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Featured Articles

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The Minority and Small Business Review is published annually each Spring by the Center for the Study of Minority and Small Business (CSMSB) and the Department of Business Administration at University of the West. This publication includes original contributions based on both theory and practical insights on a variety of topics on entrepreneurship. While the topics may vary, each volume contains articles on subject matters that are critical to the growth and sustainability of minority and small businesses, such as: leadership & management strategies; finance/accounting; access to capital; marketing/branding; and legal/tax issues. The contributing authors include UWest Business Department Faculty as well as industry experts, business leaders/executives and entrepreneurs. Each year, the Review seeks to provide information that is content-rich and topically current.

We invite such articles to be submitted to the Editor via e-mail to meskeremt@uwest.edu (using a standard MS word-processing program such as Word). All submissions are subject to editorial review and modification--acceptance is not guaranteed unless such notification is provided in writing by the Editor.

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Center for the Study of Minority and Small Business

The Center for the Study of Minority and Small Business (CSMSB) serves as a link between the University and the minority and small business community, offering regular seminars, lectures, conferences, business counseling and the publication of "The Review". The Center seeks to develop itself into an outreach link to connect area minority and small businesses with governmental and non-governmental organizations in order to broaden their exposure to current business realities and changing governmental regulations.

As the Center strives to strengthen its efforts to play a more meaningful role towards the long-term growth and sustainability of minority and small business, it is mindful of the fundamental need for a broad-based support and partnership of area stakeholders and the community at large.

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We invite your ideas, feedback, support and involvement. Please address all correspondence to the Center's Director via email @ meskeremt@uwest.edu.

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Message from Dr. Stephen Morgan, President University of the West

March 15, 2014

I am pleased to present the 2014 edition of **Minority and Small Business Review** published by the Center for the Study of Minority and Small Business in the Department of Business Administration at the University of the West. UWest has produced this important publication for more than a decade as a service to our partners in the business community.

We are proud to serve the needs of the many small and minority owned businesses that contribute to the economy of San Gabriel Valley and Southern California. Many of our graduates are active in the local business community and many of our faculty continue to serve small and minority owned businesses in significant ways as consultants and advisors.

My thanks to those who have contributed articles to this publication and to Professor Meskerem Tadesse who serves as the Director of the Center and Editor of the **Minority and Small Business Review**. Both represent our continuing service to the local community.

Sincerely,

Steve Morgan

Dr. Stephen Morgan, President
University of the West.

From The Editor

March 15, 2014

On behalf of the Business Administration Department of the University of the West, it is my pleasure to present to you this 12th Volume of the UWest **Minority and Small Business Review (“The REVIEW”)**, published annually by the Center for the Study of Minority and Small Business (CSMSB).

For the past 12 years, this publication has served as a means to extend our greetings and to bring to you a collection of insightful and practical articles written by our faculty as well as business leaders and executives who are committed to the long-term sustainability and growth of our business community. This year’s volume covers a range of topics related to the realities and challenges of the current business environment, including tax identity theft, global business, and the complicated world of business contracts. We are confident that you will find all the articles enlightening and useful.

As part of the UWest Business Administration Department, the Center for the Study of Minority and Small Business is positioned to play a meaningful role in the education and development of entrepreneurship in our local community. We seek to do this in collaboration and partnership with area businesses and organizations as well as your support and involvement. We invite you to visit us and to give us your feedback and suggestions as we continue to explore opportunities to optimize our service to the local business community.

Finally, I want to extend my sincere thanks to all our contributing authors for sharing their valuable time and works.

Best Regards,

Professor Meskerem Tadesse
Co-Chair of Business Administration Department
Director, Center for Minority and Small Business &
Editor, Minority and Small Business Review

Impact of the Internet on the Exporting Industry: A Focus on Export Management Companies

By: Ernest Ng & Dr. Peng Chan

ABSTRACT: *This study examines the impact of the Internet on export management companies (EMCs). Findings from this study indicate that the Internet's impact on EMCs is mixed. EMCs will not survive under pressure from the Internet when manufacturers' products have short life-cycles and competition is intense. On the other hand, EMCs will survive the Internet if manufacturers have differential pricing strategies and target businesses across countries, and if EMCs have significant control over the export channels. Moreover, EMCs can improve their capabilities by incorporating online technology into the business. This study examines how EMCs will thrive in the Internet era and the conditions for their survival on the Internet.*

Introduction

Today, more than 81% of Americans use the Internet compared to 66% in 2005 and only less than 14% in 1995 (ITU, 2013; Almasy, 2005). This year, more than 34% of the world population is using Internet (Internet World Stats, 2012). The growth of the Internet certainly has a negative impact if businesses are reluctant to implement online technology. With a large number of people all over the world using the Internet, this is an opportunity for small and large companies to expand their business globally using online technology to reach worldwide buyers.

Traditionally, exporting through EMCs has been the primary choice for a lot of American manufacturers. EMCs have been handling approximately 10% of the total U.S. exports each year (Peng & York, 2001). However, the growth of the Internet from the late 1990s has caught many business researchers' attention over the benefits of exporting through EMCs. Manufacturers have been threatening to replace EMCs' operations with internal export departments because they consider EMC services less than satisfactory. By using the Internet, manufacturers and buyers can easily find each other. In addition, the lack of country-specific information is no longer a problem for manufacturers because they can easily acquire this information using the Internet.

Several scholars debate whether the Internet has created a threat to EMCs' future because it has replaced some value-added activities performed by EMCs (Anderson, 2005). One researcher suggests that the Internet does not pose similar threats to all EMCs. As a result, some EMCs will survive the Internet and some will not. On the other hand, many researchers suggest that EMCs would not only survive but also thrive because the Internet helps EMCs become more effective and efficient. For instance, the Internet can help EMCs improve their physical fulfillment services and transaction-creating services, increase global market coverage, expand product portfolios, and reduce psychic distance.

Studying the impact of the Internet on export management companies is important because it can help EMCs survive the Internet's impact and improve their export services. The Internet has certainly improved the relationship between EMCs and manufacturers by identifying new customers and reducing transaction-related uncertainties.

The purpose of this study is to evaluate the threats and the benefits of the Internet to the export industry. This study will focus on one particular type of export intermediary, that is, the EMC. While most studies focus mainly on the benefits of the Internet on EMCs without delving into whether they will or will not survive, this study goes further by examining the conditions for their survival.

Evolution of the Internet

The Internet has been around for a long time, beginning in the 1950s. The story started with the first computer network created by a group of computer scientists from the University of California, Los Angeles (UCLA) by connecting two computers on September 1969 (Gaudin, 2009).

However, the Internet was not born until computers from UCLA and the Stanford Research Institute in Palo Alto, California, were linked together on October 1969 (Gaudin, 2009).

The Internet was not popular at the beginning because it was only available to a few numbers of people, such as scientists, engineers, computer experts and librarians. The personal computer was not available then. In addition, the Internet was not user friendly. It was very complex to use since it was mostly text-based during its early age. The Internet gained popularity during the early 90s when the World Wide Web was born and personal computers became more affordable. This is why many people think the Internet was invented during the early 90s (Howe, n.d.).

The Internet has evolved a lot during the last 40 years. Starting with only a text-based system, the Internet today allows users to do more than just web browsing. The Internet has changed the way people work, live and play. The majority of people use the Internet for e-mail, visiting social sites, chatting, watching video and shopping online. The Internet has certainly made people's lives easier. For instance, most Americans can choose to pay their bills either online or through mailing checks. The benefits of paying bills online are saving time and money. It saves time because they do not have to go to post office and it saves money because they do not need any stamps. According to Consumer Bill Payment Survey in 2007, more than 39% of households pay their bills online compared to only 13% in 2002 (Leggatt, 2007). The number of online bill payment users is expected to increase due to a greater reliance on technology in their daily lives. In addition, 52% of online bill payers feel that the online payment method is more environmentally friendly than paper bills (Leggatt, 2007).

The Internet has become an important part of our daily life. According to the Internet World Stats, the number of Internet users in the world has reached 2.4 billion people or about 34.3% of the world population as of June 2012. More than 81% of Americans are using the Internet today compared to only less than 14% in 1995 (ITU, 2013; Almasy, 2005). In addition, according to the Census Bureau, 97 million people read news online, 92 million people shopped online, 91 million people made an online flight or hotel reservation, and 16 million people used social networking websites in 2005 (Bergman, 2006). Cost savings and convenience are not the only reasons that more people are going online. The most important reason is better online security that increases people's confidence to do everything online.

The Export Industry & EMCs

Exporting is a function of international trade whereby goods produced in one country are shipped to another country for future sale or trade. Today, countries are interdependent on each other's goods, and no country can survive without trading with another country. For example, Saudi Arabia exports oil to the United States because it is the world's largest producer and exporter of oil. According to the U.S. Census Bureau, total U.S. imports in goods and services were $2.522 trillion ("U.S. Total Import," 2009) and total U.S. exports in goods and services were $1.826 trillion in 2008 ("U.S. Total Export," 2009). Most of these exports and imports in the U.S. involve export intermediaries, such as export merchants, foreign purchasing agents, export brokers, EMCs, freight forwarders, export agents, export commission representatives, and export distributors.

The Internet not only affects traditional retailing but also has an impact on exporting intermediaries. This study will focus on the one of the export industry's key players, the EMC.

An EMC is an export intermediary that acts as an international sales department for several manufacturers with different product lines that do not compete with each other (Peng & Ilinitch, 1998). Depending on the agreement between the EMC and the manufacturer, the EMC can sometimes represent the manufacturer's whole product lines. The EMC can also be the sole exporter to sell the manufacturer's products in foreign countries. The EMC acts as an agent when it operates under the name of its manufacturer, and it acts as a distributor when it operates under its own name.

When an EMC acts as an agent in foreign markets, it is representing its manufacturer. Everything is prepared using its manufacturer's name and the EMC will guide its manufacturer through all of the export transactions (Joyner, n.d.). As an agent, the EMC is not bearing the risk of nonpayment because the EMC does not take the title of the goods. The EMC is paid based on commission from export sales. On the other hand, when an EMC acts as distributor, the EMC will take the title of the goods and bear all the risks of nonpayment. In addition, the EMC will pay its manufacturer based on the lowest price its manufacturer sells to its domestic market distributor plus extra discount (Joyner, n.d.).

EMCs have been playing an important role in helping manufacturers export goods. They handle close to 10% of total U.S. exports each year (Peng & York, 2001).

Benefits of Using EMC

Companies will use an EMC when they have an interest in exporting but they do not have their own export department or the experience to penetrate overseas markets (Peng & York, 2001). EMCs can perform certain tasks better and cheaper than export manufacturers because their employees have better knowledge on international regulations, and particular countries and industries (Li, 2004). Companies can save money and increase revenue by outsourcing their export departments to EMCs. Without an EMC, a company would need to hire dedicated employees for its export operations and continue to spend money to train employees on constantly changing export regulations. EMCs can also help manufacturers avoid expensive fines by eliminating mistakes in export transactions. Finally, EMCs can help increase their clients' sales revenue by enabling manufacturers to tap into a wider range of international markets (Peng & York, 2001).

Internet's Impact on EMC

The Internet's impact on EMCs has been an important discussion topic for a long time. The growth of the Internet from the late 90s has created doubt over the benefits of exporting through EMCs. Several scholars debate whether the Internet has created a threat to the EMCs' future by replacing some of the EMC's value-added activities (Anderson, 2005). However, many scholars claim that well-established EMCs will survive the impact of the Internet because of their market-based assets (Sharma, 2005). By intertwining market-based assets with the Internet, EMCs would not only survive but also thrive by becoming more effective and efficient.

Since the World Wide Web became available, the number of manufacturers who export their products has increased exponentially. Because of the Internet, more and more manufacturers are exporting their products. However, EMCs have been losing business because most of these manufacturers are using the Internet to help them export ("Get Ready, Export," 1998). This study found that not all EMCs will survive under the pressure from the Internet, especially when products have short life-cycles and competition is intense. On the other hand, EMCs will survive the Internet if manufacturers have differential pricing strategies, manufacturers who want broad targeting across countries, and EMCs that have enormous control over export channels.

Intense competition. Before the Internet was available, manufacturers were using EMCs to export their products. However, intense competition and imitation have caused manufacturers to find ways to cut costs and protect their technical know-how from competitors. Many manufacturers were complaining that they could not afford to pay the commission to EMCs because their profitability and ability to compete are reduced. The Internet provides the way for manufacturers to cut 62% of costs by bypassing their EMCs (Li, 2004). As manufacturers create websites on the Internet, buyers are interacting directly with the manufacturers rather than the EMCs ("Get Ready, Export," 1998).

EMCs will not survive the Internet when manufacturers are under intense competition. Manufacturers not only want to save costs but they also want to keep close and direct contact with buyers in order to survive intense competition. Such direct and close contacts can help manufacturers develop products that meet buyers' needs. In addition, indirect communication through EMCs could delay or obscure messages between manufacturers and overseas buyers.

Further, some manufacturers want to protect their technical know-how from competitors because competitors are always trying to copy each other's products in an intense business environment. However, exporting through EMCs has made it more difficult for manufacturers to protect their technical know-how since some EMCs might leak technical know-how from manufacturers to their competitors.

Lastly, manufacturers do not want to depend too much on EMCs to sell their products because EMCs could switch manufacturers. When competition is fierce, EMCs would be tempted to switch to manufacturers that offer better commissions. If an EMC switched to another manufacturer, the original manufacturer will lose a lot of customers from the previous partnership.

Short product life cycle. When manufacturers have products with short life cycles, they tend to bypass export intermediaries and sell their products directly to consumers. Before the Internet, manufacturers had no other choice but to use EMCs because they did not know where to find the end users. With help from the Internet, manufacturers and buyers can now easily find each other. For example, manufacturers can post its products on web sites and end users can find them by simply using a search engine.

EMCs will not survive the Internet when manufacturers have products with short life cycles because manufacturers want the new products to reach end users faster. If competitors come out with the next generation of or better products, the existing product price would drop significantly. With help from the Internet, manufacturers can directly inform buyers the same day a new product is launched. The Internet enables manufacturers to efficiently speed up the introduction of new products. However, exporting through EMCs would delay this process further.

In addition, the Internet helps communication between manufacturers and end users by allowing manufacturers to quickly pass technical information of new products to ease the end users' transition to new products. On the other hand, the message could get delayed or obscured if it is sent using a third party (EMC). The Internet has created value for both manufacturers and their current and potential customers because it allows manufacturers to send cost-effective messages about new and existing products. Furthermore, manufacturers can receive real-time feedback from customers to improve their products (Sharma, 2005). Therefore, EMCs will not survive the Internet under these conditions.

Differential pricing strategy. Normally when a manufacturer adopts this strategy, it has to deal with the gray market. Differential pricing strategy, also known as multiple or discriminatory pricing, occurs when a company sells a product at different prices in different countries. For example, a paper manufacturer who sells its products at different prices in different countries has to use an EMC because customers would not be happy if they found out that the manufacturer sells the same products directly at lower prices to other buyers. Therefore, a manufacturer has to assign different EMCs to different countries, and these EMCs can only sell in the countries where they are assigned. As a result, the buyers who pay higher prices will not think they are being treated unfairly by the manufacturer.

Gray market can be described as the selling of genuine products by distributors other than the authorized distributors selected by the original manufacturer. In other words, some unauthorized distributors would go to countries to buy products with lower prices than elsewhere. Then they would bring these products to countries that have higher prices for the same items and sell them below those prices to make profit. If a manufacturer sells its products directly to international buyers using the Internet, the manufacturer will not be able to control the gray market because the manufacturer is located far away from the market countries. Therefore, the manufacturer will prefer to sell its products using an EMC because EMCs can help fight gray market.

Even though the Internet has helped manufacturers and buyers come together, differential pricing and gray marketing have kept manufacturers away from selling directly to end users. The Internet does not have an impact on EMCs when manufacturers have to deal with the gray market as a result of adopting differential or multiple pricing strategies.

Intermediary power. The relationship between EMCs and manufacturers is not affected by the Internet when the EMCs have greater control over the exporting channels. In other words, EMCs will survive the Internet. Even though manufacturers and buyers can find each other directly with help from the Internet, manufacturers prefer not to do business directly with small end users for various reasons.

First, manufacturers prefer to sell their products through distributors in foreign countries because distributors can hold inventory on hand and offer credit to buyers. Manufacturers choose not to offer credit to their end users because they do not know the creditworthiness of their customers. In addition, most manufacturers do not have enough money to provide credit to all consumers, especially when the manufacturers are operating in many foreign markets. Providing credit to customers could expose manufacturers to the high risk of credit default associated with buyers, which can reduce the manufacturers' profitability and put them at risk of bankruptcy. Additionally, selling through foreign distributors can also help manufacturers eliminate inventory-carrying costs in foreign countries, especially when manufacturers are trying to penetrate more foreign markets.

Second, EMCs can perform export activities more efficiently and cheaper than manufacturers. For example, EMCs can reduce operating costs from shipping and handling by selling in bulk to distributors in foreign countries (Smith, 2009). These distributors would then repack and downsize the product before they re-sell them to consumers. By shipping in bulk, EMCs have reduced shipping costs, import taxes, costs of customs inspection, and warehousing costs. Moreover, most manufacturers do not have enough employees to prepare export documentation for all direct sales to end users in foreign countries because the export documentation process can be very complicated.

Lastly, some end users prefer to buy directly from local distributors because they trust them more than foreign manufacturers. In this case, local distributors are enjoying closer relationships with end users because they can provide customers with the after-sale services that foreign manufacturers cannot provide, such as warranty service. Certainly, a virtual market presence created by the Internet may not affect the EMCs because their physical presence has many more advantages compared to virtual online presence by manufacturers (Anderson, 2005).

Broad targeting. The Internet may not have an impact on EMCs when manufacturers are looking to cover broad market segments in many foreign countries. In other words, EMCs can help manufacturers cover a wide range of different segments in foreign markets. When manufacturers pursue broad market segments for their products, their brands must reach different groups of consumers that have different preferences and buying patterns (Frazier & Lassar, 1996).

For example, a manufacturer of server computers is relying on its business partners because it cannot sell products directly to various customers, such as universities, banks, hospitals, and companies. All these customers have different needs and the manufacturer cannot tailor its products to match each customer. Therefore, the manufacturer will rely on its business partners, who will buy computer parts from the manufacturer, to customize and build server computers for each end user.

Manufacturers are also relying on EMCs because of cultural differences, trade barriers, government policies, and exchange rate fluctuations. These can create many obstacles, such as substantially increasing the costs of doing business. Nevertheless, manufacturers still want to pursue broad targeting because it can significantly help increase sales volume. Therefore, manufacturers will need to keep their EMCs because they might not have enough resources, such as financial capital and county-specific knowledge, to operate in various countries. In addition, EMCs could help manufacturers take care of customized orders and installation services.

