the 'best behaviour syndrome.'

The first reason is simply that no serious attempt was made to check the people fit between the firms. This occurred in Pres-2 where the negotiations were largely led by one person from firm A and there was very little interaction between any other partners in firm A and the partners in firm B. As a result, the lack of people fit was not recognized until after the merger was signed. For example:

> "We met them all [firm B partners] for the first time and unfortunately I don't know what was going on in [the key negotiator's] head but immediately there was no connection ... different types of people. **We should have had more meetings beforehand, and in this case there were basically none.**"

The second problem was evident to some extent in all four mergers that had people fit problems. In each case there was a high fit between the people on the negotiating committees of each firm; however, these people were not always representative of their respective partnerships. For example:

> "Everybody [on the negotiating committees] got along famously on the social level which was interesting because it **tended to forestall a more, kind of, hard-nosed and in-depth analysis**" of the rest of the partners in each firm.
>
> "**We should have had more exposure of the two groups of lawyers** to each other so that we'd get a better sense of what marriage was like ... You know you had a very small group of people who were in constant contact, that group of people committed to the merger, and everything they flowed back to you was positive. **Then there's the rest and that's where the basic information for a decision is.**"

The third problem that was evident in two of the cases involved a lack of candour by people during the negotiations and related meetings. For example:

> "In hindsight, the question is, 'How do you really find out about the people?' You can't live in their back pocket for a month watching how they interact with one another day to day ... You go off to a cocktail party or sit around a boardroom table and you discuss how you practice, and how this cultural issue would be solved and how that cultural issue would be solved, and **if people aren't entirely candid with you, then how, from a due diligence point of view, do you form your impression? I look back and I ask myself, 'How would we have found out?' I don't know.**"

> "We did a whole bunch of that [meetings across the firms]. A lot more than any other firm that I've ever heard of. So I guess it's really a question of degree. How far do you go? It's like getting married. You can date somebody a long time, go to bed with them, even. You're still never sure if the marriage is going to work because **everybody is on their best behaviour.**"

4. Ensuring Buy-In and Commitment to the Merger

In the more successful mergers, the "merger architects" were very active in promoting and getting commitment from their fellow partners to their vision for the merged firm. For example:

> "He single handedly brought in the people, brought in the clients, did the work, set up the department. Extremely intelligent man and a visionary. **He had a vision. Now you take that kind of power-house and give him a vision** - his vision was that he was going to have [both firms] as a merged firm - and he now becomes a very heavy-weight opponent and yet he never once participated in the merger talks. And was not part of the merger meetings. But instead **worked in the back rooms ... lobbying and politicking in the background.**"

The overall goal of this communication effort was to get partners to transcend their individual firm's interest, shifting their orientation to the interests of the new merged firm, in effect moving from a '2 to the 5 level' or trying to instill a spirit of a new common enterprise. This communication and selling process was deficient in four of the 10 mergers. For example:

> "You don't need a big block [of partners] to block it. Those people, who are not rainmakers and not the big players but who rely on others for their work, will follow along if they see that a sufficient block of rainmakers want to do something, because they're dependent on them for work. Most people go with the flow ... You have to make sure that people are on side or neutral and actually on the firm A side we had a tough senior guy who was closer to neutral. On the firm B side they had a few senior guys who were offside and they resisted it. **Overall it was closer to neutral than on-side.**"

> "The rationale was there and it was a good rationale to start with but then we had to do the selling after the fact. **We didn't have people sold off [on the merger] when they went into it.**"

5. Actively Managing the Process Post Merger

In six of the mergers there was a reduction in the level of continued active management and leadership of the merger after the merger was signed. For example:

> "It was not that the generals couldn't agree on the strategy, **the troops just didn't know what the plan was ... there was a lack of communication.** So we were trying to march in three different directions [and] **we simply got bogged down in the whole micro stuff of lawyers.**"

The initial period post merger is a time of change and uncertainty for all involved and it is important that management during this period does not assume that the merger is done. For example:

> "**Everybody is as nervous as hell. [Asking] 'Who are these new people? What are they going to do to me?'** They [lawyers] don't even think about the firm as the firm. They think about themselves. That's the first thing and the last thing they think about ... **More than anything else, the management team spends a lot of time just baby-sitting people.** Sounds like an odd way to put it when you are dealing with adults who are professionals but that's exactly what you're doing."

Indeed, a number of informants noted that the merger "was never done." For example:

> "**You can't just wake up one day and say, 'The merger is done.'** That is where you would run the risk of problems, of the situation unraveling."

6. Living the Vision

This addresses the need to reinforce why the merger was considered worthwhile. Essentially, this involved creating a sense of a new merged firm identity. To do this the firms had to build professional relationships across the two predecessor firms. It was felt that this was best achieved by encouraging cross-selling and referrals across the firms. For example:

> "Cross-selling we started to communicate immediately and we're still communicating that [four years later]. **During the first year and since there was an incredible amount of time consumed trying to build a one firm concept and trying to get people to cross-sell and use people from the other firm.** That consumes an inordinate amount of time."

Encouraging and improving these practices was seen as difficult even within any single firm and, therefore, even more difficult in a merged firm. Consequently, it was felt that it was necessary for the leaders from both sides to actively promote and engage in these practices. For example:

> "It seems to work because there are always a few people who want the merger to work. **It is your senior people: they make a point, when they have a deal, of calling in different people from different areas and getting them to work together. Then, when they work together they either connect or don't, and if they connect then you know they'll be working together again. The senior people set the example.** They try to promote the merger, not only in their own office, but also between offices. I mean, we were doing that before the merger as well. We worked hard at it with varying degrees of success and we continue to do it."

In both symbiosis mergers, despite deficiencies with respect to some of the other leadership behaviours, most of the senior people in these firms were active in trying to live the vision. For example, "**referrals** ... it's really difficult. You can't make people do it. A few of us do it. **You lead by example.**"

7. Creating a Sense of Common Enterprise

This last aspect of leadership is, perhaps, as much an output or a result of the previous six behaviours as it is a specific behaviour in and of itself. In either case, it was a definite and critical orientation of the leaders involved in the more successful mergers. For example:

> "Every body took the view of what's best for the [merged] firm as a whole. In other words, **there was very much the spirit that it was a common enterprise, not a selfish approach but a common approach.** It was a spirit of doing things in common and not a takeover bid. It was a merger in the true sense of the term. As a consequence of which, I think, it worked out very well" [Firm B informant in a Preservation type merger].

This orientation existed from the very start of the merger talks and developed from the initial conceptual discussions regarding: "What's this firm going to look like? What are we going to create?" The result was that "**there was a spirit of compromise throughout. It was a common enterprise that we were going into.** Today it looks nice and clean but it wasn't always that way."

9.7 Conclusions

There are two over-riding aspects to all these mergers that capture the essence of law firm mergers. Indeed, these two aspects are critical to all law firms, whether merged or not. They are:

- law firms are a people business, and
- law firms require a certain type of leadership if they are to survive and prosper.

A People Business

Throughout all the interviews it was abundantly clear that the lawyers placed great value on their relationships with their fellow partners, and the longer one was a partner the greater the ties to their fellow partners and to the firm as a whole. Consequently, in considering a merger **all firms** were very aware of the need to find a firm that was made up of people "you could work with," while at the same time ensuring that there was first a strategic fit. Indeed, in all 10 mergers there was a sound underlying business rationale and strategic fit for the mergers, even in the failed merger. 'People fit' was seen as the critical item to determine during the merger negotiations because it was recognized by all that a partnership was "an intimate thing." For example:

> "**Law is such a personal business**, whether we're talking about personal relationships with clients or personal relationships amongst the partners because **partnership is nothing more than a group of individuals who get together for this common purpose which can disappear in the blink of an eye**, as we see from time to time in Canada."

> "**The nature of the law firm is that anybody can leave any time they want or any group can leave. So you always, constantly have to have the reason to be together.** It can fall apart anytime. I think self interest keeps it together. I think as long as all of us perceive that we are benefitting from the firm, it will stay together. The moment any large group perceives that it's to their detriment then you fall apart."

Consequently, the major problems that did arise in some of these mergers were all essentially related to people fit issues. Unfortunately, in this regard we are left with something of a conundrum in considering the question: How do you perform a perfect due diligence on people fit issues prior to a merger? For example:

> "**It is very difficult to predict in advance in a merger just how the chemistry is going to work out** and for sure if you put 100 plus people together **there's no way that they're all going to get along with each other, it's impossible,** especially a bunch of lawyers."

