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Regulatory Issues When Buying or Selling an ISP

David Zumwalt WISPA

Matt Larsen Vistabeam

Elizabeth Bowles Aristotle Unified Communications

Steve Coran Lerman Senter

Disclaimer

- This presentation is **not** intended to create an attorney-client relationship.
- The information contained in this presentation is general and is **not** offered as legal advice.
- You are strongly encouraged to consult with your attorney(s), consultant(s), or financial advisor(s) if you have specific questions.
- Any reliance on the information in this presentation is taken at your own risk.

Getting Started

- Seller “painting the house”
- Willing buyer and willing seller
- Non-disclosure agreement
- Agreement on main issues
 - Price—formulas
 - Terms
 - Asset or equity
 - Financing
 - Tax consequences
 - Due diligence time period

Necessary Evils

- Attorneys
 - Transactional
 - Regulatory
- Accountants
- Key employees to help with the deal
- Political climate
- Patience!

Deal Culture

- Buyer's objectives
- Seller's objectives
- Pace of the deal dictated by the slowest party
- Employment offers
- Establishing multiple points of contact
 - Principal to principal

Due Diligence

- Financial
- Churn and ARPU are KPIs
- Equipment and inventory
- Towers and infrastructure
- Customer contracts
- Other contracts (e.g., towers, bandwidth)

Regulatory Due Diligence

- FCC and State licenses and certifications
 - Do you have common carrier wireless licenses?
- What services are you providing?
 - FCC Section 214 Authorizations for common carriers
 - Do you receive universal service subsidies or other government funding (e.g., CPF, BEAD)?
- Regulatory compliance—primarily voice and USF

Deal Structure

- Letter of intent
 - Enforceability
- Asset deal
 - Seller remains liable
 - Assignment consents
- Equity deal
 - Seller absorbed, so buyer inherits risk
- Payment terms
 - Cash (at closing or terms)
 - Equity
 - Clawbacks and transition periods

Deal Elements

- Representations and warranties
 - Method of assigning and mitigating risk
 - Disclose, disclose, disclose!
- Covenants to address activity while deal is pending
 - May restrict seller's capital investment
- Regulatory approvals
- Tax treatment
- Indemnification

After Signing

- Gathering consents
- Pre-closing regulatory consents
- Transitioning
 - Seller's role
 - Integrating operations
 - Employees
 - Customer notice

Time to Close: Regulatory Consent Issues

- 2–4 weeks: Wireless licenses
- 2–3 months: State certificates (if required)
- 4–5 months: Section 214 Authorizations
- 6–8 months: Team Telecom review
 - For 214s or common carrier wireless licenses if there are foreign investors
- 8–10 months: Petition for Declaratory Ruling
 - For common carrier wireless licenses if foreign ownership exceeds 25%
- 12+ months: Anything CA touches

Seller Takeaways

- Plan for the exit the day you enter
- Keep the circle small
- Manage expectations; there will be highs and lows during the process
- Manage emotions
- Don't cut corners on compliance
- Disclose, disclose, disclose!

Buyer Takeaways

- Understand that selling a company can be emotional
- Respect the entrepreneur who started the business
- Keep the circle small
- Don't cut corners on due diligence, and understand the risk

QUESTIONS?

The image features a city skyline at sunset, with buildings illuminated against a warm, orange and red sky. A large white speech bubble shape is overlaid on the left side of the image, containing the text 'THANK YOU'. The background is divided into several curved, overlapping bands of color: a dark blue band at the top, a white band containing the speech bubble, and a dark blue band at the bottom. The bottom dark blue band is decorated with a row of small, stylized house icons in red and orange.

THANK YOU