Internet's Benefits for EMCs

The growth of the Internet has created a threat to the existence of EMCs because some jobs performed by EMCs have been eliminated by the Internet. However, the Internet also can help EMCs to improve their market-based assets (Sharma, 2005). For example, the Internet can help EMCs to improve their physical fulfillment services and transaction creating services. Moreover, the Internet can also help EMCs to increase global market coverage, expand product portfolios, and reduce psychic distance.

Transaction creating services. These are the services that help stimulate and generate demand from foreign markets. The importance of transaction creating services includes locating potential customers, collecting foreign market demand and supply information, advertising, selling, and any other activity that helps stimulate demand in foreign markets (Sharma, 2005).

Before the Internet was available, EMCs had to spend a significant amount of time visiting foreign countries. All the activities that help fuel demand in foreign countries require an enormous amount of time and resources from EMCs. However, most EMCs normally do not have an abundant supply of financial and human resources. Therefore, it is not surprising that EMCs could not fulfill the required services as promised to their clients before the Internet became available. Because of that, export manufacturers wanted EMCs to be more effective and efficient in performing export services (Sharma, 2005).

The Internet has provided EMCs with new key features, such as high interactivity and direct connectivity. These features can add new capabilities to EMCs' services and create value for both export manufacturers and EMCs. First, the Internet improves an EMC's ability to make more realistic measurements of demand in foreign markets. Traditionally, EMCs used faxes, telephones, or personal visits to get estimates of demand in foreign markets. With the Internet, EMCs can get real time estimates of demand from overseas customers and pass the information on to their manufacturers (Sharma, 2005). Therefore, EMCs can help manufacturers plan allocation of production dedicated for EMCs, and eliminate the common complaint from manufacturers that EMCs cannot deliver their promises.

Second, the Internet allows EMCs to make better evaluations of environmental, political, and economic conditions in customers' countries. With the Internet, EMCs can get instant updates on conditions in foreign markets and inform their manufacturers to reduce production in case conditions become worse. By doing so, this would help manufacturers feel more confident about the EMC's operations (Sharma, 2005).

Physical fulfillment services. These functions include all activities necessary to fill and process overseas orders, such as warehousing in foreign countries, logistics, customs inspection, export documentation, after-sales service, and export-import regulations.

Similar to the transaction creating services, physical fulfillment services also require EMCs to use a significant amount of time and financial resources. For instance, the following require huge amounts of time: contacting manufacturers and customers, contacting shipping companies, getting orders from overseas customers, preparing export documents, tracking shipment status and updating foreign customers with the status, and passing feedback from buyers to manufacturers (Sharma, 2005). In addition, EMCs also faced many uncertainties in executing transaction-related activities because their achievements involved interaction with other agencies or companies. Before the Internet was available, EMCs could not provide manufacturers with a definitive answer because of transaction-related uncertainties. As a result, it is easy to understand that why manufacturers think EMCs cannot keep their promises.

The development of the Internet has certainly added new communication capabilities that can significantly reduce transaction-related uncertainties. For example, EMCs can communicate with manufacturers and buyers using instant messenger, Internet voice call (Skype), or e-mail. In addition, EMCs can trim down their order cycle by using the Internet to receive orders, fill orders from right manufacturers, and complete required documentation online. EMCs can also use the Internet to check shipment status and communicate payment collection with banks.

Shipping companies have evolved with the Internet. Nowadays, most shipping companies offer shipment tracking systems on their websites. Clients can check their shipments via the Internet using the order number, the name of the shipper or the booking number. This feature allows customer to see in real-time which location the shipment is currently located and to monitor shipment's estimated date of arrival. In addition, this tracking system can alert both the shipper and receiver if the estimated date of arrival has changed ("Matson Intermodal Introduces," 2002).

Other new great features that stem from the Internet are online shipment schedules and quotations. These features can save EMCs a huge amount of time and resources. In the past, EMCs had to call all shipping companies to get schedules and compare quotes. Nowadays, EMCs can simply visit shipping companies' websites to check ship, train, or plane schedules and get quotes in a matter of minutes. Instead of visiting multiple websites, EMCs can also use consolidated multi-carrier websites, such as GT Nexus (www.gtnexus.com), NVOCC (www.oceanschedule.com), and INTTRA (www.inttra.com). EMCs can request a quotation directly from these websites.

The banking industry has also evolved. Some banks have introduced Internet tools that can help exporters manage and track all export-import activities. Such tools can help exporters prepare correct export documents. If the document is not properly prepared, the issuing/confirming bank is not required to pay. In addition, the online tools enable EMCs to gain efficiencies, save time, reduce costs, and improve the information flow between trading partners ("TradeXchange," n.d.).

Product portfolio. Most EMCs have been looking forward to adding new product lines to their portfolios. However, small EMCs normally do not have enough staff members to do so because, if they do it, they would not have a strong knowledge for every product line in their portfolio (Sharma, 2005). In addition, EMCs spend most of their time traveling to foreign countries to perform export service activities. As a result, they do not have enough time to learn about their manufacturers' products.

The Internet has changed the scenario completely for both small and large EMCs. The development of the Internet eliminates several obstacles EMCs may encounter in the expansion of their product portfolios. The Internet allows EMCs to carry and display many more products through their websites than ever before. As a result, EMCs can become one-stop shopping places for foreign customers by including both competitive and complementary products in their portfolios. Customers are more attracted to one-stop shopping places because they minimize the overload of information and provide the ability to negotiate for better deals (Sharma, 2005).

With the Internet, communication with manufacturers, customers, shipping companies and banks can be handled with less effort than before. EMCs can substantially reduce the time spend in travelling and contacting overseas customers and domestic manufacturers by using the Internet for most of these activities and traveling only when required. In essence, the Internet has transformed EMCs to be more efficient and effective by allowing EMCs to handle much bigger product portfolios (Sharma, 2005).

Global market coverage. Before the Internet was available, small EMCs normally only had operations in few countries and larger ones had operations worldwide. In addition, finding new customers was a very time consuming and slow process regardless of the EMCs' longtime presence in overseas countries. It was traditionally done through magazines, trade shows, word-of-mouth, local business directories, and foreign trade publications. Some of these sources contained out-of-date information and required a huge amount of time to use.

EMCs normally have developing countries in their target market. Consequently, EMCs' abilities to locate potential customers were slowed down substantially because of poor communication infrastructures in developing countries. Small EMCs were the ones affected the most because of their limited resources and insufficient staffs. As a result, EMCs were not able to fully capture potential customers for their products in these markets.

The development of the Internet has provided EMCs with new tools to identify and establish contact with new customers in overseas markets and discuss potential business opportunities. For example, business websites and search engines, such as Google.com, Yahoo.com, Msn.com, Yellow Pages and Alibaba.com, provide EMCs with new opportunities and abilities that were unavailable in the past. Likewise, potential customers from overseas countries can easily locate EMCs from popular international trade sites and search engines for their needs. In other words, the Internet can help EMCs to increase their global market coverage by making it easy for EMCs to find potential customers and make it easy for potential customers to find them.

Physic distance. Physic distance is the measurement of a firm's perception of the many differences between foreign countries and home country in language, culture, and business practices (Sharma, 2005). Normally, EMCs prefer to enter foreign countries with smaller psychic distance. However, the Internet has reduced psychic distance and made it less important. In other words, the Internet provides free flow of information that makes it easy for EMCs to identify new customers for their new or existing products in new markets.

Managerial Implications

This study has provided EMCs with several suggestions. First, the Internet has caused EMCs' transaction creating services to become less important because manufacturers and buyers can find and locate each other directly from business websites, search engines, and international trade websites. Therefore, EMCs should shift their focus away from transaction creating services to other functions if they want to stay in the export business, especially when manufacturers' products have short life cycles and manufacturers are facing fierce competition.

Second, EMCs should focus on providing services that are too expensive and hard for manufacturers to offer, such as bulk shipment and after-sales services. EMCs can perform shipping and handling at lower costs compared to manufacturers doing the same for themselves because EMCs sell in bulk to distributors in foreign countries. In this case, the Internet does not help manufacturers reduce shipping costs. Third, EMCs should focus on manufacturers with differential pricing strategies because they have to deal with the gray market. Therefore, manufacturers will prefer to sell their products using EMCs because EMCs can help fight the gray market.

Fourth, export management companies can improve their capabilities by incorporating the Internet into their business. By intertwining market-base assets with the Internet, EMCs would not only survive but also thrive because the Internet helps EMCs become more effective and efficient. The Internet enables EMCs to gain efficiencies, save time, reduce costs, and improve information flow between trading partners ("TradeXchange," n.d.).

Conclusion

This study has examined the conditions under which EMCs may and may not survive the Internet, and how the Internet supplements EMCs. This study argues that the Internet's impact on EMCs is mixed. Some EMCs will survive the Internet and some will not because the Internet does not pose similar threats to all EMCs. EMCs will not survive under the pressure from the Internet when manufacturers' products have short life-cycles and competition is intense. On the other hand, EMCs will survive the Internet if manufacturers have differential pricing strategies and manufacturers want broad targeting across countries, and when EMCs have enormous control over the export channels.

Many researchers agree that the Internet has helped fuel global trade. The development of the Internet provides many good opportunities for EMCs. The Internet provides EMCs with the capability to reach new customers and expand into new markets with the same amount of resources as before. Thus, EMCs can enjoy the benefits of incorporating online technology into their business. As a result, EMCs can spend less time traveling and more time studying their clients' products, as well as expand their global market coverage and product portfolios.

This study suggests that future research in this area should focus on two topics. First, the Internet's impact on both small and large EMCs might or might not be the same because they do not have the same amount of resources. Second, most of EMCs' customers are in developing countries with poor communication infrastructure. Therefore, future research should be done in this area to measure how EMCs can benefit from the development of the Internet in developing countries. Both topics need to be done using empirical and theoretical analyses to better understand the Internet's impact on export management companies.

References

Almasy, S. (2005, October 10). The Internet transforms modern life. CNN. Retrieved from http://www.cnn.com/2005/TECH/Internet/06/23/evolution.main/index.html

Bergman, M. (2006, December 15). Nearly half of our lives spent with TV, radio, Internet, newspapers, According to Census Bureau Publication. U.S. Census Bureau News. Retrieved from http://www.census.gov

Bhatnagar, P. (2006, January 24). Why big retailers are shuttering stores. CNN. Retrieved from http://money.cnn.com/2006/01/24/news/companies/retail_retrenchment/index.htm

Frazier, Gary L, & Lassar, Walfried M. (1996). Determinants of distribution intensity. Journal of Marketing, 60(4), 39-51.

Gaudin, S. (2009, September). The Net at 40: What's Next? Computerworld, 43(28), 11.

Get ready, export intermediaries use Internet to prepare for 21st century [5 Edition] (1998, August 19). Journal of Commerce, p. 5C.

Howe, W. (n.d.). An Anecdotal History of the People and Communities that Brought About the Internet and the Web. Retrieved from http://www.walthowe.com/navnet/history.html

International Telecommunications Union (Geneva), June 2013, Percentage of Individuals using the Internet 2000-2012.

Internet growth statistics, June 30, 2012. Internet World Stats. Retrieved from http://www.Internetworldstats.com/emarketing.htm

Joyner, N. T. (n.d.). How to find and use an export management company. The Federation of International Trade Associations. Retrieved from http://www.fita.org/aotm/0499.html

Kathy Sandler. (2009, October 14). Corporate News: Marks Sets Strategy. Wall Street Journal (Eastern Edition), p. B.7.

Leggatt, H. (2007, April 27). More consumers paying bills online. BizReport. Retrieved from http://www.bizreport.com

Matson intermodal introduces online shipment tracking capabilities. Alexander & Baldwin. Retrieved from http://www.alexanderbaldwin.com/news/press-releases/press-release?id=262467

Mike W Peng, & Anne Y Ilinitch. (1998). Export intermediary firms: A note on export development research. Journal of International Business Studies, 29(3), 609-620.

Mike W Peng, & Anne S York. (2001). Behind intermediary performance in export trade: Transactions, agents, and resources. Journal of International Business Studies, 32(2), 327-346.

Poul Houman Andersen. (2005). Export intermediation and the Internet: an activity-unbundling approach. International Marketing Review, 22(2), 147-164.

Smith, J. (2009, October 26). The Advantages and Disadvantages of Purchasing Bulk Champagne Glasses. Retrieved from http://ezinearticles.com/?The-Advantages-and-Disadvantages-of-Purchasing-Bulk-Champagne--Glasses&id=3157483

Top world oil producers 2009. Energy Information Administration. Retrieved from http://tonto.eia.doe.gov/country/index.cfm

TradeXchange. Wachovia. Retrieved from https://www.wachovia.com/foundation/v/index.jsp?vgnextoid=233005110babb110VgnVCM100000ca0d1872RCRD

U.S. total export trade in goods and services. U.S. Census Bureau. Retrieved from http://www.census.gov/foreign-trade/statistics/historical/gandsexp.pdf

U.S. total import trade in goods and services. U.S. Census Bureau. Retrieved from http://www.census.gov/foreign-trade/statistics/historical/gandsimp.pdf

Varinder M Sharma. (2005). Export Management Companies and E-Business: Impact on Export Services, Product Portfolio, and Global Market Coverage. Journal of Marketing Theory and Practice, 13(4), 61-71.

Vaughn, S. L. (2009, May 9). Brick and border stores should use online marketing to improve business. Retrieved from http://www.associatedcontent.com/article/1720046/brick_and_border_stores_should_use.html?cat=3

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Tax Identify Theft:
A Growing Problem That Must Be Managed Proactively

By: Fredrick Ho, CPA, MBA

Introduction

Tax returns as well as other forms of tax-related identity theft are a growing concern requiring preventive steps and corrective action after the identity theft has been perpetrated. Tax return identity theft occurs when an individual uses a taxpayer's personal information, such as name and Social Security number (SSN), without permission to commit fraud on tax returns by claiming refunds to which a taxpayer is not entitled.

In 2011, it was reported that the IRS processed approximately 145 million returns. About 109 million returns were claims for refunds, with an average refund amount of almost $3,000. For the 2011 filing season, the Treasury Inspector General for Tax Administration (TIGTA) estimated that identity-theft-related fraud accounted for approximately 1.5 million tax returns in excess of $5.2 billion in fraudulent tax refunds paid out by the IRS. By mid-2012, the IRS had narrowed down 2.6 million returns as possible cases of identity theft, and that number is on the increase. The IRS recently reported an inventory of more than 450,000 active tax identity theft cases.

There is little doubt that tax identity theft will eventually reach epidemic proportions. Investigators found a single address that was used to file 2137 tax returns for $3.3 million in refunds. Most thieves prefer to receive the refund using direct deposit or prepaid debit cards. In another example, 590 tax refunds totaling more than $900,000 were deposited into a single bank account. Although banks have strict rules to verify the identity of account holders, they don't have the ability to monitor whether the direct deposit is for a legitimate refund.

How Is An Identity Stolen?

A typical identity theft begins when thieves illegally buy or steal information from individuals, employers, hospitals, or nursing homes.

Other common ways to obtain personal information include email or telephone phishing and dumpster diving.

Thieves look for discarded tax returns, bank records, credit card receipts or other records containing personal and financial information. Some taxpayers receive email messages allegedly from the IRS notifying them that they are under investigation or have an unclaimed refund pending. To encourage the potential victim to respond, the email may threaten a dire consequence (see Exhibits 1a & 1b for typical phishing messages). Often, the recipient is asked to click on a link to access what appears to be-(but is not) the official IRS website.

Exhibit 1a: Sample of Phishing Email

From: "John Doe@irs.gov" <John Doe@irs.gov>
To:
Sent: Friday, 10 February, 2013 6:42:03
Subject: Rejected Federal Tax transfer

IRS

Your Tax transaction (ID: 152757344464), recently sent from your checking account was returned by your Bank.

Rejected Tax transaction	
Tax Transaction ID:	152757344464
Return Reason	See details in the report below
FederalTax Transaction Report	tax report 152757344464.pdf (Adobe Acrobat Reader Document)

Important Information for Home-care Service Recipients

If you are a home-care service recipient who has a previously assigned EIN either as a sole proprietor or as a household employer, do not apply for a new EIN. Use the EIN previously provided. If you can not locate your EIN for any reason, follow the instructions on the Misplaced Your EIN? Web page.

If you are a home-care service recipient who does not have an EIN, do not use the online application to apply for one. You must apply for your EIN using one of the other methods (phone, fax or mail). For additional information, visit the How to Apply for an EIN Web page.

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Exhibit 1b: Sample of Phishing Email
Title/Subject of email: Your Tax Refund Payment Update [attachment to email is "Refund Form.html"= link to webform]
From: taxupdates@irs.org
After the last annual calculations of your fiscal activity we have determined that you are eligible to receive a tax refund of $ 826.28.
Submit the tax refund request and allow us 3–5 business days in order to process it.
A refund can be delayed for a number of reasons. For example submitting invalid details which we don't have on record or applying after the deadline.
Download, fill and submit your Tax Refund Form in order to complete the process.
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It is of the utmost importance to note that the IRS does not send unsolicited, tax-account related emails to taxpayers and never requests for personal and financial information, including PINs and passwords, via email. The IRS alerts that since it rarely contacts taxpayers via e-mail, and never about their tax accounts, taxpayers should be extremely cautious about any e-mails claiming to originate from the IRS. (note in Exhibit 1 how the email uses "irs.org" and not "irs.gov.")

As is common with these types of phishing emails, the message includes a link that will allegedly provide more information on the transaction. If you click on the link in the email to access the report, you will download malware onto your computer, which will then be used to steal your information and money.

Tax Identity Theft Detection

Generally, the identity thief will use a stolen SSN to file a forged tax return and attempt to claim a fraudulent refund early in the filing season. By filing early, before the IRS has received forms W-2 or 1099, the tax identity thief thwarts information matching and avoids receiving duplicate return notices from the IRS. Taxpayers sometimes discover they are victims of identity theft when they file their return later in the filling season and receive a notice from the IRS.

Over the years, the IRS has set up filters that address different issues. These filters are designed to try to distinguish legitimate returns from fraudulent ones and to prevent the recurrence of identity theft. If a tax return is selected by a filter, it is manually reviewed to validate the taxpayer's identity. If the IRS identifies a suspicious return, it notifies the taxpayer that

1. Taxpayer filed more than one tax return or someone has already filed using the taxpayer's information.
2. Taxpayer has a balance due, or has had collection actions taken against the taxpayer for a year the taxpayer did not file.
3. Taxpayer received wages from an employer for whom the tax payer has not worked for.