In contrast, all firms felt that the due diligence on the objective or "hard issues" of the merger process was relatively straight-forward and was not a major cause for concern where adequate time and resources were allocated to the task. The difficult area, then, was due diligence on the "people issues" and, in this regard, it was noted that:

> "at the end of the day you had to sort of run with it a bit. You had to, kind of, let it happen - **a leap of faith. In every business decision there is a risk and a gamble."**

The best one can do is try to make it a gamble that is as well informed as it can be. Indeed, it was noted that similar gambles are made on a regular basis with respect to lateral hires and, to a lesser extent, with each decision to promote an associate to partner.

Law Firm Leadership

The issue of firm leadership had two critical parts: power, and style. There were different levels of power in evidence within the various firms which indicated large differences in the 'equality' of partners in each firm where, in effect, some partners were considerably 'more equal' than others. As discussed previously, all 10 mergers involved one or more partners in each firm who were considered the "merger architects" or the people leading the merger strategy. In each case these people were considered powerful within their partnership and drew upon all four main sources of power found in professional partnership (Howard, 1991), as required: ownership, expertise, business generating ability (colloquially referred to as 'rainmaking' ability), and the power residing in structure (or position power).

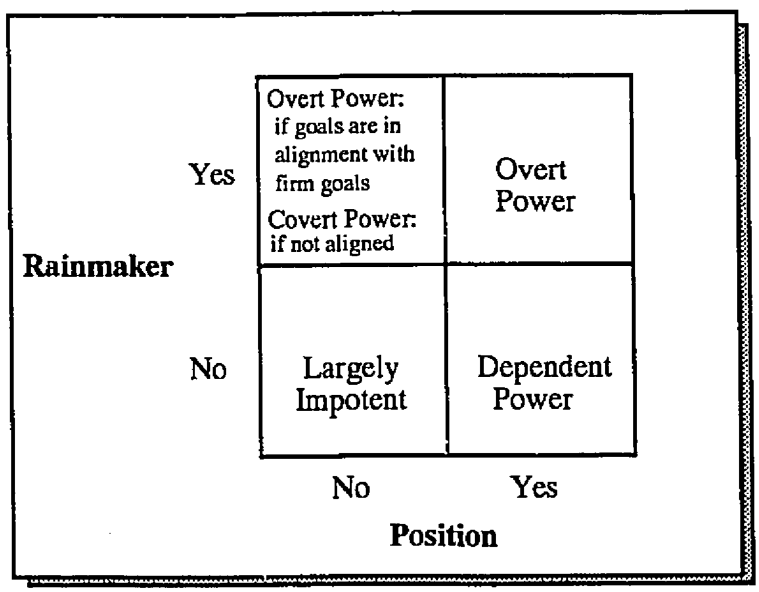
Power. Based on this research, it would appear that the power residing in ownership and expertise may be taken as a given or as a necessary but not sufficient condition for a partnei to have effective power. It was a partner's 'rainmaking' ability and position power that discriminated among partners. Further, there was evidence that these two power sources interacted in a complex manner. Figure 9.4 presents at least one aspect of this relationship, as seen in this study. Specifically, this figure presents the type of power in evidence dependent on whether or not one was a rainmaker and whether or not one had a position in the formal governing structure of a firm.

From a firm management perspective, the optimum situation was where the managing partner was also a major rainmaker in the firm. The compromise situations were dependent and overt/covert power. A dependent power situation might be where the positional power person needed and had the support of sufficient rainmakers to have their policies accepted, whereas a covert power situation might occur where policies were implemented without such support and where the rainmakers felt sufficiently opposed to these policies to frustrate their implementation. The following comments might help to illustrate some of these relationships:

> "He single handedly brought in the people, brought in the clients, did the work, set up the department ... his vision was that he was going to have [both firms] as a merged firm ... yet he never once participated in the merger talks and **was not part of the merger meetings, but instead worked in the back rooms ... lobbying and politicking in the background.**"

> "Those people, who are not the rainmakers and not the big players but who rely on others for their work, will follow along if they see that a sufficient block of rainmakers want to do something, because they're dependent on them for work."

Figure 9.4. Power as a Function of 'Rainmaking' Ability and Position



Further, in all cases, it was evident that there was an informal power hierarchy within the partnership of each firm with the "rainmakers" or "heavy hitters" at the top and "the great unwashed" at the bottom. However, this hierarchy did not always mirror the formal governing structure in all of the firms. Whether the significant rainmakers were part of the formal governing structure or not appeared to be of little consequence with respect to their ability to wield their power.

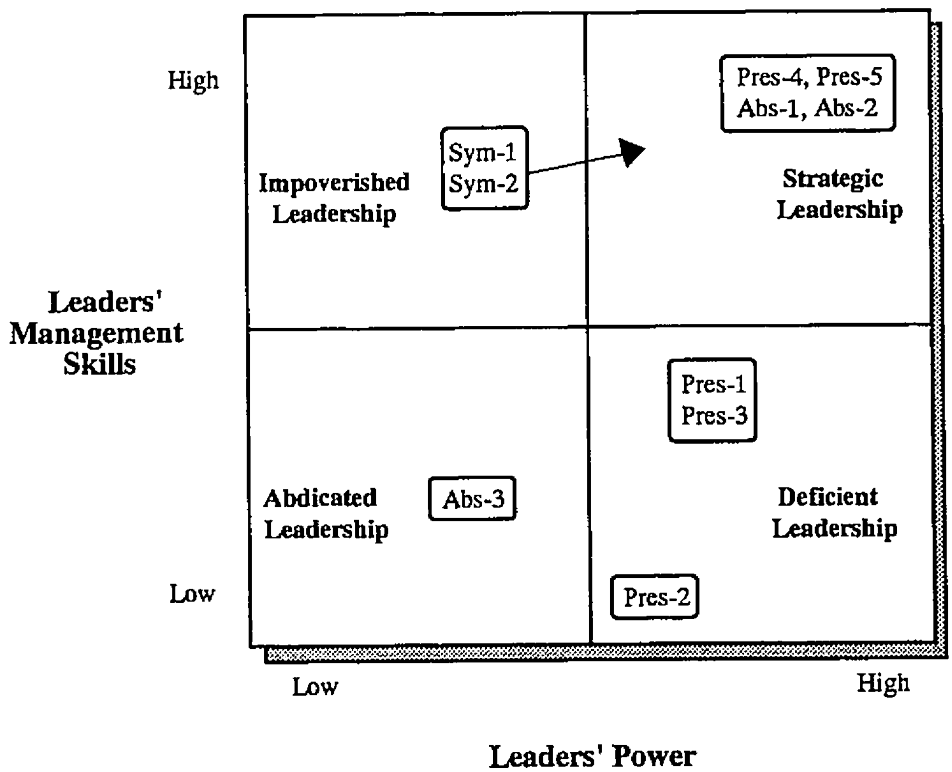
Style. From a leadership style perspective, the style that was evident in the most successful mergers was both transactional and transformational in nature (Bass, 1990b). For example, successful leaders used "lobbying and politicking," "co-optation," and "Fit In or F*oxtrot* O*scar*" (FIFO), where such tactics were considered appropriate, while also having a vision of the future of the firm and making personal sacrifices to help make the merger work. It is felt that the best description for this type of leadership is 'strategic leadership' (Hitt, 1994). That is to say, the most effective leaders in these mergers had a strategy for, or a vision of, how the firm needed to be positioned for continued success in the future. For example, "we sold it on the basis that we were looking out beyond the immediate" and "the status-quo is not an option," and were prepared to use whatever tactics were necessary to gain maximum buy-in and commitment to their strategic goals.

According to the leadership literature, the "new paradigm of leadership [is] transformational leadership" (Bass 1990a, xiii). However, the observed combined transactional and transformational or 'strategic' approach to leadership found in these mergers challenges this paradigm. Perhaps the use of a strategic leadership style may be due to the fact that in law firms many partners are, in some part, leaders and powerful in their own right. Perhaps leadership theories of a general nature do not apply to leading "leaders," and a more specific theory is required.

As was previously discussed, it was the individuals' business generating ability and organizational position in the firm that discriminated between the different levels of power that leaders could draw on in these mergers. However, in considering the leaders' effectiveness one needs to also consider the leaders' management skills in addition to their power. Figure 9.5 presents a framework displaying the various types of leadership that characterized each of the 10 mergers based on this researcher's assessment of the overall **combined** leadership effort found in each merger.