When a taxpayer's identity has been stolen, the legitimate taxpayer may be issued a confidential identity protection PIN (IP PIN) that identifies the taxpayer as the legitimate party using the SSN and other identifying information. The IRS began this pilot program in 2010 to mark the accounts of deceased taxpayers to prevent misuse by identity thieves. The IRS issues these numbers to taxpayers who have reported that their identities have been stolen, verified their identities, and had an identity theft indicator applied to their accounts. However, not all victims of identity theft will receive an IP PIN. The IRS has stated that only taxpayers submitting Form 14039 (Exhibit 2), *Identity Theft Affidavit,* and proper documentation or taxpayers whom the IRS has specifically identified as victims will receive them. During the 2012 filing season, the IRS issued 250,000 IP PINs, up from about 54,000 the year before. Once the IP PIN has been issued, it must be present and correct on the specific tax return for which it was issued. For the 2012 tax year, the six-digit IP PIN is to be inserted at the bottom of page 2 of Form 1040, to the right of the taxpayers' signatures. **(Exhibit 3)**

If two taxpayers are married filing jointly and each taxpayer receives an IP PIN, the couple should use the IP PIN of the SSN that appears first on the tax return. Tax preparation software will generally ask taxpayers if they have received an IP PIN. If a taxpayer is filing a printed copy of the return, however, this number will not print, and should be handwritten in the space provided. A request for an extension or installment agreement using an IP PIN must be made on paper, but the tax return may still be filed electronically.

A new IP PIN is issued every subsequent year as long as the theft indicator remains on the legitimate taxpayer's account. Returns with an IP PIN are processed more efficiently, as they bypass the regular filtering system, and the IP PIN prevents fraudulent returns from being processed.

Exhibit 2

Form 14039 Rev. December 2012	Department of the Treasury - Internal Revenue Service **Identity Theft Affidavit**	**OMB Number** 1545-2139

Complete and submit this form if you are an actual or potential victim of identity theft and would like the IRS to mark your account to identify any questionable activity.

Check only one of the following two boxes if they apply to your specific situation. (Optional for all filers)

☐ I am submitting this form in response to a mailed notice or letter from the IRS.

☐ I am completing this form on behalf of another person, such as a deceased spouse or other deceased relative. You should provide information for the actual or potential victim in Sections A, B, & D.

Note to all filers: Failure to provide required information on **BOTH** sides of this form **AND** clear and legible documentation will delay processing.

Section A – Reason For Filing This Form (Required for all filers)

Check only **ONE** of the following two boxes. You **MUST** provide the requested description or explanation in the lined area below.

1 ☐ I am a victim of identity theft **AND** it is affecting my federal tax records.

You should check this box if, for example, your attempt to file electronically was rejected because someone had already filed using your Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN), or if you received a notice or correspondence from the IRS indicating someone was otherwise using your number.

Provide a short explanation of the problem and how you were made aware of it.

2 ☐ I have experienced an event involving my personal information that may at some future time affect my federal tax records.

You should check this box if you are the victim of non-federal tax related identity theft, such as the misuse of your personal identity information to obtain credit. You should also check this box if no identity theft violation has occurred, but you have experienced an event that could result in identity theft, such as a lost/stolen purse or wallet, home robbery, etc.

Briefly describe the identity theft violation(s) and/or the event(s) of concern. Include the date(s) of the incident(s).

Section B – Taxpayer Information (Required for all filers)

Taxpayer's last name	First name	Middle initial	The last 4 digits of the taxpayer's SSN **or** the taxpayer's **complete** Individual Taxpayer Identification Number (ITIN)

Taxpayer's **current** mailing address (apt., suite no. and street, or P.O. Box)

City	State	ZIP code

Tax year(s) affected *(Required if you checked box 1 in Section A above)*	Last tax return filed (year) *(If you are not required to file a return, enter NRF and do not answer the next two questions)*

Address on last tax return filed *(If same as current address, write "same as above")*

City (on last tax return filed)	State	ZIP code

Section C – Telephone Contact Information (Required for all filers)

Telephone number *(include area code)* ☐ Home ☐ Work ☐ Cell	Best time(s) to call

I prefer to be contacted in *(select the appropriate language)* ☐ English ☐ Spanish ☐ Other ____________

Section D – Required Documentation (Required for all filers)

Submit this completed form and a **clear and legible** photocopy of at least one of the following documents to verify your identity. If you are submitting this form on behalf of another person, the documentation should be for that person. If necessary, enlarge the photocopies so all information and pictures are clearly visible.

Check the box next to the document(s) you are submitting:

☐ Passport ☐ Driver's license ☐ Social Security Card ☐ Other valid U.S. Federal or State government issued identification**

** Do not submit photocopies of federally issued identification where prohibited by 18 U.S.C. 701 (e.g., official badges designating federal employment).

Form **14039** (Rev. 12-2012) Catalog Number 52525A www.irs.gov Department of the Treasury - Internal Revenue Service

Exhibit 2 Continued

Form 14039 Rev. December 2012	Department of the Treasury - Internal Revenue Service **Identity Theft Affidavit**	OMB Number 1545-2139

Section E – Representative Information (Required only if completing this form on someone else's behalf)

If you are completing this form on behalf of another person, you **must** complete this section **and** attach **clear and legible** photocopies of the documentation indicated.

Check only **ONE** of the following four boxes next to the reason why you are submitting this form

☐ The taxpayer is deceased and I am the surviving spouse. *(No attachments are required)*

☐ The taxpayer is deceased and I am the court-appointed or certified personal representative. Attach a copy of the court certificate showing your appointment.

☐ The taxpayer is deceased and a court-appointed or certified personal representative has not been appointed. Attach a copy of the death certificate or the formal notification from the appropriate government office informing the next of kin of the decedent's death. Indicate your relationship to the decedent: ______________________

☐ The taxpayer is unable to complete this form and I have been appointed conservator or have Power of Attorney (POA) authorization. Attach a copy of the documentation showing your appointment as conservator or your POA authorization. If you are the POA and have been issued a CAF number by the IRS, enter it here: ______________________

Representative's name

Current mailing address

City	State	ZIP code

Section F – Penalty Of Perjury Statement and Signature (Required for all filers)

Under penalty of perjury, I declare that, to the best of my knowledge and belief, the information entered on this form is true, correct, complete, and made in good faith.

Signature of taxpayer or representative of taxpayer	Date signed

Instructions for Submitting this Form

Submit this form and **clear and legible** copies of required documentation using **ONE** of the following submission options. Mailing **AND** faxing this form **WILL** result in a processing delay.

By Mail

If you checked Box 1 in Section A and are unable to file your return electronically because the primary and/or secondary SSN was misused, attach this form and documentation to your paper return and submit to the IRS location where you normally file. **If you have already filed your paper return,** submit this form and documentation to the IRS location where you normally file. Refer to the "Where Do You File" section of your return instructions or visit IRS.gov and input the search term "Where to File".

If you checked Box 1 in Section A and are submitting this form in response to a notice or letter received from the IRS, return this form and documentation **with a copy of the notice or letter** to the address contained in the notice or letter.

If you checked Box 2 in Section A (you do not currently have a tax-related issue), mail this form and documentation to:

Internal Revenue Service
PO Box 9039
Andover MA 01810-0939

By FAX

If you checked Box 1 in Section A and are submitting this form in response to a notice or letter received from the IRS that shows a reply FAX number, FAX this completed form and documentation with a copy of the notice or letter to that number. Include a cover sheet marked "Confidential." If no FAX number is shown, follow the mailing instructions on the notice or letter.

If you checked Box 2 in Section A (you do not currently have a tax-related issue), FAX this form and documentation to: **(855) 807-5720.**

NOTE: The IRS does not *initiate* contact with taxpayers by email, fax, or any social media tools to request personal or financial information. Report unsolicited email claiming to be from the IRS and bogus IRS websites to phishing@irs.gov.

NOTE: For more information about questionable communications purportedly from the IRS, visit IRS.gov and input the search term "Fake IRS Communications".

Other helpful identity theft information may be found on www.irs.gov/uac/Identity-Protection. Additionally, locations and hours of operation for Taxpayer Assistance Centers can be found at www.irs.gov (search "Local Contacts").

Note: The Federal Trade Commission (FTC) is the central federal government agency responsible for identity theft awareness. The IRS does not share taxpayer information with the FTC. Refer to the FTC's website at www.identitytheft.gov for additional information, protection strategies, and resources.

Privacy Act and Paperwork Reduction Notice

Our legal authority to request the information is 26 U.S.C. 6001.

The primary purpose of the form is to provide a method of reporting identity theft issues to the IRS so that the IRS may document situations where individuals are or may be victims of identity theft. Additional purposes include the use in the determination of proper tax liability and to relieve taxpayer burden. The information may be disclosed only as provided by 26 U.S.C. 6103. Providing the information on this form is voluntary. However, if you do not provide the information it may be more difficult to assist you in resolving your identity theft issue. If you are a potential victim of identity theft and do not provide the required substantiation information, we may not be able to place a marker on your account to assist with future protection. If you are a victim of identity theft and do not provide the required information, it may be difficult for IRS to determine your correct tax liability. If you intentionally provide false information, you may be subject to criminal penalties.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send this form to this address. Instead, see the form for filing instructions. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Form **14039** (Rev. 12-2012) Catalog Number 52525A www.irs.gov Department of the Treasury - Internal Revenue Service

Exhibit 3 page 2 of 1040

Form 1040 (2005) Page **2**

Tax and Credits

38	Amount from line 37 (adjusted gross income)	38	
39a	Check if: ☐ **You** were born before January 2, 1941, ☐ Blind. ☐ **Spouse** was born before January 2, 1941, ☐ Blind. } **Total boxes checked** ▶ **39a** ☐		
b	If your spouse itemizes on a separate return or you were a dual-status alien, see page 35 and check here ▶**39b** ☐		
40	**Itemized deductions** (from Schedule A) **or** your **standard deduction** (see left margin)	40	
41	Subtract line 40 from line 38	41	
42	If line 38 is over $109,475, or you provided housing to a person displaced by Hurricane Katrina, see page 37. Otherwise, multiply $3,200 by the total number of exemptions claimed on line 6d	42	
43	**Taxable income.** Subtract line 42 from line 41. If line 42 is more than line 41, enter -0-	43	
44	**Tax** (see page 37). Check if any tax is from: **a** ☐ Form(s) 8814 **b** ☐ Form 4972	44	
45	**Alternative minimum tax** (see page 39). Attach Form 6251	45	
46	Add lines 44 and 45 ▶	46	
47	Foreign tax credit. Attach Form 1116 if required	47	
48	Credit for child and dependent care expenses. Attach Form 2441	48	
49	Credit for the elderly or the disabled. Attach Schedule R	49	
50	Education credits. Attach Form 8863	50	
51	Retirement savings contributions credit. Attach Form 8880	51	
52	Child tax credit (see page 41). Attach Form 8901 if required	52	
53	Adoption credit. Attach Form 8839	53	
54	Credits from: **a** ☐ Form 8396 **b** ☐ Form 8859	54	
55	Other credits. Check applicable box(es): **a** ☐ Form 3800 **b** ☐ Form 8801 **c** ☐ Form ______	55	
56	Add lines 47 through 55. These are your **total credits**	56	
57	Subtract line 56 from line 46. If line 56 is more than line 46, enter -0- ▶	57	

Standard Deduction for—

- People who checked any box on line 39a or 39b **or** who can be claimed as a dependent, see page 36.
- All others:

Single or Married filing separately, $5,000

Married filing jointly or Qualifying widow(er), $10,000

Head of household, $7,300

Other Taxes

58	Self-employment tax. Attach Schedule SE	58	
59	Social security and Medicare tax on tip income not reported to employer. Attach Form 4137	59	
60	Additional tax on IRAs, other qualified retirement plans, etc. Attach Form 5329 if required	60	
61	Advance earned income credit payments from Form(s) W-2	61	
62	Household employment taxes. Attach Schedule H	62	
63	Add lines 57 through 62. This is your **total tax** ▶	63	

Payments

If you have a qualifying child, attach Schedule EIC.

64	Federal income tax withheld from Forms W-2 and 1099	64	
65	2005 estimated tax payments and amount applied from 2004 return	65	
66a	**Earned income credit (EIC)**	66a	
b	Nontaxable combat pay election ▶ 66b		
67	Excess social security and tier 1 RRTA tax withheld (see page 59)	67	
68	Additional child tax credit. Attach Form 8812	68	
69	Amount paid with request for extension to file (see page 59)	69	
70	Payments from: **a** ☐ Form 2439 **b** ☐ Form 4136 **c** ☐ Form 8885	70	
71	Add lines 64, 65, 66a, and 67 through 70. These are your **total payments** ▶	71	

Refund

Direct deposit? See page 59 and fill in 73b, 73c, and 73d.

72	If line 71 is more than line 63, subtract line 63 from line 71. This is the amount you **overpaid**	72	
73a	Amount of line 72 you want **refunded to you** ▶	73a	
b	Routing number ▶ **c** Type: ☐ Checking ☐ Savings		
d	Account number		
74	Amount of line 72 you want **applied to your 2006 estimated tax** ▶	74	

Amount You Owe

75	**Amount you owe.** Subtract line 71 from line 63. For details on how to pay, see page 60 ▶	75	
76	Estimated tax penalty (see page 60)	76	

Third Party Designee

Do you want to allow another person to discuss this return with the IRS (see page 61)? ☐ **Yes.** Complete the following. ☐ **No**

Designee's name ▶ Phone no. ▶ ( ) Personal identification number (PIN) ▶

Sign Here

Joint return? See page 17. Keep a copy for your records.

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Your signature	Date	Your occupation	Daytime phone number ( )
Spouse's signature. If a joint return, **both** must sign.	Date	Spouse's occupation	

Paid Preparer's Use Only

Preparer's signature ▶	Date	Check if self-employed ☐	Preparer's SSN or PTIN
Firm's name (or yours if self-employed), address, and ZIP code ▶		EIN	
		Phone no.	( )

Form **1040** (2005)

Printed on recycled paper U.S. GOVERNMENT PRINTING OFFICE: 2005—309–058

Responding To Identity Theft

If an identity is stolen, the steps to be taken include:

1. For tax and nontax identity theft, a report of the theft should be made to the federal trade commission at 877-483-4338 or ftc.gov/complaint.
2. Filing a report with the local police.
3. Closing any affected bank and credit card accounts.
4. Informing the credit bureaus and considering putting a credit freeze on the accounts. A credit freeze restricts access to credit reports, making it unlikely that thieves can open new accounts in the taxpayer's name.
5. Contacting the IRS Identity Protection Specialized Unit at 800-908-4490, and completing Form 14039, if necessary to obtain an IP Pin. A response from the IRS will not be immediate. The National Taxpayer Advocate noted that "this unit has been unable to answer about two out of every three calls it has received from taxpayers so far this year. At times, during the filing season, it was answering only about one out of every nine calls it received—and those who managed to get through waited an average of over an hour to speak with an IRS employee."
6. Responding to all IRS notices immediately, using the name and number printed on the notice.

Preventing Identity Theft?

Since identity theft is so prevalent and on the rise, general preventive measures suggested by the IRS and others have included:

1. Arranging for masked SSNs where possible, such as on insurance cards, so that SSNs are closely protected and circulated as little as possible.
2. Monitoring credit reports from the three major credit bureaus. (Contact details for the fraud departments of the three major credit bureaus are: Equifax-equifax.com, 800-525-6285; Experian-experian.com, 888-397-3742; and TransUnion--transunion.com, 800-680-7289.)
3. Forwarding all information appearing to be from the IRS promptly to an accountant for review and not clicking on links or open attachments from emails claiming to be from the IRS.
4. Safeguarding the Social Security card by storing it in a safe and secure location, and not discarding any documents with an SSN on it.
5. Resisting giving businesses an SSN or other personal information just because they ask for it; often it is not required, and dissemination of SSN information is risky.
6. Protect financial information by using a shredder before discarding documents.
7. Securing personal information, such as, copies of tax returns by keeping them in a locked file cabinet or safe.
8. Protecting personal computers by using firewalls and anti-spam or anti-virus software, updating security patches, and regularly changing passwords for internet accounts with sensitive information, such as online banking sites.

Additional preventive steps for tax returns may include:

1. Filing returns early if possible.
2. E-filing returns so that notification of duplicate return notices are received more quickly.
3. Considering truncating or masking SS s on Forms 1098, 1099, and 5498 consistent with Notice 2011-38 of the IRS.

Taxpayers should follow the above suggestions, just as they should floss every day. However the IRS tips will not fully protect them from the current tsunami of tax related identity thefts just as flossing will not fully protect them from cavities. Tax identity thieves are submitting large numbers of bogus returns electronically in the hopes that some of them will get through the IRS' security screens. So rather than steal identities wallet by wallet, or computer by computer, they lift names and Social Security numbers by the dozens, or the hundreds, or the thousands, often with the help of corrupt insiders with access to personal data. For the most part, this isn't sophisticated cybercrime. One North Carolina man broke into a local Jackson Hewitt Tax Service office and stole 300 clients' files to use for refund fraud. A part time data entry clerk at the IRS' Fresno, Ca. Service Center, instead of entering the data from 68 papers 1040s into the IRS' computers, allegedly stole the returns and used them to file for phony refunds. Some of these schemes sound simply too unbelievable. According to a criminal complaint filed last year in the Montgomery, Ala. federal court, during the 2011 tax filing season, 650 tax returns were all transmitted from a single IP address at the home of Antoinette Djonret, with more than 400 of the returns claiming a tax refund of exactly $1,300 and every tax return claiming the taxpayer received wages from, and had taxes withheld by Wal-Mart. According to a later indictment, Djonret and her co-conspirators managed to get refunds, worth more than $1.2 million, delivered to WalMart Money Cards and other pre-paid debit cards. Djonret entered a guilty plea in October and a new indictment, charged another woman supplied Djonret with names from Alabama state databases over a two and a half year period, ended in April 2012.

Conclusion

Tax return identity theft delays legitimate taxpayer refunds because the return appears to be a duplicate return and may be a sign of other fraud or identity theft problems. IRS support to solve traditional and nonfraud problems may be delayed when IRS resources are diverted to address identity theft. Other tax-related identity theft problems for the taxpayer occur. If an individual fraudulently used a taxpayer's SSN to get a job, the taxpayer may have extra W-2 wages erroneously reported (and perhaps also extra taxes withheld), leading to a correspondence matching audit. Time and money are spent to clear the individuals' names, during which victims may lose job opportunities, may be refused loans, education, housing or cars, or even get arrested for crimes they didn't commit.

Recently, the IRS held suspicious refunds while verifying the underlying W-2 information, for up to 11 weeks. With the increase in the number of cases and budget limitations, refunds may take longer than usual. The IRS has stated that identity theft can impose a significant burden on its victims, whose legitimate refund claims are blocked and who often must spend months or longer trying to convince the IRS that they are, in fact, victims and then working with the IRS to untangle their account problems.
Although the IRS planned to spend about $330 million in 2012 to combat identity theft, the IRS has limited resources and needs additional funding to combat this problem. Identity theft also happens to tax systems in other countries, but the extent of the problem is lessened in countries where the government can immediately (or in "real-time") match income and withholding with the tax return. IRS Commissioner Douglas Shulman has called for real-time matching for the purpose of reducing the number of taxpayer audits, but such a system should help reduce identity theft fraudulent tax returns as well.