While the key negotiators from each firm in Pres-2, the failed merger, were very powerful, both sides showed poor management skills in the "very isolated process" that characterized the merger negotiations. Indeed, informants in the larger firm acknowledged that "the background of the merger was a reflection of some internal management issues ... we were a bit dysfunctional [from a management perspective], but we have since dealt with that issue."

Figure 9.5. Leadership Styles



Abs-3, a somewhat successful merger, involved two firms that had both diffuse power structures and poor management skills. For example, it was noted that "both firms needed better management" and "it boils down to a lack of communication and leadership within the firm." Indeed, improved management was seen as one of the benefits of the merger. "The unfortunate thing is that we didn't recognize improved management as a big goal."

In both symbiosis mergers, while they had good management skills it was still felt by both sides that they had not "spent enough time on the soft issues ... the people things." However, a more serious problem was caused by a lack of action on the part of the powerful people in each firm. Unfortunately, because these mergers involved firms of equal size, the powerful people from each side were initially hesitant to use their power in case it would be interpreted as an attempt to dominate the other side. The result of this hesitancy was that disruptive partners in each merger were not dealt with until two to four years post merger. Again, in both of these mergers this situation had been resolved at the time of the interviews and the firms were moving to a more strategic leadership orientation.

In Pres-1 and Pres-3, while the more powerful players in the respective firms were involved and committed to the merger, they failed to properly manage the post merger process with a view to fully capitalizing on their merger's potential. In both cases, the smaller firms felt that insufficient effort was being put into building on the merger's potential by the larger firms because "people don't see it as a priority." Overall, both these mergers were "coming along gradually" but it could have been faster.

The most successful mergers, Pres-4, Pres-5, Abs-1 and Abs-2, involved people from both sides who were both powerful and "knew what we're doing." For example, "it takes extraordinary leadership from the people who want to make it work and the willingness on both sides to work hard at it."

In conclusion, from a leadership perspective, the most successful mergers involved firms where at least one if not both parties had powerful leaders who also had good management skills. For example:

> "it takes the senior people to accomplish any change within the law firm. **You need the senior people on side."**
>
> **"The merger is going to be as successful as the management who implemented it."**

The following comments are included in summation.

➻ **People:**

"There are a myriad of different factors [involved in mergers] but it all comes down to people, what works with people. **The real content is about knowing the people and the quality of the people. You've got the problem of finding compatible people.** All lawyers can be jerks but at least they're our kind of jerks, as opposed to somebody else's kind. **So you need your kind of person that fits your firm because, again, you're in a people business."**

"**A lot of this is based on personal relationships and trust.** Again, I'll just emphasis this for you, **the beginning and the end to me is confidence in the people** because I think you can work out these mechanical and governance type of problems if you've got people that you respect, and really like, and who you want to work with."

➻ **Leadership:**

"**If people don't have a sense that the people who are driving them know where it's going to end up, then they start worrying** about where it's going to end up and what it's going to mean to them individually. And when people are worried about things, it's a problem. **They're insecure about it, they fight about it. Not concentrating on what they should be doing and getting on with work, and that's very disruptive to the firm."**

"**One of the things that we [as lawyers] hate to acknowledge is that we like to have a leader.** We like to have somebody who will make the decisions, who will do the right thing and who has got the vision **so we can get on with things.** And whether they do or not as long as we trust them and they are generally right, things move along smoothly."

"There was a **strong enough senior group** in both firms who wanted it and **made it happen."**

CHAPTER 10 - CONCLUSIONS

The principle purposes of this concluding chapter are: 1) to provide a brief review of the research questions that drove this research and the research program that was developed to answer these questions; 2) to discuss the implications of these findings for research; 3) to discuss the implications of these findings for practitioners; and finally, 4) to discuss the limitations of the research and the implications for future research.

10.1 Research Questions and Program

There is consensus among merger and acquisition (M&A) researchers that both the planning and implementation stages of M&As are generally under-managed (*e.g.,* Jemison & Sitkin, 1986: Napier 1989). This deficiency is partly attributed to the ambiguous and dynamic nature of M&As. While there is an increasing literature on the organizational processes of merging and acquiring, there are few established or articulated concepts or theories about these processes. Indeed, it has been recently stated that the **"theoretical understanding of mergers is in its infancy,"** and that M&A "research should continue to explore the dynamics of merger activities" (Greenwood *et al.,* 1994, p.255, emphasis added). Other M&A researchers have also called for "more systematic investigations and better understanding of mergers" (Napier, 1989, p.272) noting that "the process [aspects of M&As] has been ignored" (Nahavandi & Malekzadeh, 1988, p.87).

Consequently, identifying the critical management processes surrounding both pre and post merger stages of M&A is considered an important prelude to advancing our theoretical and practical understanding of M&As. Therefore, the following research questions were put forward to guide this research:

(1) What are the critical management tasks (*e.g.,* issues, decisions, and actions) associated with pre merger management?

(2) What are the critical management tasks (*e.g.,* issues, decisions, and actions) associated with post merger management?

(3) How does management of pre merger tasks impact post merger management?

Further, based on the literature review, it would appear that there is consensus among M&A researchers about the need to move away from secondary, cross sectional, large data base, and content type research to a more in-depth examination of the process aspects of M&As. Consequently, a case research approach was chosen in this study to investigate M&As (Parkhe, 1993; Yin, 1989). Professional service firms, specifically law firms, were chosen for the research sample as this choice controlled for a number of important variables surrounding M&As, for example: (1) from an industry perspective they represent an homogeneous sample; (2) in all cases the approach was friendly; (3) the mergers took place within a similar time frame from an economic cycle perspective; (4) they all had a similar organizational form, that is, professional partnership; and (5) the timing of "merger mania" in the legal profession, 1989-1990, allowed for a sufficient post merger time period to assess the performance outcomes of the mergers.

The research design, presented earlier in Figure 4.1, involved four distinct phases: (1) the development phase involved linking this study to the existing knowledge on the topic through a review of the M&A literature from four disciplines, and the output of this phase was the M&A research framework (presented in Figure 3.8) and related interview protocol (O'Dwyer, 1994a); (2) the pilot phase was an in-depth study of one law firm merger of an absorption type and involved testing, modifying, and further developing the interview protocol (O'Dwyer, 1994b); (3) the theoretical replication phase involved replicating the pilot phase in nine additional merger situations chosen so as to represent three different levels of integration, that is, symbiosis, preservation, and additional absorption cases; (4) the analytical generalization phase involved, first, writing a detailed case report for each of the 10 cases (within case analysis), then synthesizing and reporting the findings for each of the three integration types (cross case comparison), and finally synthesizing the findings across the three types.

10.2 Implications for Research

The following are some of the more interesting contributions that this research makes to the existing literature on M&As and professional service firms (PSFs). In addition, a question raised by this research with respect to leadership research is also discussed. First, it should be noted that the firms included in this research exhibited a much greater degree of success than those in previous M&A studies. In general, these previous studies did not include law firms or, indeed, professional service firms in their samples. The difference in success rates raises the question: Why were these law firm mergers more successful than the general population of mergers? The following explanations were considered. First, during the course of the interviews, those informants who had worked in a professional capacity on client M&As were asked if this experience had contributed to the success of their merger. While this prior experience was of some benefit during the due diligence stage of the negotiations, overall it was felt that the prior experience was not a major factor in the merger's success. Indeed, it was stated that "the real work of mergers is the non-legal stuff ... and what you do after the agreements are signed."

A more likely explanation may be related to the distinctive nature of ownership and governance in law firms and other professional service firms. The 'P^2 Form' of organization is one where the owners of a firm are also the critical workers in the firm. Further, and as previously discussed, any decision to merge usually requires the support of at least 75% of the partners in each firm. To achieve this result partners in each firm have to be convinced of the benefits of the merger if they are to support the merger. This results in a great deal of communication, participation and discussion within each individual partnership prior to merging and also results in a good deal of interaction between the individual firms prior to merging. By contrast, in most publicly owned corporations the merger decision makers (*i.e.*, the shareholders) are not generally involved in the organization on a day-to-day basis and the people who have to make the mergers work (*i.e.*, the employees) are not directly involved in the merger decision. Therefore, the level of participation by key personnel in the M&A decision making process can be seen to be at least one notable difference between the law firms included in this research and the corporate organizations included in the general body of M&A research. It could be hypothesized that this participation generates a greater degree of commitment to a law firm merger's success than would be found in other types of mergers. Indeed, there is a considerable body of literature that supports the view that participation leads to increased commitment.