Federal tax fraud perpetrated by tax identity thieves is only the tip of the iceberg. The states are a potential gold mine, experts say, because with a single Social Security number a thief can file returns---and collect refunds---across the country. What the fraudsters are doing is using those identities to file in 42 or 43 other states, stealing hundreds of billions of dollars from taxpayers. Because states generally do not share much tax information with one another, and because a taxpayer would not know if a fraudster had filed in a faraway state, the state version of this crime is much harder to detect.

ABOUT THE AUTHORS

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Contracts 101: Legal Principles and Practical Considerations for Navigating Contractual Relationships

By: Michael Arnold

ABSTRACT: *Contract law is the cornerstone of our modern economic and social system. Contracts are about relationships. Throughout the course of a day, it is difficult not to enter into some contractual relationship. Yet, most people are unaware of the legal principles of contracts that govern those relationships and affect their economic transactions and ultimately the course of their lives. Knowledge of the legal principles of contract law and the practical realities of that relationship will assist the businessperson and consumer alike in intelligently entering into a contract and navigating the sometimes treacherous waters of a contractual relationship.*

A contract is a legally enforceable agreement. The underlying basis of a contract is that parties have willingly and voluntarily entered into an agreement by which promises are being exchanged. The contract represents a "meeting of the minds" between the parties regarding the terms of their relationship. Theoretically, a contract is not about tricking someone into making an enforceable promise. But in the real world, that may not always be the case. However, a contract would probably not be enforceable if it can be proven that it was entered into through fraud, undue influence or duress.

A contract comes into existence when parties have an incentive to create some type of an economic or business relationship. In the contract, the parties set forth the purpose of that relationship, the promises supporting that relationship and the rules governing that relationship. Every contractual relationship is different. Depending upon the purpose and complexity of the relationship, there will be a need for more or less rules. Walking into a store and purchasing a toaster through an exchange of money for the goods does not require as many rules as a fast food franchise agreement. In the first instance, unless the toaster does not work and the customer takes it back, it is a short term relationship and a simple exchange which ends when the customer walks out the door of the store. On the other hand, a franchise agreement contemplates a complex relationship extending over a period of many years. Consequently, the contractual agreement may be hundreds of pages in length and govern the rights and obligations of the parties in minute detail.

Formation of the Contract

Knowing how a legally enforceable contract is created is an essential first step in understanding the contractual relationship. Legally, several elements are required for the formation of a contract. These elements are an offer, an acceptance of the offer, and legal consideration for the contract. The overall mechanism for contract formation is that an offer is made by the offeror to the offeree who then has the power to conclude the contract by accepting it. Each of the elements of offer, acceptance, and consideration has their own legal requirements which are discussed below.

Requirements for a Valid Offer

Intent is a fundamental requirement for a valid offer. The offeror must actually intend to make an offer. Consequently, if someone jokingly says that they will sell their expensive sports car for $500, the element of intent to enter into a bargain would probably not be present and it would not be a valid offer. Similarly, if someone were sufficiently intoxicated, they may not possess the mental state to form the intent required to make a valid offer.

In addition to intent, the offer must be certain and definite as to the essential terms of the proposed contract. In a contract for the sale of goods, the essential terms would include a description of the goods, the quantity and the price to be paid. If the contract involved services, the services would need to be defined and the amount of the compensation stated.

An important legal consequence of the offer is that the terms of the offer control the contract. Therefore, when the offeree accepts the offer, the terms stated in the offer will constitute the terms of the contract.

Termination of the Offer

Termination of the offer is a very significant issue in analyzing contract formation. If an offer terminates before a valid acceptance takes place, no contract can be formed since there is no offer to accept. An offer can terminate in any of the following ways:

(1) Revocation- The offeror withdraws the offer. However, revocation can only take place before there has been an acceptance. After acceptance, the offer cannot be revoked.
(2) Rejection- The offeree says "no" to the offer.
(3) Counteroffer- The offeree makes his own offer (counteroffer). Legally, a counteroffer acts as a rejection of the original offer and the proposal of a new offer. Consequently, there is an exchange of places: the original offeree becomes the new offeror and the original offeror is then the new offeree.
(4) Lapse of Time- The time period for accepting the offer runs out. If the offer states a time by which the offer must be accepted, then the offer terminates on the date specified. If the offer does not state a date for acceptance, then the offer will be considered to have terminated after a "reasonable" time period. What constitutes a reasonable time will depend upon all the facts and circumstances and may ultimately have to be determined by the court
(5) Destruction of Subject Matter- The subject matter of the contract is destroyed.
(6) Death or Incompetence- The offer terminates with the death or the mental incompetence of either the offeror or the offeree.
(7) Supervening Illegality- A law makes the proposed contract or its subject matter illegal.

The following examples will illustrate the first four methods an offer can terminate. The other three are more or less self-explanatory.

1. Jeff offers to sell his house to Susan for $250,000. However, before Susan accepts the offer, Jeff changes his mind and tells Susan that he does not want to sell.
[Jeff has revoked the offer before any acceptance by Susan. However, if Jeff sends a letter revoking the offer on January 4, and Susan mails her letter accepting the offer also on January 4, the revocation would not be effective. Under the mailbox rule (discussed below), Susan's acceptance took place on January 4 when it was mailed, but the revocation would not be effective until Susan receives it.]

2. Jeff offers to sell his house to Susan for $250,000. Susan says "no."
[Susan's response is a rejection of the offer.]

3. Jeff offers to sell his house to Susan for $250,000. Susan says that she will buy it for $215,000.
[Susan has made a counteroffer. The counteroffer acts as a rejection of Jeff's original offer and the proposal of a new offer. Susan is now the offeror and Jeff is the offeree.]

4. Jeff offers to sell his house to Susan for $250,000 and tells her that he needs a response by January 15.
[On January 15, the offer will end. If Susan does not respond by January 15, the offer will terminate by its own terms.]

Requirements for a Valid Acceptance

An acceptance is an agreement by the offeree to the terms of the offer. If the offer specifies the manner in which the acceptance must be made, the offeree must accept in the way that the contract specifies. For example, if the offer calls for acceptance to be made "by Fax before 5 P.M. on Thursday," acceptance must take place in this manner. In addition, there are other legal requirements for a valid acceptance. These are as follows: (1) Only the offeree can accept the offer. No other person, unless they are acting as an agent for the offeree, has the legal power to accept. (2) There must be an intent to accept the offer. (3) The acceptance must be unqualified. The requirement of an unqualified acceptance is referred to as the "mirror image rule". A valid acceptance must exactly "mirror" the terms of the offer. If additional or different terms are stated in the acceptance, the purported acceptance will act as a counteroffer instead of an acceptance. Finally, the so-called "mailbox rule" determines when acceptance takes place. Under this rule, the acceptance takes place at the moment when the letter of acceptance is sent by placing it in a mailbox or given to the postal authorities with postage paid. Essentially, this rule is taken to mean that an acceptance is effective the moment it is sent by whatever means.

Requirement of Legal Consideration

In general, a contract must be supported by legal consideration. Consideration is basically a bargained-for exchange of something having legal value. For example, Jim offers to sell his car to Tom for $500. The parties have bargained for the exchange of the car. Jim receives a benefit of $500 in exchange for his car. Tom receives the benefit of the car in exchange for the $500. The $500 is the legal consideration for Jim's promise to sell the car. The car is the legal consideration for Tom's promise to give Jim $500. Consideration can be thought of as the motive or inducement for someone to enter into the contract. It can be an act, a forbearance, or a return promise. The requirement of consideration distinguishes an enforceable agreement from a promise to make a gift.

A promise to make a gift is not enforceable. So, if Jim promises to give Tom his car and then later changes his mind and refuses to give it to him, Tom will not be able to enforce this promise in a court of law. [1]

The Legal Effect of Signing a Contract

A fundamental rule of contract law is that, if someone signs a contract, it will legally be presumed that the person read the contract and understood it. In theory, one should never sign a contractual document without reading it and understanding it. However, realistically, it is not always possible to do that. For example, when escrow closes for the purchase of a house, the purchaser is given a large stack of documents to sign that would take an attorney many days to read and to attempt to understand...While contracts are, in theory, products of mutual agreement, in reality, we are frequently given contacts to sign that we have little or no ability to negotiate even if we are not under the gun to sign.. Usually we sign contracts because they are given to us on a "take it or leave basis."

We want the products or service that will come after the signing of the contract and do not give much consideration to the possibility of any adverse consequences. However, one should always bear in mind that putting one's signature on a contract will cause one to be legally bound by the terms of that contract. Courts will seldom, if ever, be sympathetic to the defense that the party to the contract did not read the contract or understand it. If the failure to read or understand a contract were valid legal defenses to a contract, parties could easily escape contractual promises and contracts would lose much of their legal and economic significance.

Oral vs. Written Agreements

It is often mistakenly believed that oral contracts are not valid contracts and are not enforceable. Oral contracts, however, are valid contracts and are as enforceable as a written contract. They may be more difficult to prove than a written contract, but the terms of an oral contract may be proven in various ways. These would include the testimony of the parties as well as witnesses and other writings or documents.

Oral and written contracts have different statutes of limitations. Statutes of limitation set a legal time limit for the filing of lawsuits. In California, the statute of limitation requires that a lawsuit based on an oral contract be filed within two years from the date that the contract is breached. For a written contract, the lawsuit may be filed within four years from the date of the breach.

Although oral contracts are valid, written contracts are probably always preferable. However, in some situations, the law requires that the contract be in writing. The Statute of Frauds requires that contracts for the sale of land be in writing. Also, the Uniform Commercial Code requires that there be a writing for contracts involving the sale of goods over $500.

Probably most oral contracts would arise in situations where the particular transactions are relatively simple and it is expedient to orally make an agreement. In more complex transactions, parties should be wary about the use of an oral contract. As practical advice, when an oral contract is encountered, it would be a beneficial practice to memorialize the contract terms in a letter to the other party confirming the terms of that agreement. The letter should also request that the other party provide immediate notification if he does not agree with the terms. One could also request that a copy of the letter memorializing the terms be signed by the other party and returned.

In summary, oral contracts are enforceable agreements. However, they should be used with caution and their use limited only to simple transactions and then confirmed in writing. Since they may be difficult to prove, oral contracts should never be used if there is any concern that enforcement of the contract may be necessary. This applies especially to situations where money is being loaned and where one hopes to have it paid back.

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[1] However, in the famous case of *Hamer v. Sidway,* from the year 1891, what appears to be a gift was determined by the court to be supported by consideration. In that case, a wealthy uncle, apparently applying principles of child psychology, promised his 15 year old nephew that, if the nephew would not engage in the vices of drinking, smoking, and gambling until age 21, the uncle would give him $5000. When he turned 21, the nephew notified his uncle that he had performed his promise and requested the $5000. The uncle wrote in a letter to the nephew he would get the $5000 as promised but that the money was safely receiving interest in a bank.. When the uncle died 12 years later without paying the money, a lawsuit ensued against the uncle's estate. The estate's representative argued that there had been no consideration for the uncle's promise to pay the money to the nephew. However, the court disagreed. In the court's opinion, since the nephew had a legal right to engage in the use of tobacco and alcohol, giving up that right for a number of years based upon the uncle's promise was sufficient consideration for the uncle's promise of $5000. Notably, the court refused to speculate about how much effort it took for the nephew to refrain from those activities.

Litigation of Contract Disputes

Although contracts are enforceable agreements, they are not self-enforcing. Since this is a civil and not a criminal matter, it is not enforceable through the criminal system. Law enforcement agencies have no interest in the private contract of individuals unless, of course, there is some criminal conduct related to it. The harsh reality is that the only way to actually enforce a contract is by the filing of a lawsuit for breach of contract in the courts. But litigation of contract disputes can be hazardous and prove to be an expensive and frustrating proposition. Litigation is never a simple matter. Before taking the plunge into the uncharted waters of a lawsuit for breach of contract, careful consideration should be made of all possible options and alternatives. Some of the matters to be considered are presented here.

Cost and Time Factors Involved in Litigation

Any business person considering the litigation of a contract should perform a thorough cost/benefit analysis. The prospective litigant should consider how much is at stake and what will it potentially cost to obtain it. In general, litigation is very expensive and the results are unpredictable. Further, it may take one to two years to even get to trial. Litigation is labor intensive and attorneys are expensive. Many hundreds of hours may be spent by the attorneys and support staff in the litigation of a contract claim. Other than the trial itself, the most expensive phase of litigation is the discovery phase. Discovery takes place after the plaintiff has filed and served the defendant with the complaint and the defendant has filed an answer to the complaint. The purpose of discovery is to give the parties an opportunity to obtain relevant information from the opposing party or from third parties. Depending upon the complexity of the issues, discovery may take six months to a year or more. After discovery has been completed, the case should be thoroughly evaluated for settlement purposes and to determine the likelihood of success at trial. If the case does not settle, the cost of trial will be significant.

Further, even if the plaintiff is able to obtain a judgment in his favor, he must still take additional legal steps to collect on the judgment. This may be very difficult or even impossible. The difficulty of collecting on a judgment is compounded when the defendant resides in another state or country.

Plaintiff Has the Burden of Proving His Case

In a lawsuit for breach of contract, the plaintiff (party filing the lawsuit) has the burden of proving: (1) that there was a contract, (2) that the other party breached the contract and (3) that the breach of contract caused him damage[2]. In addition, the plaintiff must also show that he mitigated his damages. This means that the non-breaching party (plaintiff) must do whatever is reasonable under the circumstances to lessen his damages. For example, if the contract is for the sale of goods and the contract calls for 10,000 widgets to be provided by the seller at $1.00 each and the seller fails to deliver, the purchaser must go into the marketplace and obtain replacement widgets even if it is at a higher price. If the widgets can only be obtained for $1.50 each, the purchaser's damages would be the difference between the contract price and the market price or $5,000 rather than $10,000 of the original contract. If plaintiff has not mitigated his damages, this fact may be used against him and be used as a calculation of his damages anyway.

Contract Provisions Impacting Litigation

There are several provisions that frequently appear in contracts that may pose significant concerns for any prospective litigant. If these provisions appear in the contract that is intended to be litigated, they should be thoroughly considered before any lawsuit is filed.

It is fairly common for contracts these days to contain clauses requiring mediation or arbitration of any disputes under the contract. If the parties have contractually agreed to mediation or arbitration, these provisions are enforceable by the courts. Consequently, if one party refuses to go to mediation or arbitration, a lawsuit can be filed requesting an order from the court compelling the party to attend mediation or arbitration.

Contracts often contain many provisions that a party to the contract does not pay particular attention to until it is too late. A frequently overlooked provision is the Attorneys Fees provision. Under American law, in litigation, the general rule is that both parties pay their own fees and costs for the litigation. An exception to this rule is where the parties have contractually agreed that the “prevailing party” (the party that has won the lawsuit) is entitled to their attorneys’ fees and costs. This means that the party who loses at trial may potentially have to pay the attorneys’ fees and costs for the other party.

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[2]California Jury Instructions 300

Other provisions that frequently occur, especially in international contracts, are forum selection clauses and choice of law clause. These provisions agree in advance where disputes will be resolved or lawsuits filed and what law will apply to litigation. Where parties to a contract are located in different states or different countries, an issue arises as to where a lawsuit should be filed. The general rule is that a lawsuit for breach of contract would be filed either where the defendant resides (a business's principal place of business) or where the contract was entered into or breached. However, with forum selection clauses and choice of law classes, the parties have contractually decided these issues in advance of the occurrence of any disputes. A party to a contract who wants to engage in litigation may find that they are required by the contract to file their lawsuit is a distant country and have the contract issues adjudicated under foreign laws. These provisions are generally enforceable by the courts. In *General Electric Co. v. G. Siempelkamp GmbH & Co*[3]*,* a forum selection clause and choice of law clause buried in a 60 page contract required that General Electric litigate any contract claims against Siempelkamp in the German courts under German law. Because of these contractual provisions, the Ohio court in which General Electric had filed its suit dismissed General Electric's lawsuit.

Alternate Dispute Resolution and Contract Disputes

Fortunately, there are other means by which parties experiencing contractual disputes can attempt to resolve them other than through litigation. The three methods of Alternate Dispute Resolution are: Negotiation, Mediation, and Arbitration.

The first step in dealing with a contractual dispute is for the parties to attempt negotiation between themselves. However, if the parties fail in their attempt to work out the problems, mediation may be an effective second step. With mediation, the parties work with a neutral mediator to find a resolution to the dispute. Mediation is being found to be a very effective means in terms of time and cost for the resolution of disputes. Arbitration is similar to a trial. In arbitration, the parties present their case before a neutral arbitrator. The arbitrator will hear evidence presented by the parties and then render a judgment. An arbitration decision can then be entered in the court and, if necessary, enforced through judicial procedures.

Arbitration and mediation are being increasing utilized as alternatives to litigation. Arbitration would be the appropriate forum where the parties want a determination of a winner and a loser with a judgment that can be enforced. However, if the parties are in an ongoing business relationship and wish to continue that relationship, mediation may prove to be more effective. The forum is more formal than for mediation and involves the presentation of evidence to the arbitrator with a determination by the arbitrator about which party wins.

Both mediation and arbitration have the advantage of being private. In theory, matters can be resolved through mediation or arbitration more quickly and with less cost than going to trial. Trials are public matters where nothing will be private. Consequently, businesses which may be concerned about keeping the inner workings of their businesses or trade secrets confidential will most likely want to use mediation or arbitration instead of the court system.

Finally, there are a large number of well-trained mediators and arbitrators who have extensive experience in a variety of areas. Parties, who are interested in obtaining qualified mediators or arbitrators for the resolution of their case, will most likely have no problem finding someone who is well qualified to mediate or arbitrate the particular issues involved in their dispute.

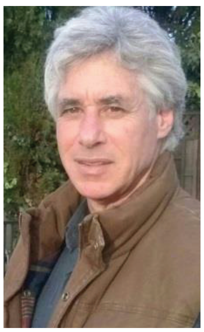
Conclusion

A contract is more than an exchange of promises. It is a relationship. Familiarity with the legal principles of contracts will assist the businessperson or consumer in knowledgeably assuming the obligations and responsibilities that are the essence of that relationship. Although most contractual relationships run relatively smoothly, issues and disputes frequently arise, especially in long term or complex relationships. How the parties deal with those issues and disputes may have far-reaching ramifications. Understanding the options that are available when one party fails to do what was promised under the contract will allow the non-breaching party to intelligently assess the best course of action to pursue. In the event of a breach or even a dispute that does not amount to a breach, attempting to work the problem out with the other party may yield the best possible result without the need to engage in litigation which is costly and time-consuming. It will also help to preserve a business relationship which may be mutually beneficial.

[3] 29 F.3d 1095 (1994) Sixth Circuit Court of Appeals

Parties to a contract must often navigate through the shoals that may develop through the course of the relationship without sacrificing the relationship itself. Maintaining attention on the fundamental purpose of the contract that motivated the creation of the contractual relationship will allow the parties to the contract to mutually reach the goals envisioned at the outset of the relationship and maximize the benefits of the relationship.

ABOUT THE AUTHOR



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Fixing Personal Flaws in Managers

By: Murray Johannsen

The Difficult Road to Success

Despite the best efforts of the thousands of universities to prepare their graduates, it's been estimated that 50% of all careers will derail (Gentry & Chappelow, 2009). It's cold comfort for many to know that a career train wreck looms for many in the future.

Entrepreneurs also face a difficult road to success. The five-year survival rate of start-ups is at best 50% (SBA, n.d.) & (Robb & Farhat, 2013). This number gets much smaller still if you include all the individuals slaving away on business plans that fail to get funded.

Routinely, I asked my students, mostly MBAs, to develop a list of strengths and weaknesses. Some do quite well and show a great deal of insight. But others show a complete lack of insight. I remember one case where a student submitted only one strength and one weakness. Perhaps this is possible when one is 60 years old, and has spent his entire life making continuous improvements to self, he'll have only one weakness. But this was a young man of twenty-five.

This student is extreme, but what's more interesting is the fact unless you have engaged in a serious program of self-improvement; one should always expect to have more weaknesses than strengths.

Sometimes we forget the most basic things in life. Being blind to one's own weaknesses is common, so common that it is rare to find individuals who can clearly articulate in great detail the differences between what they are good at and what they are not.

"The beginning is the most important part of any work."
— Plato

Sooner or later, everyone faces a fundamental truth — that to achieve success in business, one must work on one's weaknesses.

The Nature of Personal Weakness

Do not be deluded, a high IQ does not make you immune to weaknesses that can crater a career or destroy a business. Do not think that just because you are a graduate of the university and have a Ph. D, a masters or a bachelors, that a "Fatal Flaw" might not exist.

Sometimes called the tragic flaw (Goins, N.D.), it has long been a part of human nature; captured in literature, myth, and movies. We also see this today when people get fired due to problems they did not know they had. Or in a true tragic flaw, they knew they had problems, but failed to do anything about it.

I actually saw this happen. A brilliant programmer unwisely took a step up into management. Bad people skills combined with a big dose of passive-aggressive personality led to him leaving the company, despite the organization giving him six months of coaching.

The Nature of the Fatal Flaw

The Fatal Flaw is a term used for a major weakness, or more commonly, a number of weaknesses that brake forward progress on the journey of life. Rather than having one foot on the accelerator, it's as if the other foot is on the brake. No matter how much energy you put into growing forward, something slows you down.

Sometimes it's easy to see, as in the case of hubris and arrogance. Hubris is defined as an excessive amount of pride or self-confidence; while arrogance is overbearing pride, an offensive display of superiority or self-importance. You might say both of these thrive among extremely selfish narcissistic individuals.

But many times, the flaw is hidden and difficult to discover. For example, in the syndrome known as the fear of success, the person sabotages their own career progression in subtle and not so subtle ways. Let's say one desires a high political office, but secretly believes they are not ready or deserving. So the person throws away the opportunity by making a series of political gaffs that gives the election to the opponent. Don't laugh, it happens.

If only the fatal flaw was just an anger problem, a listening issue, or a coach-ability deficit. But most of the time there are many small things, all of which contribute to careers derailed or businesses lost.

Failing by a Thousand Cuts

"Give me six hours to chop down a tree and I will spend the first four sharpening the axe." — Abraham Lincoln

It's been said that you can die from a major wound. But the same thing can happen if you suffer from a thousand small cuts. Originally, the term referred to a type of corporal punishment practiced in Imperial China. Today, it refers to a number of small causes leading to failure.

Doctors tell us the more risk factors you have, the more likely you will suffer from a heart attack. Likewise, the more weaknesses you have, the more likely you will derail your career. Weaknesses such as:

> Faking attention,
> Agreeing then doing something different,
> Not being open to negative feedback,
> Failing to repair relationships, and
> Not being sincere in apologies (or worse, never apologizing).

Also, remember the greater your responsibilities, the more small weaknesses get magnified. We might tolerate poor soft skills in a staff engineer, but not in the vice-president of engineering.

If spotting and fixing flaws were just a simple matter of building skills, we could simply call in the professors and the trainers. But it is not. It involves other factors.

To Fix the Problem, You must Act like a Hero and Go on a Journey of Discovery.

Types of Heroes' Journey

"The difficult problems in life always start off being simple. Great affairs always start off being small."— Lao Tzu

There are many different types of heroes' journeys, but we will cover three major patterns:

- The Treasure Hunt
- Seeking the Divine
- Self-Discovery

The last two are related; discovery can lead to the sacred, but those on treasure hunts are less likely to try the other two.

The Treasure Hunt

There were always cities of gold such as El Dorado and Shangra-la just beyond the next mountain range. The Spanish conquistadors such as Cortez (who conquered the Aztecs), and Pizarro (who conquered the Incas) had in mind glory, riches unimaginable, and a title from the crown.

The treasure hunt has been a consistent story in the great works of literature and now in the movies. Ali Baba found a cave full of precious minerals and jewels stolen by thieves in a *Thousand and One Nights*. In the movies, the treasure hunt was taken up by *Lara Croft* and *Indiana Jones*. And the Hobbit is a story about reclaiming immense treasure guarded by a dragon.

Today, hunting for treasure commonly involves getting the right degree from the right university. Or getting to the c-level to unlock a large corporate war chest that contains not gold, rubies and sapphires, but stock options, deferred compensation and golden parachutes. In some countries, it is a position in government that causes the gold to flow. But pandering to one's greed is ultimately not a wise thing to do and can and will prevent other types of journeys.

The Divine Journey

"The whole problem with the world is that fools and fanatics are always so certain of themselves, but wiser men are full of doubts." — Betrand Russell

The journey to the sacred doesn't involve getting rich at all — it often means forgoing the BMW for a simpler life style. But for those who travel this path, it is no less difficult than the treasure hunt.

One person who has written extensively on this subject is Joseph Campbell, who has written many books on myth and one focused on the hero's journey called: *The Hero of Thousand Faces* (Campbell, 2008).

According to Campbell, a mythic journey has three major phases:

Departure. Here the hero or heroine begins the quest based on a call to adventure.
Initiation. These are the challenges and adventures along the way.

Return. This deals with the return home with knowledge and powers acquired on the journey.

The journey Campbell described typically was not a secular one, as in the treasure hunt. This is the evolution of a normal person in the secular world into the divine as a mystic or Bodhisattva into the realm of sacred (Wikipedia, N.D)

But there is another type of heroes' journey — The Journey of Discovery. Unlike the treasure hunt, it's not about finding gold, diamonds, rubies or sapphires. No, the jewels here involve ways to use your mind better, the joy of finding hidden strengths, and the satisfaction of decreasing your weaknesses.

Journey of Discovery: The Call to Adventure

"The difficult problems in life always start off being simple. Great affairs always start off being small."— Lao Tzu

This type of journey primarily occurs within the mind. As more is discovered, as more in known, we change. An example is finding a repressed memory that drives certain destructive behaviors. Upon releasing the emotion attached to the memory, the undesired behaviors cease.

It's important to understand that the Call can be refused and no departure from the existing pattern occurs. While many individuals complain about the routine, they typically won't change it.

Essentially, this is a call to adventure to take up the Journey of Discovery. Some will read it and like a professor think, "How interesting," but take no action. Others will think, "What a bunch of crap," and won't think about it ever again.

Some may start doing the assignments and then get stuck. We see this all too often. When it gets frustrating, when it gets hard, many will stop. They don't have the grit and forgot the old saying, "When the going gets tough, the tough get going,"

Others may read this but do nothing until something nasty kicks them out of their comfort zone of complacency. Corporations act like cruel mothers and abandon those who work for them. The government tells our young to fight in wars. And finally, there are those who see the potential —they sense the opportunity. They accept the call and go it alone, or with a small group, or with a guide.

Journey of Discovery: Trials and Tribulations

"Doing anything out of the ordinary is bound to be difficult." — Murray Johannsen

The road of trials is a series of tests, tasks, or problems that we must overcome. Some of these challenges exist within ourselves while others are environmentally based., But each "life test" successfully passed, makes you stronger, more self-confident and more resourceful.

Still, it's likely that you will fail one or more of these tests. Failure doesn't matter, what matters is what happens after you fail. Too many just give up. They lack the mental processes associated with mental toughness to continue. It's important to remember the following advice:

A MAN was driving a wagon along a country lane, when the wheels sank down deep into a rut. The rustic driver, stupefied and aghast, stood looking at the wagon, and did nothing but utter loud cries to Hercules to come and help him. Hercules, it is said, appeared and thus addressed him, "Put your shoulders to the wheels, my man. Goad on your bullocks, and never more pray to me for help, until you have done your best to help yourself, or depend upon it you will henceforth pray in vain."

Hercules and the Wagoner, *Aesop's Fables*

Journey of Discovery: The Quest Achieved

"Veni, vidi, venci." (I came, I saw, I conquered.) Julius Caesar, 100-44 B.C., Quoted from Suetonius, *Lives of the Caesars*

In the case of the entrepreneur, the end of the vision has to do with the development of a **sustainable organization** that can keep on running without the entrepreneur. The entrepreneur evolves as well and could become a Great Founder. From a psychological standpoint, this means that three major archetypes are fully developed: the hero, the wise man/woman and the king/queen.

Thee end game is defined as achieving a future vision. However, once you reach that vision, you may set another, and another. And if one really pushes hard, perhaps you will develop wisdom.

But his process requires work, it requires change and continuous self-improvement, and it requires that you play the part of the Hero.

Act Like a Hero

"We can be Heroes." — Heroes Lyrics by David Bowie and Brian Eno (1997)

To understand the journey, you also need to understand the Hero. To face down your vulnerabilities and flaws, to deal with the threats, to achieve your vision; you have to overcome many challenges, challenges similar to those faced by the Heroes of yore. It's important for you to adapt the mindset of the Hero or you will surely give up when the going gets tough.

The story of the hero is inherent in one of the earliest literary works that we know of, the Epic of Gilgamesh, which was written somewhere between 2750 and 2500 BCE.

In this introduction, one hears about the essential nature of the Hero who is also King. As was said:

Take and read out from the lapis lazuli tablet
how Gilgamesh went through every hardship.
Supreme over other kings, lordly in appearance,
he is the hero, born of Uruk, the goring wild
bull. He walks out in front, the leader, and walks
at the rear, trusted by his companions. Mighty
net, protector of his people

From Tablet 1, Translated by Maureen Gallery Kovacs

In this passage, one hears the essence of the great city manager, general, governor, or entrepreneur — a person who can be trusted to protect. By this definition, most CEOs are neither great, nor a hero.

Today, rather than hearing the story around campfires or in a classroom, the medium has changed. Now the story is told in stereo surround sound in 3D no less. In fact the largest money making movies of all time have all been based on the epic of the Hero (World Box Office, 2013),

In many of these stories, the Hero evolves. Luke Skywalker went from farmer to a warrior by figuring out how to use the Force; Green Lantern from pilot to Protector by unlocking the nature of will-power to overcome fear; Aragorn moved from the being a forest loner to king in the J.R.R. Tolkien's' *Return of the King*; and Rose (in Titanic) went from being pushed into a loveless marriage trapped in the prison of social class to a meaningful life.

A Journey of Discovery changes a hero in fundamental ways. Each challenge overcome unlocks resources to face even bigger challenges later. The nature of the journey makes one more resilient and surely more determined.

The second element necessary to succeed is the struggle to overcome fear and anxiety. One might say that if you cannot overcome fear, the challenge is not undertaken.

The comic books' heroes such as Spiderman, Batman and Superman could have chosen not to fight the bad guys. You can choose to read this guide and do nothing. Or you can begin your own heroic Journey of Discovery by using this as a starting point.

References:

Aesop's Fables (N.D.), Project Gutenberg. http://www.gutenberg.org/ebooks/21

Campbell, Joseph (2008). *The Hero of a Thousand Faces, Third Edition.* New World Library.

Gentry, W. A. and Chappelow, C. T. (2009) Managerial derailment – weaknesses that can be fixed. In Kaiser, R. B. (Ed.), *The perils of accentuating the positive*. Tulsa, OK: HoganPress, 97-113.

Goins, Jeff (N.D.) Heroes and Their Tragic Flaws: Achilles to Bethany Hilton.

Kovacs, Maureen (N.D.) Athenaeum Library of Philosophy.

http://evans-experientialism.freewebspace.com/gilgamesh.htm

Robb, Alicia & Farhat (2013). An Overview of the Kauffman Firm Survey, The Kauffman Foundation.

Small Business Administration, Office of Advocacy (ND). Frequently Asked Questions. www.sba.gov/sites/default/files/sbfaq.pdf

Wikipedia, *Monomyth*, Data Extracted during Dec of 2013

World Box Office Site, http://www.worldwideboxoffice.com.

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Mr. Johannsen serves as a management instructor and adjunct professor in the America at UCLA, The University of the West, Woodbury University and in Asia at Korea University in Seoul. He holds both an MBA from the University of Iowa and an MA in Psychology from Harvard University.

Murray Johannsen is also the founder and president of Legacee and an expert in the field of transformational leadership; a critically important leadership style needed for organizational change and innovation.

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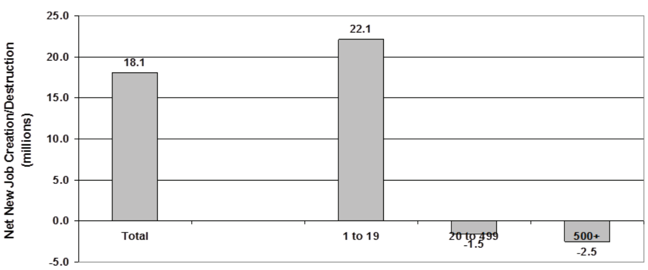
US Net New Job Creation/Destruction by Company Size: 1990 to 2010

By: Terry Bibbens

For policy makers it is useful to look at the net new job creation and destruction by company size over an extended period to determine if there are long-term patterns that can be useful for policy planning. The data provided by the US Small Business Administration Office of Advocacy provides a very useful tool for such analysis.[1] Figure 1 shows that the smallest of companies (1 to 19 employees) dominate the net new job creation over the twenty-year period of 1990 to 2010.

Figure 1.
Net New Job Creation/Destruction 1990 to 2010
by Company Size at Start of Year
[Source: BuCensus/Office of Advocacy Statistics of US Businesses]
(Millions of Jobs)



[1] Source: U.S. Small Business Administration, Office of Advocacy, from data provided by the U.S. Bureau of the Census. Notes: The data represent activity from March of the beginning year to March of the ending year. Establishments with no employment in the first quarter of the beginning year were excluded. Firm births are classified by their first quarter employment size. New firms represent new original establishments and deaths represent closed original establishments. See www.sba.gov/advocacy/849/12162 for more detail. Methodology from 2008 forward defines firm births/deaths as establishment births/deaths for single location firms.

The following is extracted from the Office of Advocacy web site – Statistics of U.S. Businesses: The Office of Advocacy partially funds the U.S. Census Bureau to produce data on employer firm size in the SUSB program. SUSB's employer data contain the number of firms, number of establishments, employment, and annual payroll for employment size of firm categories by location and industry. A firm is defined as an aggregation of all establishments owned by a parent company (within a geographic location and/or industry) with some annual payroll. The data consist of static and dynamic data. Static data is a "snapshot" of firms at a point in time. Dynamic data follow firms from year to year and reports job creation/destruction and business births and deaths.

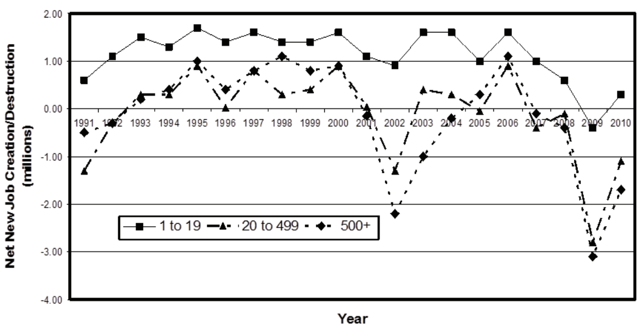
It is particularly interesting to note the chaotic nature of job creation/destruction in the United States. The 18.1 million net new jobs created over the twenty-year period were generated from a much larger number of jobs created/destroyed by company starts/closings and expansions/ contractions as shown in Table 1.[2] Over this period there were a total of 325.8 million new jobs created by all companies and 307.7 million jobs destroyed by all companies for the net new job gain of 18.1 million.

	Table 1. Millions of Jobs Created (Destroyed) 1990 to 2010			
Company Size (number of employees at start of year)	Total	1 to 19	20 to 499	500+
Firm births	62.6	34.1	23.4	5.1
Firm deaths (closings)	61.0	31.5	24.3	5.2
Existing firm expansions	263.2	57.1	72.8	128.1
Existing firm contractions	246.7	37.6	70.9	130.5
Net change	18.1	22.1	-1.5	-2.5

[2] Op. Cit. Note that BuCensus and Office of Advocacy use the term Firm Deaths to indicate Firm Closings. I prefer the term Firm Closings because a closing may not mean the firm actually closes the doors and dies. BuCensus defines a change of IRS Employer Identification Number (EIN) for a company as a "death" when it actually may mean a reorganization or acquisition. In the same manner a large company "birth" may actually be reorganization from bankruptcy or similar change of ownership. The 5.1 million net new jobs "created" from companies "born" with 500+ employees most likely indicate reorganization of the 5.2 million net jobs "destroyed" from large company "deaths." As a "sanity check" the outstanding growth company Google took 5 years, from February 1999 to March 2004 to grow from 8 to 800 employees: see: https://www.google.com/intl/en/about/company/history/

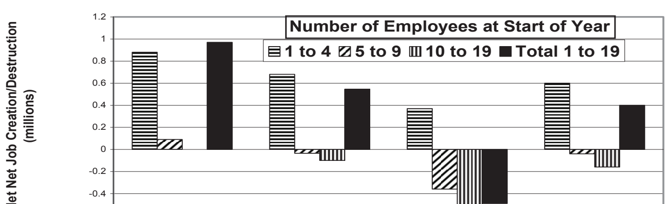
It is also important to note that this pattern of job creation by the smallest of companies is consistent over the 20 years as show in Figure 2. Note that in every year over this twenty-year period the smallest companies (1 to 19 employees) always created more jobs than either the 20 to 499 or the 500+ companies – usually more than both of these larger company groups combined. Only in the depths of the recent major recession of 2009 did the 1 to 19 employee companies have a net job loss.