M&A Research

Case research approach to studying M&As. This study provides compelling support for the value of taking an in-depth case research approach to studying M&As and, in particular, to studying the organizational process aspects of M&As. It is this in-depth and process orientation that is one of the critical distinguishing features of this research when compared to previous M&A research which, historically, has been predominantly content focused (*e.g.*, Shanley & Correa, 1992).

Indeed, all of these mergers would commonly have been referred to as 'related mergers' from a strategic viewpoint which oversimplifies the analysis of the relationship between the merging organizations. The adoption of a case research approach has highlighted the complexity and the heterogeneity that was present in what, in content research approaches, would have been identified as a homogeneous research sample. Further, the generic broad definition of 'related' fails to discriminate between the different levels of integration required, for example, between the geographic expansion or Dot related and the other two related strategies of Bulk and Menu. Indeed, the resulting differences in implementation complexity within the 'related' category are also often not recognized, let alone explored.

Therefore, this study's results support those researchers who have recommended that researchers should take a more in-depth process approach to studying M&As and who have argued that researchers should choose a roughly homogeneous research sample due to the complexity of individual M&As (*e.g.*, Harris, 1983).

In addition, the five concepts included in the research framework of Purpose, Posture, Position, Process, and Performance, while developed from the literature, have not previously been linked together or examined together. It would appear that these five concepts have some utility and value in studying M&As. Specifically, they appear to largely parallel the chronological flow of a merger from motivation to outcome. While these five concepts may not fully capture all the process aspects of M&As, they at least provide an initial attempt at specifying, in a comprehensive yet parsimonious manner, some of the critical process variables important in M&As.

Importance of process in M&As. This study also highlights the importance of, and the need for, more research examining the process aspects of M&As. This is particularly evident when one considers the high variability in results, from failure to very successful, within the relatively homogeneous sample set included in this study. As is evident from the results, this variance in outcomes can largely be attributed to differences across the sample in how each merger was managed. Indeed, from a content or strategic fit perspective, all firms performed a satisfactory analysis of the strategic fit between their respective firms. However, there were many differences across the firms in the organizational processes associated with the mergers, for example, how people fit issues were examined and managed, how integration of the firms was managed, and, overall, how the leadership group within each merger attempted or did not attempt to create a sense of common enterprise in the new merged firm. Further, and as mentioned previously, there are clearly differences in the way M&A decisions are made and how they are integrated according to the interplay of the size and location relationships between the firms. For example, Figure 10.1 presents the integration relationship based on size and location as found in this study's research sample.

Figure 10.1. Integration Level Compared to Size/Location Variables

Size	Different	Absorption	Preservation
	Same	Symbiosis	Unknown (as no examples in this study)
		Same	Different
		Location	

Therefore, the results of this research support the view that while strategic fit is important it is not a sufficient condition for M&A success (*e.g.,* Datta, 1991; Jemison & Sitkin, 1986) and, more specifically, provide support for Haspeslagh and Jemison's (1991) belief that "acquisition success and failure had more to do with the processes of decision making and integration than with the variables captured in ... prevailing performance-oriented studies" (p.280).

Assessing M&A performance. This study provides insights into two important issues surrounding how researchers assess M&A performance, specifically, how researchers define and measure M&A performance and the time period over which it is measured. To date, M&A performance has generally been assessed based solely on tangible measures of performance such as stock price reaction or accounting data (Halpern, 1983). Many researchers have previously discussed both the technical limitations and the narrow focus of these measures (*e.g.*, Porter, 1987).

Acknowledging these concerns, this study included five measures of merger performance. Three of the measures are those considered to be the critical elements of success in a professional service firm: net income per partner (NIPP); quality of client service; and satisfaction of professional staff, that is to say the key revenue generators, with the firm (Maister, 1985). Two additional measures were also included: change in the number of lawyers employed by the firms, which may be considered as an indicator of the change in the level of work being generated by a firm; and a general measure of how well informants felt that the merger had achieved their goals for the merger. The NIPP and the number of professional staff measures were objectively scored using firm records. The other three measures were subjectively scored based on informants' responses which were then averaged within each merger. The 'summary evaluation' rating of each merger, and presented previously in each of the results chapters, was based on this researcher's in-depth knowledge of each of the 10 mergers and their relative performance. However, it should be noted that this rating also parallels the informants' ratings of how well each merger had achieved their goals for the merger. Further, within each merger, there was considerable consistency across the individual informant's evaluation of their merger.

Interestingly, if these mergers had been assessed using only the financial performance measure, then two of the ten mergers would have been mis-classified from an overall performance perspective. In both Abs-1 (very successful) and Abs-3 (somewhat successful) the NIPP three years post merger was less than that pre merger. In Abs-1 this was a direct result of planned increases in overhead costs resulting largely from a move to larger, higher quality premises and from investing in new support services, for example, marketing costs. In Abs-3, it was felt that the 5% decrease in NIPP was less than the decline that would have been occurred if the firms had not merged.

This raises another controversial question regarding the use of financial performance measures and that is, "what comparative should one use?" Specifically, the majority of merger researchers compare post merger performance against pre merger performance. However, it has been noted that a more theoretically correct comparison would be performance without merger versus performance with a merger (*e.g.*, Porter, 1987). Unfortunately, from a practical perspective such a comparison is not possible. Interestingly, informants in many of these mergers used this type of comparison in their interviews because the initial post mergers years, 1991 to 1993, were recessionary years and ones in which many law firms in Canada experienced decreases in NIPP (*e.g.*, Financial Post, 1994; Middlemiss, 1993). Consequently, in seven of the mergers informants felt fortunate that their NIPP had not declined and in Abs-3 informants felt that their decline of approximately 5% was less than what they would have experienced without the merger.

Therefore the results of this study provide evidence of first, the narrowness of and second, the use of inappropriate comparatives, which support those researchers who have argued that financial performance measures alone are an inadequate basis on which to assess merger performance (*e.g.*, Haspeslagh & Jemison, 1991; Porter, 1987).

A second performance assessment issue is the limited post merger time period that many researchers use when assessing merger performance. Most studies measure performance for a period of less than three years after the merger has been consummated. However, some researchers have suggested that we need to allow at least three to five years for organizations to realize the full benefits of a M&A (*e.g.*, Haspeslagh & Jemison, 1987). Indeed, Souder and Chakrabarti (1984) found that two of the most highly rated M&As in their study had negative performance impacts for five years after being acquired and even the most successful M&As in their study took "up to five years" (p.43) to meet the acquirers' expectations.

As previously discussed in the research methodology section, this study was structured so as to allow for at least three years post merger performance in all cases studied, with a maximum of five years. To ensure standardization of comparison across firms, the dependent measures were those for the third year post merger. However, in hindsight, it can be argued that even allowing three years post merger is still an insufficient time frame when assessing merger performance. Specifically, the results of this study suggest that M&As are very much an evolutionary creature and the more the merger motives are those of 'value creation' versus 'value capture' (Haspeslagh & Jemison, 1991) then the greater the time that should be allowed for organizations to create that value (*e.g.*, Grant & Jammine, 1988).

In all ten of these cases the goal was not 'value capture' but 'value creation' or in the words of one informant "knowledge leverage." Indeed, from an overall performance perspective, while one merger was classified as "somewhat successful" and four mergers as "moderately successful" it was also noted that all of these five mergers still had the potential to be very "very successful." In particular, the two "moderately successful" symbiosis mergers had only, just prior to the research taking place or over three years post merger, overcome some of their internal merger related problems which then put them in a position to achieve greater success in the future. In Pres-3 it was felt that the merger "was coming along gradually, we're working on it" (comment made almost four years post merger). Further, informants in the "very successful" mergers also felt that it took approximately three to five years for a merger to settle down.

Therefore, the results of this study support those researchers who have argued that the time period over which M&A performance is measured should extend to at least three to five years post M&A if not further (*e.g.*, Haspeslagh & Jemison, 1991).

Professional Service Firms Research

As previously discussed in Chapter 5, which reviewed the literature on Professional Service Firms (PSFs), law firms are categorized as PSFs from an organizational type perspective (Greenwood *et al.*, 1990) and while the major emphasis of this research was on enhancing our understanding of M&As, a by-product has been some insights into PSFs. In particular, this study provides important insights with respect to issues surrounding the authority system, the nature of power, and organizational fit in PSFs.

Authority system in PSFs. Previous research suggests that PSFs have very diffuse authority systems where leaders have difficulty exerting authoritative leadership especially when compared to traditional corporations (*e.g.*, Hinings *et al.*, 1991; Warren, 1984). Based on this research it would appear that the diffuseness of authority systems, at least in law firms, may vary considerably from being very diffuse to being quite concentrated. Evidence of concentrated systems may be derived from the following comment:

> "You see one of the things that my predecessor and my predecessor's predecessor in this job had and I now have - we don't try do manoeuvre people into agreeing and things like that ... We had a vision and **we, in a sense, were autocratic about it. We had this vision and this was what we wanted to do and if somebody doesn't like it, well that's too bad.** You know, get on with it."

As further evidence of the diffuse nature of the authority systems in PSFs, it has been suggested that some of the leadership levers such as firing and changing compensation systems are not available to leaders in PSFs (Hinings *et al.,* 1991). However, examples of the use of such levers was evident in a number of the law firms participating in this research. For example:

> "[In hindsight], the biggest single thing I would have done differently? **I would have been much more forceful and less tolerant of unacceptable partner behaviour** in the first 18 months of the merger. Somebody once said to me that this is like a different version of the accounting acronym, FIFO: not First In First Out, it's Fit In or F*oxtrot* O*scar*. That's the rule and I would have made that much more clear. I wouldn't have given myself 18 to 24 months to quote, 'have the necessary credibility to take tough steps.' I would have said six months, that's enough, **'You either Fit In or F*oxtrot* O*scar*.'**"

> "You talk about leadership. The guy who inherited the mantle of 'most senior gun slinger' in Firm B was smart, tremendous work ethic, a very effective litigator but a selfish jerk. **He single handedly ran their compensation system** and made sure that he was on top, alone forever. That approach is rubbish. And when his partners saw him behave like that, they behaved like that. You can't do that. You have got to show that there is equity in the system ... **So we changed the system.**"

Additional evidence that the authority systems in law firms can vary dramatically may be taken from the fact that, and as previously discussed, for at least three of the merging firms it was felt that the merger would allow them to 'fire' partners which they felt they could not have done otherwise. In contrast, in another three of the firms, they already had procedures in place prior to merging which allowed for firing partners. Therefore, the results of this research provide evidence that, at least in law firms, the authority system may vary from being very diffuse to being very concentrated and, in turn, it is suggested that this situation may also exist in other PSFs.

Power in PSFs. A related issue is the concept of power in PSFs. Based on this research, it would appear that, while in theory and from a legal liability perspective, all partners are 'equal,' such is not the case in practice. Specifically, power in a partnership is not evenly distributed. There are partners with minimal power ("the great unwashed") and there are partners with considerable power ("the movers and shakers" or "the heavy hitters"). In effect, some partners are considerably 'more equal than others.' In this study, it was a partner's 'rainmaking' ability and position power that had the greatest potential to create power imbalances among partners. Figure 9.4, presented previously, highlighted some elements of the inter-relationship between these two power sources that was apparent across the firms involved in this research.

Further, within each firm there was a recognized "senior group" of "major rainmakers" or "heavy hitters" who were acknowledged to be the *de facto* rulers of the firm whether or not they held official positions in the organizational structure. Concentrated in these groups was the potential power to effect change. Where this potential was harnessed effectively, as in Pres-4, Pres-5, Abs-1 and Abs-2, the mergers were most successful and where it was not, as in Pres-2, the merger was a failure. Referring back to the issue of diffuse authority systems in PSFs, such was not the case in the 'very successful' mergers because the merger architects had the active support of the major rainmakers in their respective firms. This, therefore, provides an example of how authority in a PSF may be harnessed and concentrated to achieve desired outcomes. For example:

> "There was a **strong enough senior group** in **both firms** who **wanted it** and **made it happen.**"

Organizational fit in PSFs. The results of this study provide additional support for previous research on PSFs which indicated that, in an accounting firm merger, managers paid attention to organizational fit issues in the courtship stage. According to the M&A literature, this is an area that is generally neglected during pre merger discussions (Greenwood *et al.,* 1994). Further, this study provides an initial attempt at defining what is meant by 'organizational fit' at least in the context of law firms. Existing M&A research tends to use broad and ambiguous terms, such as culture and values, when referring to organizational fit. We need to be more specific in trying to delineate some of the critical aspects of what constitutes 'organizational fit.'

In general, it would appear that all factors included in 'organizational fit', as discussed in Chapter 9, may apply in other PSF contexts. For example, at the 'general level,' while the issue of 'client conflict' from a legal perspective may not apply, the issue of client conflict from a business perspective may well apply. Further, all the issues delineated within the 'organizational systems' and 'people' levels would certainly appear to have relevance in other PSF contexts.

Leading Leaders

As previously discussed, the leadership style that was evident in the most successful mergers was both transactional and transformational in nature (Bass, 1990b), encompassing a wide range of behaviours from visioning to firing partners. The following comment provides a specific but also representative example of the complexity of the leadership style seen in a number of the firms in this study:

> "We had some guys who didn't leave of their own volition, who tried to blow it up [the merger]. We had one guy advocating in writing that we should take it apart and so-on and so-forth. Well, that just wasn't on. **So I went to see him and I just said, 'Here's what you've done, it's not on and you're out of here,' and he left.** Now before I did that I had gone to about 20 of the most influential firm B partners and I didn't say 'Can I do this and will you support me?' I said, 'I am going to do this and here's why I'm doing it. I'm doing you the courtesy beforehand of letting you know what I'm going to do.' Not one of them went to him to warn him, which in itself is telling. Those who I didn't speak to beforehand were annoyed that they were second class citizens. Some of the nervous nellies were annoyed that as a matter of principle management shouldn't be able to do this wondering who will he ask to leave next. Behave like that and it will be you ... **I cleaned out the junk.**"

In the most successful mergers, the merger architect(s) had a vision for what the merged firm would be, and at the same time had a clear plan of action as to how they would build acceptance and commitment to this vision. Where the vision alone was not sufficient to obtain the buy-in of the 'major hitters' in the firm, then other more transactional tactics were employed, such as lobbying, politicking, compensation adjustments, and '**F**it **I**n or **F***oxtrot* **O***scar.*' These leaders had a clear view of how they wanted to position their firm for the future from a strategic perspective. Indeed, it was these leaders who, using a broad range of leadership tactics, made sure that they had buy-in and commitment throughout the partnership (leadership behaviour number 4, as discussed in Chapter 9) and who actively managed the post merger process (leadership behaviour number 5).

This strategic leadership approach (Hitt, 1994) challenges the "new paradigm of leadership - transformational leadership" (Bass 1990a, xiii). Perhaps the use of a strategic leadership style may be due to the fact that within each of these firms there was a group of partners who were also leaders in their own right. That is to say, there was a group of partners who had built their own practices, who had previously served on management committees, who were influential, who were successful rainmakers, and who were seen as leaders in their own right. Indeed, during the early 1990s a number of senior rainmakers left large firms to form speciality boutiques because they felt that this would enable them to practice law the way they wanted to, while at the same time maintaining or increasing their earnings (Livesey, 1993). Therefore, perhaps leadership theories of a general nature do not apply to leading leaders such as these and a more specific theory is required.

10.3 Implications for Practitioners

The following are some of the more interesting implications that this research has for practitioners. These implications encompass such diverse aspects as: pre merger time-line, the critical decision steps in the merger process, a merger checklist, the importance of leadership, and then some miscellaneous issues will be discussed.

Pre Merger Discussion Time-Line

Figure 9.1, presented previously, provides an approximate time-line and details of the major aspects of the pre merger process based on the 10 completed mergers in this study. It should be noted that this time-line does not include the aborted "merger dances" that many of these firms went through. The commonalities across all mergers were that in each case, there was an initial approach by one firm, the larger firm in six of the eight cases where there was a size difference, to determine if the other firm was interested in merging and, if so, what might be the strategic benefits of such a merger. If the result was positive, then the firms exchanged more detailed information on their firms and more detailed discussions were held to see if there was an 'organizational fit' between the firms. Again, if positive, the firms then went through a due diligence process with respect to the detailed information. Further, throughout this period each negotiating team was also trying to assess its counterpart, particularly from a 'people fit' perspective, and most firms organized a number of inter-firm functions to expand the number of partners interacting between the firms.