Figure 2. US Annual Net New Job Creation/Destruction 1990 to 2010 by Company Size at Start of Year (Source: BuCensus/Office of Advocacy Statistics of US Businesses) (Millions of Jobs)



It is also interesting to look within the 1 to 19 category to see which category of the very smallest of these companies create the most jobs. The BuCensus/Office of Advocacy data provides breakdowns into company sizes of 1 to 4, 5 to 9 and 10 to 19. For the four years of 2007 to 2010 the data is shown in Figure 3.

Figure 3. Detail of US Net New Job Creation/Destruction 2007 to 2010 by Company Size for Very Small Companies (Source: BuCensus/Office of Advocacy Statistics of US Businesses) (Millions of Jobs)



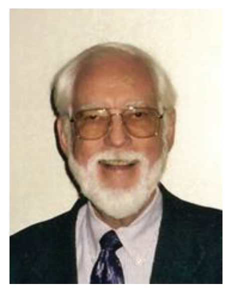
	2007	2008	2009	2010
1 to 4	0.88	0.68	0.37	0.6
5 to 9	0.09	-0.035	-0.36	-0.04
10 to 19	0	-0.1	-0.5	-0.16
Total 1 to 19	0.97	0.545	-0.49	0.4

Year

It may seem counterintuitive that the very smallest of US companies are the major job creators of our economic engine; however, the BuCensus/Office of Advocacy data has been tested by the most critical economists.[3]

From this analysis it is clear that our national, state and local policy makers should provide a focus on how to provide support for these smallest of companies. This includes ensuring that financing is available to support their creation and growth, and at the local level that ease of obtaining business licenses, building permits for growth and expansion are placed at a high priority. Many of these very small companies do not have the capabilities to provide the employee training necessary for growth which provides an important area for local educational and entrepreneurial training institutions to support these companies.

ABOUT THE AUTHOR



Terry E. Bibbens, Entrepreneur. After retiring from a very successful career as a CEO of defense electronics companies and as a partner in the VC industry in Silicon Valley, Terry Bibbens was invited to serve as the Entrepreneur in Residence in the Office of Advocacy, U.S. SBA. He served a record 6-1/2 years in this role in both the Clinton and Bush Administrations (1994 to 2001). He provided senior-level national policy guidance including testimony to the U.S. Congress on issues of patent law, entrepreneurship, improving capital access, the SBIR program, and ways to encourage growth of high-technology clusters.

[3] From the Office of Advocacy web site see: Firm size data on employers are available from the Statistics of U.S. Businesses (SUSB), Business Dynamics Statistics (BDS), and Business Employment Dynamics (BED) programs and data on nonemployers is available from the Nonemployer Statistics (NE) program. The programs are annual and from the U.S. Census Bureau, except the Business Employment Dynamics which is quarterly and from the U.S. Bureau of Labor Statistics. BDS and BED have an age component. All of the programs are essentially based on the universe of private-sector businesses. Business Dynamics Statistics – BDS contains employer firm data by firm age. See the background paper Business Formation and Dynamics by Business Age: Results from the New Business Dynamics Statistics by John Haltiwanger, Ron Jarmin and Javier Miranda for information on the data program. This section should be viewed as an introduction to the data program, please visit the U.S. Census Bureau's Business Dynamics Statistics program for background about the data and their database list for more detailed data on firm size, state and major industry (includes text files).

He spent 34 years in the defense electronic-warfare business including 10 years as a CEO of his own small Silicon Valley firm, Antekna, which he grew to 200+ employees and successfully merged in a tax-free stock exchange with a NYSE listed company. He then was asked to be president for two divisions of Loral Corporation – Loral Instrumentation in San Diego which he grew from $8 million to $30 million in three years; then a turn-around for the $100 million ROLM Mil-Spec-Computer Division in Silicon Valley. He was then invited to serve as Loral's Director of C3I at the New York Corporate Headquarters to assist in the integration of the $750 million acquisition of Goodyear Aerospace into Loral (then a $750 million company). He was responsible for programs in the hundreds of millions of dollars, including nationally critical intelligence programs with nuclear-certified hardware and software, and multi-level security systems. He held security clearances at the level of Top Secret and higher.

He graduated from Stanford (BSEE, 1958), and participated in senior executive programs at Stanford and the University of Santa Clara.

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Small Business and the Use of Forensic Experts

By: B. J. Hawkins Ph.D. CLPF

ABSTRACT*:* *The field of forensic expert witnessing has gained visibility as CSI television shows and high profile trials have become prevalent. A forensic expert witness and a forensic expert consultant may come from a variety of professional backgrounds. Just as there are crime scene investigators there are business fraud investigators, construction defects investigators, medical negligence investigators, police procedures experts, travel/cruise experts, document examiners, and other investigator experts with a wide variety of common and lesser known professional backgrounds. Traditionally the knowledge and use of a forensic expert as well as the path to become identified with the credentials necessary to be deemed a forensic expert has been restricted to a small group of insiders. This is changing because of a variety of factors including an increasing diverse America and the demands of an increasing litigious and business-minded society. Small business owners wishing to grow and preserve their business should consider the advantage of retaining or having their legal counsel retain a forensic expert. The forensic expert may be in the role of a forensic consultant or may be needed to testify as an expert witness during Deposition or Trial. Smart business persons will recognize knowledge of the who and what of the field of forensic expert witnessing as an additional tool utilized in achieving business growth and success.*

The spate of CSI television shows and high profile trials has edged into the general consciousness of every day Americans the requirement for forensic experts. Forensics and the associated technology has become the expectation for justice in both criminal and civil matters. A study of civil jury trials in California found that experts testified in eighty-six percent of the studied cases, at an average of 3.8 experts per case.

While much of the forensic investigation on television and in the movies concentrates on crime scenes, forensic experts are employed frequently in the business world as impartial or neutral consultants[1] that utilize scientific analysis and investigation to analyze, dissect, and provide solutions in a range of complex, perplexing, or difficult problems. The aspect of neutrality is a fundamental aspect of the field in which ethical forensic experts operate.

For the small business owner dedicated to growing his or her business, especially those seeking external capital, it is important to recognize that forensic experts can be utilized to provide assistance in conceptualizing, strategizing, analyzing, and addressing their difficult or complex business issues. The concept that an expert is only utilized during litigation has changed. Progressive law firms will pay to discuss a mater with an expert to determine if it is wise to pursue a legal strategy and in some cases, to determine the chances of a successful litigation effort.

An expert can perform in the role as a “Testifying Expert” [Expert Witness] or function as a “Consulting Expert”. The distinction is important in strategizing with one’s attorney or Board of Directors. There are many times in expanding or growing a business where risk is a consideration. The ability to have a neutral expert who can be consulted and who at some time in the future, if litigation becomes a reality, testify as to the accuracy of a position or strategy taken is not only helpful but can be a lifesaving support to a business involved in a dispute.

A forensic expert may have expertise in a range of fields that include such areas of expertise as: construction defects, accident reconstruction, handwriting examiner, mutagenesis & toxicology, business valuation, professional liability, property management, product failure analysis, human factor & ergonomics, appraiser & mortgage fraud, medical malpractice, breach of fiduciary duty, special education, employment practices, and corporate governance. This is just a fraction of an ever increasing list of areas of expertise that is tied to the volatile field of business litigation.

While the practice of utilizing forensic experts is frequently employed by large corporations, in many cases small and middle market businesses are unaware of the advantages of engaging an expert consultant. Unfortunately, there is also a perception that the costs are too high. One way to determine the cost of a do-it-yourself or a general consultant effort is to do a quick cash flow analysis on the loss or revenue production time by the owner or executive team in attempting to conduct

1 Neutral or impartial consultants are also referred to or classified as “third party experts”. The connotation is that the consultant does not take sides in a dispute or in the process of analyzing the situation, but instead relies on objective assessment, honest opinions, and scientific evidence and techniques.

an impartial and thorough analysis of the problem or issue. Or on the other hand an analysis by a general consultant who does not have the reliable specific expertise will not be of much use. These analyses are often not believed creditable by anyone other than the authors.

The hiring and use of a consultant with a forensic expert witness background, which is properly done only after the involvement of legal counsel, allows the issues or problem to be looked at from the eyes of an expert who is aware of how it will appear to the opposing side in an adversarial situation. A forensic expert witness is also knowledgeable of how the issue or problem would appear in the light of a trial and whether there are sufficient facts and information present to make a favorable argument. Such analysis is extremely helpful to business owners in, for example, supplier or vendor disputes, disagreements with partners, succession issues and arguments within family owned or closely held businesses, accusations of wrongful actions by customers or client, and disputes over inheritance.

Most often a forensic consultant's analysis is presented in the form of an opinion and a report. The opinion and/or report are substantiated by both research and analysis of the consultant and their experiential knowledge of their field of expertise. The best forensic experts are able to go beyond convention wisdom and have insight that allows a view beyond what appear to be the obvious. Financial analysis by a CPA who is a forensic expert is very different than the usual tax work or financial records preparation. The forensic financial analysis once completed provides an opinion that aides the business owner and his or her team in making difficult decisions on the allocation of scarce resources or the taking of risk for investing to foster increased revenue and growth of market share.

Especially helpful in preparation to initiate or defend against a law suit, a forensic expert's opinion may make the decision to pursue or settle a law suit an objective, exercise based upon the cost of involvement and the likelihood that the business has a defensible position. There is a further advantage if there is a possibility of future litigation becomes the reality. An attorney is able to have the expert consultant become a testifying expert witness to bolster the business owner's case. Since the testifying expert witness is already familiar with the issues the total fees of the more expensive 'testifying' are likely to be less than if there was unfamiliarity with the issues.

Ethics and Neutrality

The first job of a forensic expert witness to render an opinion based upon the factual evidence. The ethical standard by which all reputable forensic experts operate is the standard of neutrality. The forensic expert is not "bought" by the party in the law suit or dispute with the largest amount of money available. The expert should *never* be paid so they will render a particular opinion. The expert is paid a fee for the time expended and for professional knowledge and expertise in the area for which they are being asked to examine and analyze.

The forensic expert does render an opinion that is often time favorable to one of the parties involved in a business or legal dispute. The forensic expert's position or opinion is only developed after *independent review and analysis.* The forensic expert, in order to maintain credibility and his or her professional integrity must remain a neutral no matter who pays the fees for the time that is expended during the review and analysis and the development of an opinion.

In order to emphasize the concept of neutrality, some forensic experts are being appointed by the Courts. When appointed by the Court the expert looks at both sides of the issues and often provides information and data that is of assistance to the Judge in the Judge's rulings.

Experts are also being jointly appointed by the disputing parties to evaluate the data and prepare a neutral report or opinion. A qualified and reputable expert does not become an advocate for any party in a dispute.

Advocacy may assist in obtaining an engagement, however, once the expert is subjected to cross-examination all credibility is lost if it is determined that there has been an alignment with one of the disputing parties. Once credibility is lost, the forensic expert no longer is useful for any current or for any future engagements.

In the age of the Internet it is difficult to have a hidden past. All testimony that a forensic expert has given in any Trial is available for review. For experts who pretend to have expertise in areas where they are limited, it is virtually impossible to hide the fact that during a trial it was pointed out that the expert over stated his or her credentials. Being truthful and ethical is the best policy and in the case of forensic experts it provides the biggest payoff.

Professional organizations such as the Forensic Expert Witness Association (FEWA), a national non-profit of multi-disciplinary forensic experts, have a code of ethics by which members are expected to abide. FEWA, unlike many expert directory listing organizations, requires a review of credentials prior to becoming a member and being listed in its directory. It should be noted that a directory listing of forensic experts is different than a professional association of forensic experts. It is presumed that the professional association has continuing education and standards that a directory listing does not.

Diversity and Forensic Experts

Increasing numbers of jurists and attorneys reflect the current realities of an increasingly diverse America. Along with this reality of the increasing diversity in the legal community is also an expectation for forensic expert witnesses that demonstrate competence in a specialized area of expertise as well as sensitivity and awareness of the current diverse and cultural variety in the American landscape.

The archetypical image of the expert as a mature Caucasian male with the request grey hair is still perceived by primordial thinkers as the expert able to provide the best testimony. This thinking is rapidly becoming outdated as the demographics in America society has changed and will continue to change. In major American cities and in the state of California racial minorities have become the majority and 'majority' has become the minority.

During 2012 the Greater Los Angeles Chapter of the Forensic Expert Witness Association's the Board of Directors developed as part of an initiative to enhance the professional organization's already exceptional quality standards, an initiative that resulted in the adoption of a National Forensic Expert Witness Association Diversity Policy. This policy and the encouragement of focused efforts to attract membership from the ranks of highly qualified professionals of ethnically diverse backgrounds are ground breaking.

This breakthrough has profound meaning to a cadre of cultural diverse professionals who have achieved senior expertise and decades of experience in their respective career fields. Their wisdom may be utilized to bring meaning to complex issues that defy conventional wisdom or common sense.

These are professionals who, because of their experience and knowledge, are able to explain technical issues to a jury of laypersons. As technology, advances in medicine and engineering continue to accelerate experienced, highly qualified, neutral experts become indispensable in making the unfathomable understandable. As previous indicated, the understanding of complex and technical issues benefits the decision process of jurists, business persons, as well as attorneys.

As verification of the expanding nature of the field of Forensic Expert Witness, the number of professional organizations, directories and exchanges has grown exponentially. Some of these organizationally entities are local, most are regional and a few are national. The senior professional seeking entry into the field, the business person seeking to utilize an a forensic expert, and the attorney wishing to engage a testifying or consultant.

Professionals can choose to affiliate with an Expert Witness Professional Association to learn the correct processes and procedures. Not only does this provide guidance from a group of established forensic experts, it also aides in the ability to gain engagements with reputable law firms and attorneys.

In the future, this means that small business owners from minority groups and traditionally underserved communities will have the option of selecting forensic expert consultants and testifying expert witnesses who are culturally sensitive and ethnically competent. Forensic Expert Consultants and Witnesses should become a routine part of the tools available to small and diverse business owners for more effective and strategic business operations.

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Dr. BJ Hawkins, President and CEO of One Source Fiduciary Solutions, is a licensed Professional Fiduciary and a business asset, cash-flow, growth and turnaround specialist. Recently re-elected to the National Board and Past President of the Greater Los Angeles Chapter of the Forensic Expert Witness Association, Dr. Hawkins provides expert testimony in complex business litigation and disputes including breach of fiduciary duty, partnership dissolution, and corporate governance. As a Licensed Fiduciary, Dr. Hawkins has been Court appointed as a qualified agent for trust administration, conservatorships of the person and the estate, preparation of sale or distribution of business and financial assets.

Challenges of Multinational Enterprises Conducting Global Business

By: Steven J. Clarke & Peng Chan

Abstract

The purpose of this paper is to provide a manuscript for the initial evaluation of international economic considerations facing Multinational Enterprises (MNEs) prior to entering a new foreign market. MNEs are defined in this study as international enterprises of all sizes. The problem for global business managers is the negative impact that results when foreign managers do not recognize and accommodate the differences between regional and global strategies. This paper is a qualitative narrative including relationships between firms, host governments, foreign exchange, investment decisions, and risk factors. Additionally, comparisons of motives, perspectives, and challenges that MNEs need to contemplate. For purposes of this paper, MNEs are companies that operate in two or more countries. MNEs are the key drivers of globalization. Previous research tend to focus on regional and global strategies, this paper fills a gap by focusing on the concept that international business requires regional strategies as more relevant than global strategies. Multinational enterprises/corporations, exist because certain economic conditions make it possible for the firm to profitably undertake production of a goods or services in a foreign location. The importance of this research derives from the degree of global expansion, continuing to grow in value to global market entry by aggressive MNEs. The data supports this import showing that MNEs own most of the technology in the world, and they receive about 80% of all technological royalties and fees. The 700 largest multinational firms account for around 50% of the world R & D spending. There are more than 70,000 MNE companies worldwide, with more than half a million subsidiaries in over 100 countries. The 500 largest multinationals, account for about 25% of world products and nearly half of the world trade. (Guillen, 2011) For these reasons, the success around the world of multinational firms are seen as the leaders of modernization, consider expansion, even though some criticize them as "dogs of capitalism". The findings reflect the void in market entry evaluation of MNE's in understanding the complexity of fundamental economic, strategic, organizational, and sociopolitical principles. MNE success requires penetrating scrutiny, research, and careful decision-making.

MNE's and Host Government Relationships

MNEs relationships with a host country will depend on numerous decisions leading to the selection of the host country such as; structure, vertical, and horizontal influences in all areas of foreign market entry motives, including investment decisions, production operations, licensing options, negotiations, partnerships, management strategies and demographics. Comparative advantage alone is not enough reason to expand. Each firm must decide on the strategy that best suits their situation, that is, whether to provide service and/or products in a foreign country for domestic and/or export utilization. The Organization for Economic Cooperation and Development (OECD, 2011), point to the following categories by the shared governments in which provides a very strong set of guidelines for all MNEs managers to learn and follow.

Table 1
OECD Guidelines for Multinational Enterprises for responsible business conduct in a global context

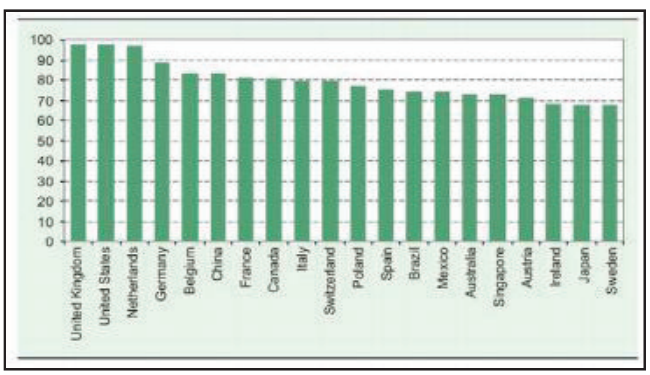
I.	Concepts and Principles	Provide principles and standards of good practice consistent with applicable laws and internationally recognized standards.
II.	General Policies	Enterprises should take fully into account-established policies in the countries in which they operate, and consider the views of other stakeholders.
III.	Disclosure	Enterprises should ensure that timely and accurate information is disclosed on all material matters regarding their activities, structure, financial situation, performance, ownership, and governance.