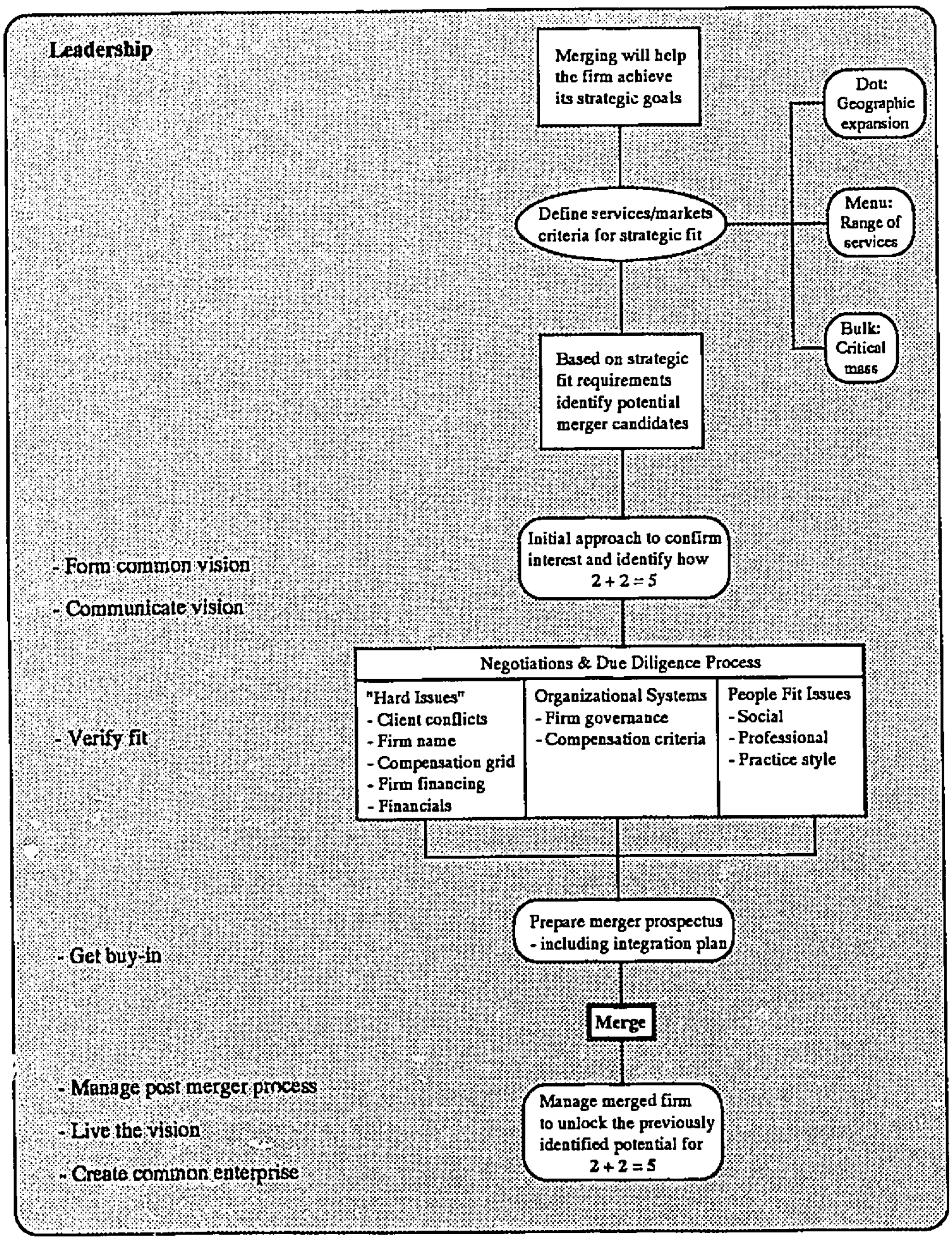
A discriminating feature of the pre merger process was that in only the four cases, Abs-1, Abs-2, Sym-1 and Sym-2, was a detailed merger prospectus produced. Typical contents of such a document were outlined in Chapter 9. While the preparation of such a document was time consuming, it was felt that it was very beneficial to the overall merger process for two main reasons. First, it forced the negotiators to be specific, in advance, concerning how they were going to implement the merger, for example, detailing such things as who was going to head up the various departments, where people would be physically located, and how practice departments would be integrated. Second, as a result of producing a detailed prospectus, a considerable amount of uncertainty was removed for the partners-at-large because they could then see exactly how it was intended that the merger would affect them. For example, they could see who they would be practicing with and where, and the financial projections provided indications of how their income might change.

Interestingly, in each of these cases, it was noted that while the prospectus needed to be sufficiently positive so as to garner the required support for the merger to be accepted, it also needed to be sufficiently conservative so as not to create unrealistic expectations which might not be met post merger. In a similar vein, it was recommended that the difficulties and disruptions that will inevitably accompany the merger should be recognized and communicated up front and should not be played down in any way.

Critical Decision Steps in the Merger Process

Figure 10.2 presents a summary of the critical decision steps based on best practice as seen across the 10 mergers. These issues begin at a point in time after it has been determined that merging is the most appropriate strategy to implement if the firm is to achieve its strategic goals. Of major importance is the need for active leadership throughout the entire merger process, before, during and after. In particular, and as with any new life, a merger needs nurturing, encouragement and direction especially in its early years. Without the active participation of the leadership groups, the two individual merging firms will not coalesce and will continue as separate entities, although they may be physically integrated.

Figure 10.2. Critical Decision Steps in Merger Process



Law Firm Merger Checklist

Table 10.1 presents some questions that law firms should ask when they are considering a merger. In addition, the following analogy is provided in order to help understand the last prescription in this list regarding flexibility, compromise, and spirit of common enterprise. The analogy is that of two people running in a three legged race. Some comparisons include:

- → You have both picked you partner and have entered the race. However, while you may know a lot about each other, you have never run together before. You arrive at the starting line, but have you thought about how you will run together?

- → For example, how tightly or loosely should you be attached? If the binding is too tight then you are both going to rub off each other too much, creating painful friction. If it is too loose you will be tempted to run as if by yourself. In either case you are likely to stagger, trip each other up, or have to stop to readjust the binding, while your competitors race ahead. Your competitors and spectators will enjoy the spectacle. Maybe you should have considered this before you got to the starting line?

- → Even when you find the best tight/loose balance to keep you together, the race will still put tension on this binding. Is the binding strong enough to withstand such tension? How well was the knot tied? Will it unravel? Only by working together will you be most effective in keeping this tension to a minimum, ensuring that the knot stays tied.

- → O.K., you are now running together, but how fast? Is it more walking than running? If you are to be competitive you must run as one person. Therefore, you must become attuned to each other's running style and pace. This will, without doubt, require both of you to adapt your style in order to get the best combination. Are you prepared to adapt? Remember, it is in your common interest to do so.

- → So, maybe you have staggered some, perhaps even tripped up, but so have others. You are still in the race and it is far from over. By both of you being sensitive to, and aware of your partner, you will learn what works and what does not work and out of a staggering, lurching entangled mass can emerge a balance, fluid form that can compete with the best.

➔ Be careful, remember you are not running on a track, this is cross-country. Therefore, the terrain can and will likely change and your combined style on the flat may need to be adjusted for hills and uneven areas. Beware of getting too comfortable and remember, it is a competitive race!

Table 10.1. Law Firm Merger Checklist

Understanding your Capabilities and Needs

- Why do you want to merge? Is it market driven or is it to address internal firm problems?
- If it is to resolve internal firm problems, how will merging address these issues and is it the most appropriate solution?
- If it is market driven, are you sure that merging is the best alternative or might 'grow your own,' alliances, or 'cherry picking' be better?

Choosing an Appropriate Merger Partner

- Is there an apparent strategic fit between your firms?
- Does you merger partner share your objectives for merging and/or is there a complementarity of objectives?
- Do you like working with these people?

Negotiations and Due Diligence Process

- Check out the numbers.
- Verify strategic fit.
- Verify people fit. Will you be compatible? Are they your kind of people?

Planning the Integration

- Define the merger's strategic goals and vision.
- Exactly how will the new merged firm be structured, financed, and governed?
- Should there be some transition arrangements, *e.g.*, for compensation issues?
- Produce a detailed merger prospectus.
- Remember: trust and common goals are more powerful than legal contracts.

Making the Merger Work

- Give the merger continuing top management attention.
- Be aware of and manage cultural differences.
- Do not let problem issues fester, deal with them!
- BE FLEXIBLE, HAVE A SPIRIT OF COMPROMISE, AND A SPIRIT OF COMMON ENTERPRISE.

Law Firm Leadership during Mergers

Law firm leadership is a critical factor in law firm survival even without the complications of a merger. Indeed, lack of leadership or leadership problems have been associated with a number of recent law firm dissolutions. For example:

> "One of New York's mightiest law firms, Shea & Gould, is **closing its doors, unable to make the transition to a new generation of leadership** ...it was the victim of too much democracy after too many years of dictatorship ... No single leader was strong enough to seize control" (Geyelin & Felsenthal, 1994, B.1).

> "The problem was that the **firm was still dominated by a few key personalities rather than any formal management structure** ... it could have survived if strong management had been in place" (Crawford, 1991, p.28).

Add in the complications of merging two firms and the leadership requirements are increased exponentially. In considering these 10 merger, the single most discriminating factor to which the widely disparate results can be attributed was effective leadership. As previously presented in Figure 9.5, effective leadership combined good management skills and high power within the partnership. Indeed, there appeared to be some consensus among informants with respect to the two critical requirements for a law firm leader. For example:

> "You have to have a lawyer [as managing partner]. He has to be a good lawyer, a better than average lawyer. He has to be a lawyer whom the other partners respect as one of their best lawyers, not manager, lawyer. If he's not that, he could have all the people skills in the world but he'll have no respect and he's not going to be effective. **There are firms that made mistakes by putting in guys who are mediocre lawyers, who don't have much to do** - 'Well he's got time, put him in management,' and what happens is that then you've got a constitutional management group and **you've got a *de facto* group of heavy hitters who really run the firm - behind the scenes** which is nonsense. You shouldn't do that, you should have good strong management."

This comment should be considered as only a necessary but not sufficient criterion for selecting a leader in a law firm. The second criterion is that the leadership group must also have the necessary management skills. For example, in one law firm dissolution it was noted that "the overall problem was that [the founder] was intent on running the firm, but he didn't have the management skills" (Crawford, 1991, p.28). Further, and with respect to mergers in particular, "the merger is going to be as successful as the management who implemented it" (study informant).

Forewarned is Forearmed

The following were some of the issues surrounding law firm mergers which informants considered important but about which they were at a loss to offer any specific advice. However, they felt that any firm considering a merger should at least be aware of these issues.

The "lightning rod effect." Many informants noted that the "merger became the lightning rod for all dissatisfaction within the firm" even though the merger may not have been the root cause of the dissatisfaction. In particular, informants noted a confounding effect of merging and the increase in size of the firm. For example, and especially for the smaller firms, the merger resulted in increased size which in some cases also resulted in more bureaucracy, slower decision making, greater impersonality, reduced collegiality, and so forth. While it was acknowledged that these types of issues would have arisen anyway as the firm increased in size, the merger was blamed for these problems.

Managing expectations. Another issue that needs to be considered pre merger is the paradox of having to sell and make the merger look attractive to each partnership group while at the same time not overselling it or creating unrealistic expectations which might be difficult to satisfy post merger. For example, in Pres-2, it was noted that:

> "He started talking about the merger and how it's going to be great and that this is terrific. He was putting us [Firm B] up on a pedestal which we were bound to fall off. It was a bad start. We did our job, but ..."

It was also noted that in assessing the success of a merger people will use the expectations that they were given for the merger as the criteria for judging the merger. Therefore, if these expectations have been set very high, then even if the subsequent performance is more than adequate, there is the potential for people to be dissatisfied with the merger because it did not meet their expectations. For example:

> "In selling it [the merger] there seems to be a need to be almost extremely conservative but you also have to make it look interesting ... but don't ever over sell it. I call it managing expectations."

People fit - "best behaviour syndrome." While most of the firms involved in these mergers were fully aware of the need to examine and ensure that a good people fit existed, in hindsight, it was recognized that doing a perfect due diligence on this area was very difficult. A number of firms complained of a "best behaviour syndrome." Essentially, pre merger, people were on their best behaviour during their meetings with people from the other side, and this behaviour was not always representative of their normal behaviour. Consequently, at the end of the day a merger requires "a leap of faith."

Law firm management and merging. Most informants felt that managing a law firm was difficult even at the best of times. If a firm has internal management problems prior to merging then these need to be acknowledged and discussed by both sides prior to merging in order to ensure that they will not further compound the management difficulties associated with merging. Indeed, many informants noted that "mergers turn-up the heat up on any management shortcomings or deficiencies that exist in a firm."

Moving in together - when? In the three absorption and the two symbiosis mergers, the merger resulted in the firms eventually moving into the same offices. Due to existing pre merger lease agreements, the time gap between officially merging and moving in together ranged from approximately one year to three years. However, in this intervening period there was always some relocation and transfer of staff between the two separate offices. These transfers were made in order to locate, where possible, each of the various practice departments in just one building.

Two views were expressed with respect to the delay in fully moving in together. One view was that it was beneficial because it provided for a gentler integration of the two firms and, also, because it helped not to overload the system all at once with the many additional tasks associated with the merger. The contrary view was that it would have been better to get it all over with as fast as possible, thereby reducing the period of change and uncertainty surrounding the merger. Interestingly, both of these viewpoints were expressed by different informants, even within the same merger.

Knowledge leverage. In all 10 mergers there were similar visions such as "the whole would be greater than the sum of the parts" or similar goals of making "2 + 2 = 5, not 4." The dominant strategy for achieving this goal was through cross-selling and referring within the new merged firm. It should be noted, however, that even in the very successful mergers it was recognized that implementing such a strategy was very difficult. For example, none of the firms in this study felt that they were excellent at cross-selling pre merger, even within their own firms with people they had practiced with for many years and knew very well. Consequently, implementing a cross-selling strategy within the merged firm, while of critical importance in capitalizing on the merger's potential, was considered very difficult. The firms that had achieved some success in this area had done so because their major rainmakers made a point of allocating their work around the merged firm and in particular to people from the other firm. Indeed, it was also recognized that it was a slow process and that "you lead by example." Further, cross-selling and referring was considered a powerful tool for creating a sense of common enterprise within the new merged firm.

Mergers - are they ever done? In general, a law firm partnership is in a constant state of transition and evolution with junior partners being admitted, senior partners retiring, junior partners advancing to senior status, lateral hires being added and so on, on an on-going basis. This evolving nature of law firm partnerships has implications for mergers, which are best summarized by the following comment:

> "It has taken about three years for the merger to settle down ... It's going to take another couple of years before it's really done. You almost need a generation change. You're still going to have some of the old history and old baggage until you get new people who have come right through the system. People who were relatively new to the game when the merger happened, who then are becoming the new movers and shakers. That probably puts you in the 10 year range for that to happen."

10.4 Limitations of the Research and Implications for Future Research

Unfortunately, no matter how well a research project is designed and executed, it will always be subject to some limitations pertaining to context, conceptual development, methodology, and analysis. It is important to recognize these limitations when judging the generalizability of the results. At the same time, these limitations also serve to provide direction for future research based on the results. In this section, some of the more significant research limitations will be discussed together with some suggested directions for future research.

Contextual

As discussed previously, quite a diverse range of researchers have criticized the heterogeneity of many of the samples used in M&A research (*e.g.*, Amit & Livnat, 1988;

Seth, 1990). Based on the recommendations of these researchers, the research context of this study was intentionally confined to organizations of a similar type (professional partnerships), in a single industry (law), which involved friendly approaches, and which took place during the same economic cycle time period (1989-1994). While these restrictions served to provide greater insights into the causes of the performance variations across the 10 mergers, they also served to limit the generalizability of the results beyond their specific context. Essentially, it was a trade-off decision between accuracy and generalizability. Based on the largely equivocal results of prior M&A research (Schweiger & Walsh, 1990), it was felt that accuracy was the more appropriate research strategy.

Based on the feedback received from informants involved in this study and also the feedback received from practitioners who were not involved in these mergers, it is felt that the results of this study are generalizable to other law firms. In addition, these results should have some relevance and application in other types of professional service firms. Their relevance beyond this organizational type, at least at a practitioner level, must be considered limited. However, from an research perspective, support for the strong impact of process aspects of mergers, in addition to content aspects, has applicability in many merger contexts.