IV.	Human Rights	States have the duty to protect human rights.
V.	Employment and Industrial Relations	Enterprises should, within the framework of applicable law, regulations and prevailing labor relations and employment practices and applicable international labor standards:
VI.	Environment	Enterprises should, within the framework of laws, regulations and administrative practices in the countries in which they operate, and in consideration of relevant international agreements, principles, objectives, and standards, take due account of the need to protect the environment, public health and safety, and generally to conduct their activities in a manner contributing to the wider goal of sustainable development
VII.	Bribery and Extortion	Enterprises should not, directly or indirectly, offer, promise, give, or demand a bribe or other undue advantage to obtain or retain business or other improper advantage.
VIII.	Consumer Interests	When dealing with consumers, enterprises should act in accordance with fair business, marketing and advertising practices and should take all reasonable steps to ensure the quality and reliability of the goods and services that they provide
IX.	Science and Technology	Endeavour to ensure that their activities are compatible with the science and technology (S&T) policies and plans of the countries in which they operate.
X.	Competition	Carry out their activities in a manner consistent with all applicable competition laws and regulations
XI.	Taxation	It is important that enterprises contribute to the public finances of host countries by making timely payment of their tax liabilities

Source: ("OECD Guidelines," 2011)

Additional merit considerations include future market potential, cheap labor, supporting industries, stable policies and society, high-quality human resources, and good infrastructure. Moreover, demerit considerations include ambiguity of laws, competition with other firms, rising labor costs, lack of managers, lack of infrastructure, lack of information, crime and social instability. These decisions influence the relationship with the host country in negotiations and regulatory considerations and ultimately, the selection of the host country. Based on the number of firms by country, Figure 1 shows the top 20 host countries for MNEs.

Figure 1 Location intensity of the 20 most preferred host economies, 2007 (number of firms)
Source: UNCTAD, 2008, P. 28



Further questions MNEs ask include, should production be internalized, or outsourced, and will transaction costs affect investment decisions and capital expenditures? Should expansion be horizontal or vertical? Horizontal expansion occurs when the firm sets up a plant or service delivery facility in a foreign location with the goal of selling in that market, and without abandoning production of the good or service in its home country, or if a firm invests in the same industry abroad in which it operates domestically, such as Frito-Lay building a food production facility in China. Vertical expansion occurs if a firm invests in a supplier industry abroad, such as Apple building a phone assembly plant in Malaysia. All MNEs need to make two fundamental strategic decisions in order to ensure that they have a competitive advantage over purely domestic firms. The first, where to locate assets and employees. The second, whether to its operations dispersed in the foreign country needs to be managerially coordinated or not. While economic fundamentals alone are not enough to insure MNE success, identifying the intangible economic conditions and potential barriers is essential. An economic view of MNE types of expansion presents different conditions based on vertical and horizontal foreign investment as reflected in:

Table 2

The Economic View of the Multinational Enterprise (MNE)

Type of Foreign Expansion	Necessary conditions for the existence of the MNE	Sufficient conditions for the existence of the MNE
Vertical	➢ Cost & productivity of production factors (theory of comparative advantage)	➢ Asset specificity ➢ Uncertainty
Horizontal	➢ Transportation costs. ➢ Trade protectionism ➢ Exchange rate shifts. ➢ Need to customize.	➢ Intangible assets: patents, brands, ➢ Know-how, and other firm-specific skills

Adapted from: Richard E. Caves, Multinational Enterprise, and Economic Analysis. New York: Cambridge University Press, 1996

Additional considerations for MNEs require understanding of principles of cultural and sociopolitical issues, in particular, to the progression of bargaining power with the intended host government, labor unions and interest groups in the foreign country decision-making process as reflected in Table 3.

Table 3

The Bargaining Power of the Multinational Enterprise (MNE) relative to the Host Government in the Foreign Country

Case	Before Investing	After Investing
Extractive investments	Large & long-term investment helps MNE extract commitments from host government, unless there is competition to invest.	Balance of power shifts to host government as it learns about the production process and investment cost is sunk.
Import-substitution investments	MNE is weak because host government can decide who can establish operations inside the protected market	Balance of power shifts to MNE as it develops links to suppliers, buyers, and joint venture partners.
Export-oriented investments	Host government is weak if labor cost is the locational advantage; somewhat stronger if investment is capital intensive	Balance of power does not shift so long as locational advantages do not change, moreover, assets are mobile(e.g. machinery)

Adapted from: Stephan Haggard, Pathways from the Periphery. Ithaca: Cornell University Press, 1990, pp. 220-222.

It is imperative for MNEs to develop advantages investment decisions based on the host country domestic economic environment, the potential of the economy, combined with the balance of power based on the investment types necessary for the MNE strategy. As an MNE evaluates potential host countries, FDI analysis provides numerous dynamics of the motives and intentions of host countries government's policies and objectives. Those governments wishing to attract FDI include two forces:

- Agglomeration – similar producers tend to gather in one place
- Fragmentation – splitting of the production process

FDI is not an absolute requirement in becoming and MNE, fragmentation can provide different forms of a firm's option regarding horizontal and vertical approaches as follows:

Table 4

Global Fragmentation without FDI

	Same firm (multinational)	Different firm (not multinational)
Horizontal Fragmentation	Horizontal FDI	International Franchising
Vertical Fragmentation	Vertical FDI International Sourcing	Offshoring

Effects of Foreign Exchange Translation and Exposure Risks

As MNE's evaluate foreign markets, an understanding and strategy are necessary to address the effects of foreign exchange rate exposure. The effects of foreign exchange translation and exposure risks starts with the definition of foreign exposure as, "Foreign exchange exposure is a measure of the ability of a firm's profitability, net cash flow, and the market value to change as a result of a change in exchange rates" (Shubita, Harris, Malindretos, & Bobb, 2011, p. 171). Foreign exchange translation measures the potential changes in a firm's financial statements because of changes in foreign exchange rates. Three types of exposures include: (a) translation of accounting exposure, (b) transaction or contractual exposure, and (c) operating or economic exposure. Foreign exchange exposure is the sensitivity of the real domestic currency value of assets, liabilities, or operating incomes to unanticipated changes in exchange rates. Economic exposure quantifies the projected cash flow changes resulting from these foreign exchange rates. Transaction exposure results from changes in transaction values, due to changes in exchange rate values during the activity and the final accounting statements. Tools available to MNEs to minimize risk exposure due to exchange rate fluctuations include hedging instruments such as Forward Exchange Rate Contracts, Money Market Hedge, Futures, Options, and Swaps.

Risk management of currency through exchange rate exposures encompasses financial as well as operational hedges. Structuring cash flows incorporates operational competitiveness within the industry while managing financial exposure initiatives. Management policy strategy requires a diversified approach to operations in order to hedge against losses, using futures and forward contracts and additional currency options. Best and worst case scenarios for exchange rate fluctuations must be in place in order to reduce the overall risk associated with these instabilities.

Motives and Perspectives of Home and Host Governments, MNE's and FDI

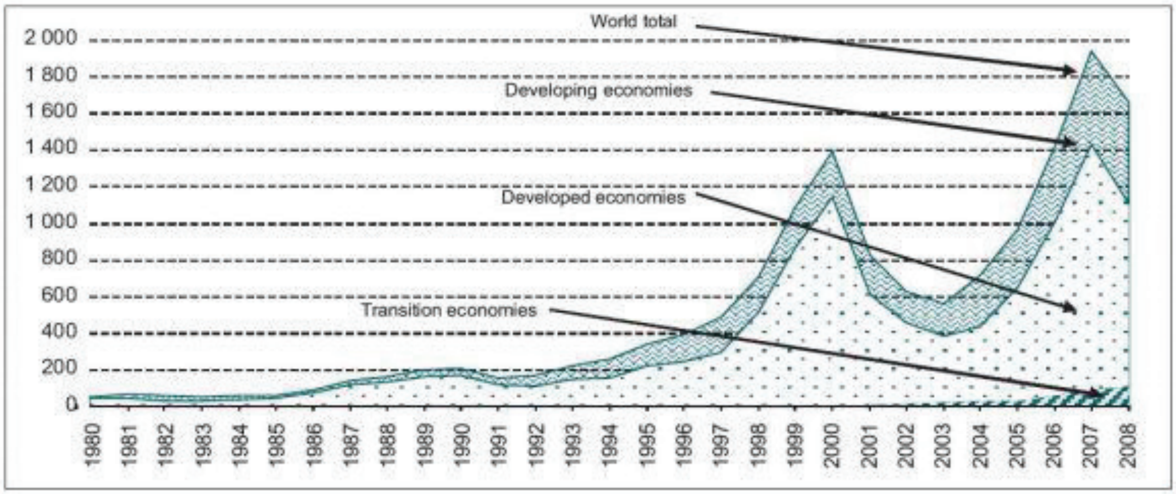
MNEs expansion strategy, by nature, rests on risk, *investment*, and opportunities in foreign markets. The world investment report from UNCTAD (2010) indicates that developed country transnational corporations (TNCs) account for the bulk of global FDI. FDI is more a function of *trade and investment* rather than the financial perspectives side of international economics. Definitions of FDI vary, and are sometimes difficult to measure. The IMF, Balance of Payments Manual, 4th ed., 1977, p.136) definition of FDI for purposes of this examination is "Direct investment refers to investment that is made to acquire a *lasting interest* in an enterprise operating in an economy other than that of the investor, the investor's purpose being to have an *effective voice* in the management of the enterprise." Operationally, there are three types of FDI:

1. Equity acquisition--buying shares of an existing or a newly created enterprise
2. Profit re-investment--FDI firms re-investing their profits for further expansion
3. Loans from a parent company

Most of global FDI remains in OECD economies and is unlikely to change, with around 30 per cent held in non-OECD economies (Molnar, Pain & Taglioni, 2008). The global financial crises has seen shifts of MNEs focus to developing and emerging economies, with a dramatic 43 per cent increase in 2008, particularly in Africa and

South-East Asia. China remains the largest and still growing source of both inward and outward bound FDI. China accounted for 65 percent of inward international investment into emerging economies. MNEs appreciation of policies that affect FDI, are imperative. Research into each country, will provide insight into how governments think about foreign investment into their domestic economies, represented by examples in part in Table 5. Trends in FDI inflows by grouped economies suggests developing countries offer the highest level of FDI to date as seen below:

Figure 2 FDI inflows, global and by group economies, 1980-2008 (billions of dollars)



Source: UNCTAD, 2008, p.7)

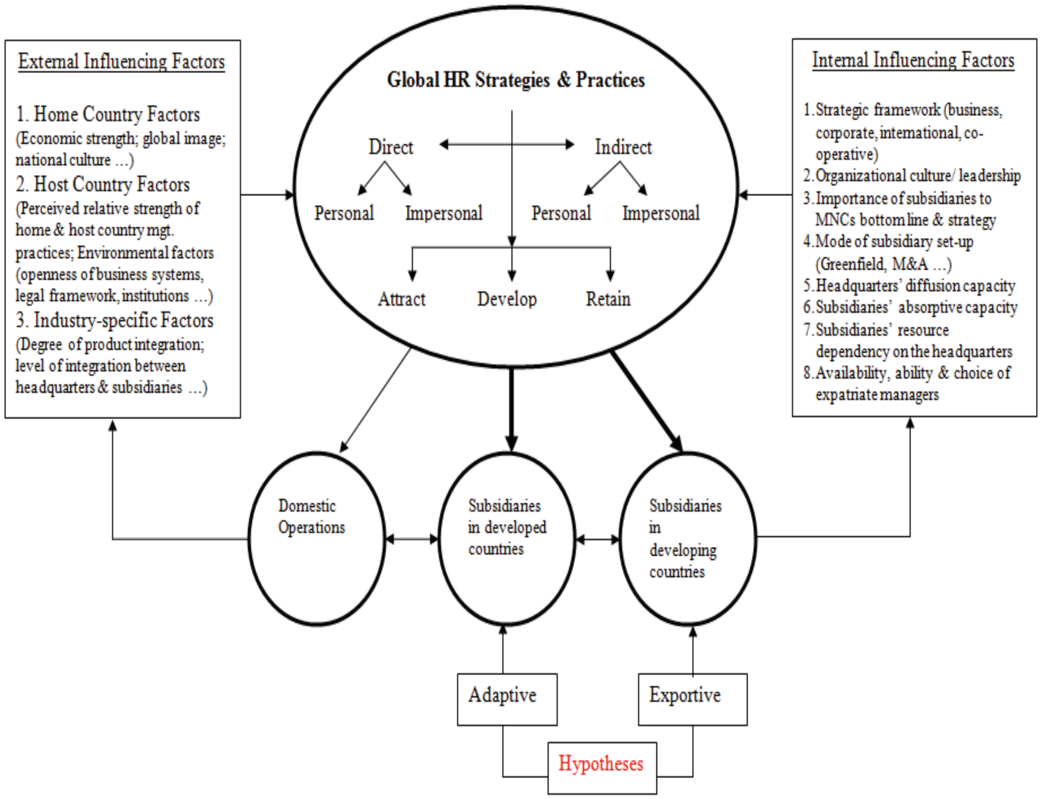
MNEs also have to deal with considerations of home country motives, including regulations and other forms of restrictions. One example would be the US home country of an MNE and the Foreign Corruptions Practices Act of 1977, “enacted for the purpose of making it unlawful for certain classes of persons and entities to make payments to foreign government officials to assist in obtaining or retaining business”(The United States Department of Justice, n.d., para. 1). Enterprises should, within the framework of applicable law, regulations and prevailing labor relations and employment practices and applicable international labor standards:

Three Challenges for MNEs

Management Practices – Management practices in foreign markets, in particular transition economies offer significant challenges beginning with market entry negotiations to ongoing business activities, in particular to the various aspects of vertical and horizontal types of organizational structure and human resources management (HMR). MNEs deal with multiple HRM approaches, whether in developing or developed economies. MNEs tend to be smaller, with fewer resources in emerging countries, than when entering developed countries. MNEs must carefully review budgets for expansion relative to human resources, research and management structures necessary for each individual country based on diversity and global economic maturity.

In the 21st century knowledge economy where services and creative industries dominate the economic landscape that is oriented more towards developing and transition economies, the theories and practices applicable to Western MNCs that monopolized the 20th century industrial economy are slowly but steadily giving way to new economic and management paradigms. (Thite, Wilkinson, & Shah, 2010, p. 289) MNE knowledge attainment needs to include the history of potential partners in addition to the industry and country history. The adaptation of management practices blends the home country standardization of strategic management tools, with a customized host market set of procedures and activities in order to compliment the general financial and market share goals of the parent company. The key enterprise strategy incorporates a MNEs balance of global HMR integration with the host country adaptation of cultural and institutional characteristics in a working system creating a productive alliance. The strategy includes adopting an ethnocentric approach to managing subsidiaries in foreign markets, expressed in the diagrammatic representation in Figure 3. The diagram indicates the internal and external factors influencing human resources strategy and practices.

Figure 3 Diffusion of Global HR Strategies & Practices across Subsidiaries in a Multinational Corporation from an Emerging Economy



Source: (Thite et al., 2010, p. 31)

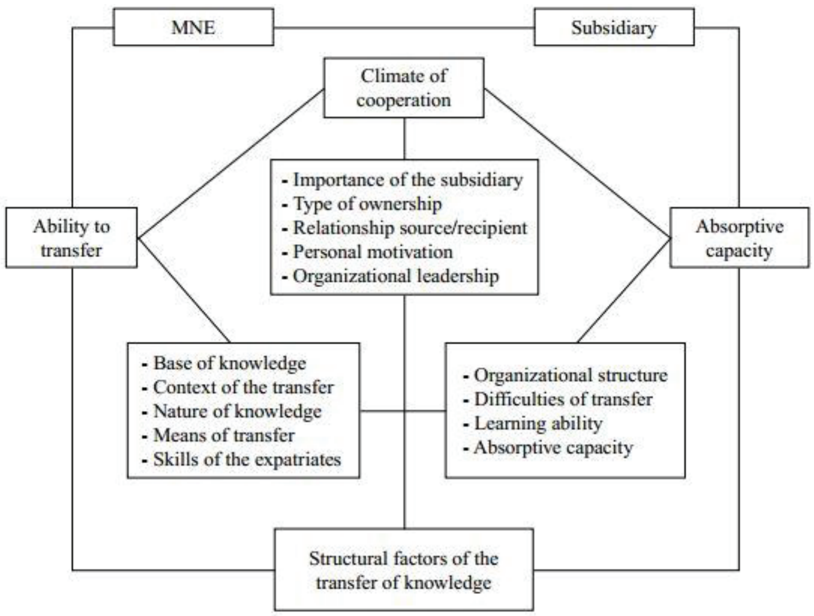
An example of a company that understood the need for management practices that met all stakeholders needs, Carrefour, upon market entry into China, decided the best strategy for management adaptation was to find local partners, regionally within China, who were passive and uninterested in too much direct management control. The approach was to operate individual joint ventures for each region, resulting in 19 overall, the first 20 years of operations. Although some mistakes were made in joint venture partners, most succeeded, allowing Carrefour management time to learn what expectations and requirements were necessary for their partners, while learning the cultural and institutional management styles that met everyone's needs.

Technology - Long-term requirements for success for an MNE and one of the most important assets of an MNE, is knowledge, which is gained from the combination of internal and external technology advancements, or technology transfer, through methods of demonstration (sharing of information with other firms), and competition (other firms present new and improved products or services, attracting market share increases). The benefits of technology transfer include the increase in knowledge of skills and/or how production processes enhance improvement. The internet supports technology transfer both internally and externally, and requires MNEs to maintain high-tech communications and management systems to remain competitiveness addressing creativity and innovation. MNEs by definition, control foreign entity operations, or management across national borders.

This control requires technology management. Dunning's OLI (ownership-location-internalization advantages) theory breaks down these components for managers to consider in structuring cross-border management. These theories are ever changing and maturing. Major MNEs like American Express, Hewlett-Packard, General Electric, HSBC and others, constantly reevaluate and adjust international operations based on gaining insight into the host country's requirements and also as a result of new and updated technology, providing faster, more detailed knowledge for the decision making process. "The modern MNE uses information and communication technology (ICT) to mitigate transaction costs, and evolves more to arm's length exchange to incentivize lower production costs" (Rangan & Sengul, 2009, p. 1496). However, lower production costs are only some of the benefits, others include more intimate connection to partners, suppliers and customers.

Transfer of knowledge, while relying on technology as mentioned above, also requires the right environment between the home and host country, between corporate headquarters and the subsidiaries as to openness, and absorptive capacity. MNE business models should incorporate the important components of knowledge transfer as part of the structural dimensions, described as knowledge transfer to subsidiaries represented in Figure 4

Figure 4 Structural dimensions of the transfer of knowledge



Source: (Martins & Nelson, 2010, p. 519)

Technology transfer also effects ongoing changes within the chosen host country, through the development and improvements of other emerging countries that may well create competition and require changes in medium to long-term strategies. As countries improve their global competitiveness, as their standard of living improves, wages and sometimes inflation follow. Nations build on growing technological advancement, through research and development, profits converted to R & D, leading to innovation and creativity. MNEs may start with one foreign country and decide movement to another is necessary.