Echoing Greenwood *et al.,* (1994), who echoed Napier (1988), there is still a need for considerably more research into the process aspects of M&As as there is a dearth of such research and, indeed, our theoretical understanding of such processes are limited (Marchildon, 1991). Consequently, this study might be replicated in other industry or organizational contexts.

Conceptual Development

Considering that "in many respects, theoretical understanding of mergers is in its infancy" (Greenwood *et al.*, 1994, p.255) this study must be considered exploratory in nature. As such, the research framework that was developed to guide the research must be viewed as only a preliminary attempt at trying to capture some of the more important concepts that should be considered when examining M&As. Indeed, all informants were able to easily understand and map their own experiences on the framework. Further, the results provide some support for the utility of each of the '5 Ps' (purpose, posture, position, process, and performance) that make up the framework. However, by no means can it be considered to be a fully defined framework and there are, no doubt, other important concepts that are missing. Further, this framework is presented in a chronological, linear manner and it is apparent from the results of this study that the relationships between the various concepts is considerably more complex in nature.

The development of a model of the major constructs involved in M&As is an appropriate goal for M&A researchers. Indeed, to model such concepts as strategic bearing, approach posture, quality of due diligence, integration level, and performance would be an advance on the more narrowly defined research models that currently dominate the area (*e.g.*, Haspeslagh & Jemison, 1991).

Methodology

Based on the literature review it would appear that there is consensus among M&A researchers concerning our lack of understanding about how and why some M&As succeed and others fail (*e.g.*, Goold & Luchs, 1993). Further, there is considerable agreement among researchers about our limited understanding of the process aspects of M&As (*e.g.*, Datta, 1991; Walsh, 1989). Therefore, considering that the phenomenon of interest was not amenable to quantification due to its early stage of theory development and complexity, a case research approach was felt to be the most appropriate research methodology (*e.g.*, Eisenhardt, 1989; Parkhe, 1993, Yin, 1989). Indeed, Marchildon (1991, p.xv) commented that, "the most effective manner in which to probe the disparate consequences of merger is through analytical business history case studies."

However, a particular limitation of this study was the small research population (n = 16) and the resulting small research sample (n = 10). While it was felt that a sample of five preservation mergers (population = 9) was more than adequate to gain a good understanding of the dynamics involved in such mergers, three absorption mergers (population = 4) was barely adequate, and two symbiosis mergers (population = 2) was less than ideal. However, in defence, comparable research efforts have suffered from similar limitations (*e.g.*, Greenwood *et al.*, 1994; Haspeslagh & Jemison, 1991).

Therefore, it would be valuable for future research to continue and expand the number of mergers of an absorption and symbiosis type that are researched. This could be done, for example, by using a sample of firms drawn from the United States. Indeed, informants felt that there were many similarities in the management issues being dealt with by Canadian and U.S. law firms.

Analysis

The analysis process was very rigorous in nature, starting with a detailed written case report for each merger, then a report for each integration type and, finally, a report summarizing the findings across the three types. A potential criticism of the analysis is that it was performed by a single researcher, which from a research perspective is not considered ideal. However, the research design provided for feedback from participants in the research. In addition, feedback was also received from other practitioners who were provided with an executive summary of the results. Both these sources of feedback provided strong support for, at a minimum, the face validity of the results.

Ideally, the research would have been a team effort which would bring different perspectives to bear on the topic. At a minimum, it would be useful to have more than one researcher analyse the informants' responses. Considering that these responses were tape recorded, transcribed, and then stored on computer, there is still the opportunity for some interested researcher to further analyze the 2,300 plus pages of interview transcripts.

10.5 Concluding Thoughts

Mergers and acquisitions have long been a popular strategic option for organizations and, indeed, are now seen as a permanent structural part of the worldwide business environment. Despite their long history and prevalence, many researchers have commented on how little we know about how and why some M&As succeed and others fail (*e.g.*, Goold & Luchs, 1993). This study is one of a few M&A research studies that have looked at the process aspects of M&As. In this regard, I have attempted to follow the example set by such researchers as Haspeslagh and Jemison (1991), and Greenwood *et al.*, (1994). As such, it adds to a developing body of research on the process aspects of M&As. Further, it provides additional support for those researchers who have bemoaned the theoretically impoverished nature of many of the M&A content studies and who have argued for more process research (*e.g.*, Barney, 1988).

Interestingly, from a practitioner perspective, while the results with respect to the importance of people fit and leadership may appear to be somewhat trite, the feedback from practitioners was that while it should be obvious, in practice, it is far from obvious.

APPENDIX 1 - INTERVIEW PROTOCOL

Firm: ______________________________

____

Date :____________ Time :____________ Place :____________

Introduction - Confidentiality Issues - Purpose of Study - Feedback - Questions

Interviewee Data

Name :______________________

Department:	____________	Specialization:	____________
Joined firm in:	____________	Called to Bar:	____________
Promoted to Partner:	____________	Other firms:	____________

Committee & other Firm Management Responsibilities :

____

____

____

____

____

Pre M&A Factors:

1. **Background Information**

    1. Size, Age, Growth (Partners/Associates/Staff)

    ____

    ____

    ____

    2. Initial decision to pursue M&A (versus e.g., lateral hires)

    ____

    ____

    ____

3. Key decision makers

4. Identification Process

5. Time frame

2. Motivation for M&A

1. Why the particular firm?

(Growth; Synergies; Risk/Uncertainty Reduction; Speculative)

3. Strategic Intent

1. Fit of service areas

(Horizontal; Product or Market Concentric; Vertical & Conglomerate)

4. **Approach Posture**

1. How were discussions initiated?

(Friendly, Neutral or Hostile)

5. **Investigation & Decision Making**

1. Was there a due diligence process?

(Deficient; Negligent; Sub-optimal; Optimal)

2. Nature of process (e.g., meetings, etc.)?

3. Were independent advisors used?

4. Critical aspects of the negotiations?

(e.g., Governance; compensation; funding; name; hierarchy)

6. Integration Intent

1. Were integration issues discussed in advance?

   (Holding; Preservation; Absorption; Symbiosis)

2. Firm management and Committee issues?

   - Managing partner

   - Area heads

   - Compensation (splitting the pie)

   - Partnership agreement

Post M&A Factors:

7. Integration Dimensions

1. On what levels did integration occur?

   - Systems (e.g., financial, administrative; computers/WP; library)

   - Staffing

- Structural

- Strategic (Is there a communicated overall firm strategy?)

- Cultural (e.g., work practices)

8. **Integration Management**

(Nature - time frame, magnitude, levels)

1. How was the integration process managed?

2. How has the relationship between the firms developed?

3. Were there differences between what was planned & what transpired?

9. **Performance**

1. On what performance dimensions is the M&A judged?

2. Overall, is it successful or not?

3. What makes it so?

(Tangible; Intangible)

10. Miscellaneous

1. Do you have any other experiences of M&As?

2. Do you think merging law firms differs from merging other organizations (& if yes, on what dimensions)?

3. Anything that should have been done differently?

4. What did you learn from the experience?

5. Is there anything that you think is important that I failed to mention?

____
____
____

6. Trace the M&A path through the M&A Framework & any comments on the Framework?

11. General Information

1. How would each firm have prioritized the following:

A. Financial success :______Client service :______Prof. Satis :______

B. Financial success :______Client service :______Prof. Satis :______

A&B. Financial success :______Client service :______Prof. Satis :______

____
____

2. How many lawyers will the firm have in 5 years (or % growth?)

____
____

3. What are the critical strengths and weaknesses of the firm?

(e.g., Management; Clients; Expertise; Quality; Climate & morale; Size)

____
____
____
____

4. What problem or situation is the greatest threat to the future of the firm?

____
____
____

Thank you, etc.

Merger Performance Measures

1. Financial Net Income Per Partner (NIPP) - Change: Year 3 Vs pre merger (in %): ______

2. Professional Staff Employed At time of merger: Firm A - ________; Firm B - ________;

Firm A&B - 3 years post - ________:

3. Client Service

☐	☐	☐	☐	☐
Worse	Slightly worse	No change	Slightly better	Better

(Rating to be supported with concrete examples)

4. Professional Satisfaction

☐	☐	☐	☐	☐
Worse	Slightly worse	No change	Slightly better	Better

(Rating to be supported with concrete examples)

5. Achieving Merger Goals

☐	☐	☐	☐	☐
None	Few	Half	Most	All

(Rating to be supported with concrete examples)

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