Siemens, a German MNE moved much of its mobile phone development to China in an attempt to become more cost competitive. The Chinese facility was successful in developing mobile phones for Asian consumers, but Siemens was never able to gain a strong foothold in the China market. The technology transfer was successful in the respect it lowered production cost; however, the mistake made was the weak research into the China government controlled domestic mobile networks, which prohibited foreign entry. Enterprise strategy for this example points to the need to differentiate technology transfer into production and marketing segments, separately analyzed and evaluated as each can provide benefits and risks. Simple cost-benefit analysis is not enough! "At one firm top management had simply mandated that a certain percentage of technology development be offshored; our respondents said this was in response to Wall Street expectations that more offshoring always results in lower costs"(Leonard & Salzman, 2008, p. 79). This simply points out the fact that Wall Street is not the ultimate decider of what management should endeavor to satisfy, but more directly, what is in the best interest of the customer and the firm, remains the paramount issue.

Cultural Diversity – MNEs face many challenges regarding cultural diversity, in particular, the uncertainties of partnership and relationship management in developing countries. Management control of foreign offices or entities requires tolerance and/or local knowledge and understanding of differences in foreign management style as to the many alliances normally conforming to stakeholders and their special interests. "For example, the literature suggests that while Chinese culture fosters societal conservatism, US culture encourages a competing style toward self-enhancement" (Morris et al., 1998). Additionally, as it relates to China and cultural diversity, the issue of "*Guanxi*" arises. Guanxi is the system of social networking, building alliances and developing mutual trust. In-spite of China's vast opportunities for MNE development, the surprisingly small number of MNEs in China is directly attributed in many cases to the lack of understanding of MNEs in the causes and effects of Guanxi. Additional to the differences in approaches to business, mentioned above, the business strategies in China reflect not only Guanxi, but also Confucianism, leading to the view as business strategy is based on an adversarial relationship, founded on Sun Tzu's "Art of War". The western "win/win" strategy is not a primary component of Chinese business managers' arsenals for negotiation.

Managers of international partnerships who adjust quickly to the institutional and cultural environments in which they operate are destined for success. Knowledge about the influence of non-market factors in partnership management offers the potential for those managers to create significant competitive advantage for their enterprises going forward in an emerging market economy. (Chen & Li, 2009, p. 723) This cultural diversity influences all areas of MNE interactions including employment, partnership, negotiations, marketing, balance of payments, accounting, legal and regulatory, or governmental involvement. Walmart spent 12 years, in China, achieving an annual revenue of over $11 Billion U.S., while still losing money. Even though Walmart is a great example of a company that does its due diligence before entering a foreign market, they made significant errors in judgment regarding cultural diversity such as:

- Poor projections of shopping traffic standards, including the first store opening, where over 1 million shoppers lined up for the opening. The store specification designs, having followed US standards, were not ready for the opening crowds, or daily shopping traffic. The aisles specified as per US opening shopping patterns, approximately 50,000 average opening-day shoppers resulted in uncontrollable crowds, followed by daily unmanageable customer traffic.
- Wet markets, not a segment in the U.S. consumer pattern, in China, include live animals, fish, frogs, snakes etc. These products therefore had to be sourced from local vendors, with store designs updated to present these new categories of assortments and the daily care required.
- Improper fashion trend projections, based on colors, size specifications, and product development. Many cultural fashion peculiarities of the Chinese consumer were overlooked. Inventory assortments, replenishment and store presentations all needed updating.
- The combination of income disparity in China, and government regulations that would not allow Walmart to build more than three stores in one city, had a much deeper effect on market share than Walmart originally calculated, slowing growth, reducing some of the corporate marketing and economies of scale models.

The challenges MNEs face regarding cultural diversity influence potential success and/or can be damaging if not addressed from the time of initial research into a foreign market, but constantly along the way concerning strategic planning, implementation, and ongoing business activities. Enterprise strategy of the joining of ethical and strategic thinking about the organization and it aligns organizational behavior and strategies to standards, norms and expectations in the foreign environment. It is the strategy level where the social and political characteristic should include good corporate social responsibility (CSR), considering all stakeholders.

Conclusion

In summary, a road map for MNE market entry requires review of all aspects of a global business from perspectives of management of host and home countries covering all stakeholders' needs. MNE's should study, understand, and follow the OECD guidelines, developed by the member governments, whether for OECD country development or non-member national market entry for operating within these foreign markets. Risk factors associated with economic, political, legal, financial, cultural, and institutional, require research and strategic development. MNE's should follow certain fundamental economic, strategic, organizational, sociopolitical principles. Careful attention to international economic theories, policies and variables, causes and effects of same, are of paramount importance in the decision making process. International organizations, market and trade opportunities, and barriers require scrutiny. The involvement of each section of an MNE, marketing, finance, sales, production, and human resources are important and necessary in the foreign expansion process.

References

Boyles, W., & Melvin, M. (2008). *Economics* (7th ed.). Boston, MA: Houghton Mifflin Company.

Carbaugh, R. J. (2010). *International Economics* (13th ed.). Florence, KY: South-Western.

Chen, D., & Li, D. (2009). Non-market factors and partnership management in transitional economies. *Management Research Review*, *32*(8), 716-727. doi: 10.1108/01409170910977933

Guillen, M. F. (2011). *Understanding and Managing the Multinational Firm* (Doctoral dissertation, The Wharton Scholl of the University of Pennsylvania). Retrieved from http://www.management.wharton.upenn.edu/guillen/files/mneconcept.pdf

Leonard, L., & Salzman, H. (2008). Multinational and the Globalization of Technology Development. Retrieved from http://policy.rutgers.edu/faculty/salzman/MNE%20Global%20Tech-Effective%20Exec-3-08.pdf

Markey, R., & Ravenswood, K. (2009). The effects of Foreign Direct Investment and multinational enterprises on the areas covered by the 1977 MNE Declaration of the ILO. Retrieved from http://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---multi/documents/publication/wcms_117580.pdf

Martins, J., & Nelson, A. (2010). Knowledge transfer to the subsidiaries operating in overseas. *Industrial Management + Data Systems*, *110*, 516-531. doi:10.1108/02635571011039007

Morris, M., Williams, K. Y., Leung, K., Mendoza, R., Ghatnagar, M. T., Li, D., Hu, J. (1998). Conflict management style: Accounting for cross-cultural differences. *Journal of International Business Studies*, *29*, 729-748.

OECD Guidelines for Multinational Enterprises. (2011). Retrieved from http://www.oecd.org/dataoecd/43/29/48004323.pdf

Rangan, S., & Sengul, M. (2009). Information technology and transnational integration: Theory and evidence on the evolution of the modern multinational enterprise [Journal Article]. *Journal of International Business Studies*, *40*(9), 1496-1514. doi:10.1057/jibs.2009.55

Shubita, M. F., Harris, P., Malindretos, J., & Bobb, L. M. (2011). Foreign Exchange Exposure: An Overview. *International Research Journal of Finance and Economics*, *78*, 171-177. Retrieved from http://www.internationalresearchjournaloffinanceandeconomics.com/ISSUES/IRJFE_78_13.pdf

The United States Department of Justice. (n.d.). http://www.justice.gov/criminal/fraud/fcpa/

Thite, M., Wilkinson, A., & Shah, D. (2010). International & HRM Strategies across Subsidiaries in Multinational Corporations from Emerging Economies. Retrieved from www.shrm.org/.../documents/thite%20final%20report%204-11.do

Appendix A

Table 5

Some examples of policy measures directly affecting FDI introduced after September 2008

Country	Measure	Relevant Features
Algeria	A fiscal measure introduced in the 2009 budget, January 2009	A 15% tax will be levied on profits transferred abroad by foreign companies operating in Algeria
Canada	Amendments to the Investment Canada Act February 2009	Some obstacles to FDI are relieved and the transparency of government decision is increased. Introduction of national security test on investments by Non-Canadian businesses.

Canada	Amendments to the Investment Canada Act February 2009	Limits of foreign ownership in Canadian Airlines are raised from 25% to 49%
Columbia	Introduction of new capital-control measures (Sept. 008)	Affects short-term capital flows
India	Changes in FDI regulation, December 2009	Larger share of foreign ownership in many activities such as industrial parks, mining and petroleum, air transport
India	Changes in FDI regulation, December 2009	Facilitate application of caps on foreign ownership in strategic sector (defense, aviation, telecommunications.
Japan	Existing export insurance schemes for Japanese affiliates operating in developing countries have been extended to affiliates in developing countries.	Facilitates activities and trade of Japanese affiliates.
Japan	Granting of business loans by Japan bank for Int. Cooperation (JBIC) to Japanese companies and their affiliates which operate in developed countries (March 2009), extension of loans that had been limited to those in developing countries	Facilitates activities and trade of Japanese affiliates abroad

Source: UNCTAD, 2009d, p.42

Note: As can be seen, many countries talk about foreign investment growth, however, political parties and interests create obstacles that in fact, negatively affect investor optimism and belief in opportunities.

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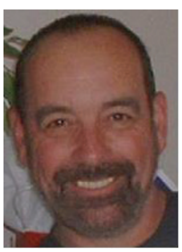

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The Economic Impact of Women-Owned Businesses in the United States

By: Sara Matin & Daryl K. Ono

"You may be disappointed if you fail, but you are doomed if you don't try." Beverly Sills

Women owned businesses within the United States are continuing to grow and expand. According to the U.S. Department of Commerce, the number of women-owned businesses grew from 5.4 to 7.8 million, or 44% between 1997 and 2007. This growth rate was almost twice that as the growth rate for men-owned firms. However, with the slowdown of the economy, some questions arise. Is it worthwhile for women to start-up, or to expand their existing business? Is there economic value added by women-owned businesses? If so, what is that growth based on? Do these businesses earn net income and EBIT?

Introduction

In October 2009 the Center for Women's Business Research published an important paper "The Economic Impact of Women-Owned Businesses in the United States". This article was underwritten by WalMart, the National Women's Business Council and the Center for Women's Business Research. This paper states that the economic value added by women-owned businesses is approximately \$2.8 trillion, which is greater than the gross domestic product (GDP) of many countries. Women-owned businesses are a critical component of the US economy.

A "women-owned business" is defined as one where women own 51% or more of a business. These are tracked closely because government programs are in place to assist women-owned businesses, especially those in the start-up phase.

While "The Economic Impact of Women-Owned Businesses in the United States" was influential and widely used by many different entities, this paper's primary quantitative tool was descriptive statistics. The paper will add inferential statistics to further strengthen the arguments presented by "The Economic Impact of Women-Owned Businesses in the United States". This paper will also focus on some of the statistical weaknesses of "The Economic Impact of Women-Owned Businesses in the United States" and present suggestions for further study.

Technical Issues

The use of descriptive statistics in "The Economic Impact of Women-Owned Businesses in the United States" is impressive. The results of a comprehensive, well-designed survey of over 400 women-owned businesses were summarized with numerous tables and detailed graphics. The tables and graphics were unambiguous and the conclusions the tables and graphics delivered were extremely educational.

"The Economic Impact of Women-Owned Businesses in the United States" lacked inferential statistics or any use of hypothesis testing. Statistical parameters such as the mean, variance, skewness and kurtosis could have been estimated from the results of the survey and subsequently been used in inferential statistics. A key weakness is that the variances and/or standard deviations are not provided and must be estimated. The results from "The Economic Impact of Women-Owned Businesses in the United States" are strong and convincing but inferential statistics could have been used to prove a scientific testable hypothesis.

This paper will add inferential statistics to "The Economic Impact of Women-Owned Businesses in the United States" to strengthen the conclusions from the original paper.

The only significant accounting parameter provided in "The Economic Impact of Women-Owned Businesses in the United States" is revenue and these are rather small on an average basis for a business. Two more useful figures could have been net income and earnings before interest & taxes (EBIT) to determine if women-owned businesses generate economic value added. If the women-owned businesses incur net losses, their economic contributions would be insignificant. This paper will not pursue the accounting of "The Economic Impact of Women-Owned Businesses in the United States" but the accounting issues should eventually be addressed.

Methodology

This paper will add inferential statistics to the descriptive statistics of "The Economic Impact of Women-Owned Businesses in the United States". A t-test of revenues will be done to determine if the revenues of these women-owned businesses are statistically significant.
The focus on revenues is crucial because there is no data on net income and/or earnings before interest and taxes (EBIT). It's important that women-owned businesses generate revenues but it is even more important that the women-owned businesses earn net income and EBIT. Net income and EBIT add economic value so it's critical that any business earns net income and EBIT. Any business that does not earn net income and EBIT will not survive in the long-run.

Standard Deviation Estimation

"The Economic Impact of Women-Owned Businesses in the United States" provides sufficient information to calculate the mean and population size, but the variance and standard deviation cannot be calculated. The standard deviation is necessary to perform inferential statistics so the standard deviation will be estimated using normal methods.

The first method is theoretically the most correct: the moment-generating function for variance using mathematical statistics. Unfortunately this cannot be applied in this case because the probability distribution for the revenue function for women-owned businesses cannot be determined from the data provided and was not provided.

The second method is the variance calculation for grouped data. This is a well established method but the inputs into the formulas are average data, not actual data. This will decrease the variability in the data so the standard deviation calculation will be underestimated. This underestimation will be acknowledged but there will be no adjustment to the underestimation.

The third method is a rough estimate called the "range rule". The limitations of the third method are similar to the limitations of the second method: because only average data is inputted into the formula, the "range rule" will underestimate the standard deviation. Again, the underestimation will be acknowledged but there will be no adjustment to the underestimation.

The formulas for variance and standard deviations calculations are shown below. Because the standard deviation will probably be underestimated, this paper will take a conservative approach and use the largest standard deviation calculation.

Variance = $x^2 \int f(x)dx$

Variance = $\dfrac{\sum f(X-\mu)^2}{N}$

Standard deviation = $\dfrac{\text{minimum value} - \text{maximum value}}{4}$

The grouped data standard deviation is 36,211 while the range rule standard deviation was 26,527 so the grouped data standard deviation will be used in the test statistic.

Results from Inferential Statistics

The null and alternate hypotheses to determine if the revenues from women-owned businesses are statistically significant are: H0: $\mu = 0$
H1: $\mu > 0$
This will be a one-tailed test.

The following test statistic was used to determine if the revenues from women-owned businesses are statistically significant:

z-calculated = $\dfrac{\mu - 0}{\sigma/\sqrt{N}}$

where μ = 151,572
σ = 36,211
N = 266

The z-calculated was 68.27 while the z-critical (.01) was 2.33 so the revenues from women-owned are statistically significant. The results are strongly significant so the estimates of standard deviation would not make much of a difference even if they are likely low.

"The Economic Impact of Women-Owned Businesses in the United States" indicates that revenues from women-owned businesses are growing and these results verify that the growth is based upon fundamental sources.

The next logical step would be to perform hypothesis testing on net income and earnings before interest and taxes to determine if these two important accounting measures are statistically significant. The concern is that these may be negative and that women-owned businesses are not adding economic value. If these two measures are also positive and adding economic value, women must be aware of opportunities which exist for them.

Understanding the statistical implications of women owned businesses as well as the issues and opportunities typically faced allows one to learn from publications and make educational choices about their future.

Issues and Opportunities for Women-Owned Businesses

According to Maltby (2012), "the greatest growing pain for women-owned businesses is between $250,000 and $499,000 in annual revenue…firms struggle with management systems because owners and operators may be transitioning to a chief-executive position". Understanding this hurdle may encourage women to seek mentors or outside consultants when they want to continue growth through this range and up to the $1 million milestone.

Women must continue to network, find mentors, and gather information needed in order to grow their businesses. Looking at industries with the fastest growth for women over the last 11 years, education services has increased 113%, administration and waste services has increased 58%, and health care has increased 45% (American Express OPEN, 2013). Following those trends, women may continue to focus their energies in education services and health care, yet should consider growing into a new sector. Women who currently own their own business can expand or grow it new sectors, yet need to understand how, when, and where to go.

Appendix

Hypothesis Testing - Range Rule σ

	# of firms	total revenues	average revenues	business by SIC code
	87	13,278,765	152,629	professional, scientific, technical services
	56	11,603,235	207,201	retail, wholesale
	46	5,453,900	118,563	business services
	32	5,433,000	169,781	communication, media
	45	4,549,152	101,092	administrative, support, waste remediation
total:	266	40,318,052	151,572	

range rule standard deviation	26,527
z-calculated	93.19
z-critical (.01 level of significance)	2.33

Hypothesis Testing - Grouped Data σ

	# of firms f	revenues X	avg. revenues μ	(X - μ)^2	f(X - μ)^2
	87	152,629	151,572	1,119,065	97,358,657.26
	56	207,201	151,572	3,094,585,746	173,296,801,751.68
	46	118,563	151,572	1,089,566,392	50,120,054,033.43
	32	169,781	151,572	331,590,477	10,610,895,259.82
	45	101,092	151,572	2,548,165,523	114,667,448,528.66
N:	266			∑f(X - μ)^2:	348,792,558,230.84
				σ^2:	1,311,250,218.91
				σ:	36,211.19

grouped data standard deviation	36,211.19
z-calculated	68.27
z-critical (.01 level of significance)	2.33

Bibliography

http://www.nwbc.gov/sites/default/files/economicimpactstu.pdf

American Express OPEN. (2013) The State of Women-Owned Businesses. www.OPEN.com.

Economics and Statistics Administration of the U.S. Department of Commerce, at the request of the White House Council on Women and Girls. 2010. www.whithouse.gov/administration/eop/cwg.

M. C. Ehrhardt and E. F. Brigham, *Financial Management: Theory & Practice, 13th Ed.*, South-Western Cengage Learning, Mason, OH, 2011.

J. E. Freund and B. M. Perles, *Statistics: A First Course, 7th Ed.*, Pearson Prentice Hall, Upper Saddle River, NJ, 1999.

Maltby, Emily (2012). Women-Owned Businesses Make Strides. Retrieved October 10, 2013. WSJ.com

J. H. Moore and L. R. Weatherford, *Decision Modeling with Microsoft Excel, 6th Ed.*, Pearson Prentice Hall, Upper Saddle River, NJ, 2001.

L. J. Stephens, *Advanced Statistics Demystified*, McGraw Hill Companies, 2004.

J. Schmuller, *Statistical Analysis with Excel*, Wiley Publishing Inc., Hoboken, NJ, 2005.

Pratt, Shannon; Robert F. Reilly, Robert P. Schweihs, *Valuing a Business, 4th Ed.,* McGraw-Hill Professional. McGraw Hill, 2000.

R. E. Walpole, R. H. Myers, S. L. Myers and K. Ye, *Probability and Statistics for Engineers and Scientists, 7th Ed.*, Pearson Prentice Hall, Upper Saddle River, NJ, 2002.

W. J. Orvis, *Excel for Scientists and Engineers, 2nd Ed.*, SYBEX, Inc., 1996.

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