

INTERNATIONAL JOURNAL OF RESEARCH IN COMMERCE & MANAGEMENT

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JOINT VENTURE AND ITS ISSUES

RIDHI GUPTA
TEACHING ASST.
B.P.S MAHILA VISHWAVIDYALAYA
KHANPUR KALAN

ABSTRACT

Joint ventures are combinations of two or more companies created to produce a new product or service, or to gain entrance into a new market. Thus, regardless of the motivation, it needs careful management. Each partner hopes to gain access to some resource possessed by the other(s) such as marketing, technology, raw materials or financial, managerial, and political resources (Beamish, 1988). Joint ventures are combinations of companies that enter a new market. To achieve great performance of these "contract marriages" between the multi-cultural companies, they need well thought partnerships and managements. At the same time, each partner has to transfer to the joint venture company their resources such as marketing, technology, raw materials, financial, managerial, and political resources. This paper presents the issues and challenges involved in joint venture.

KEYWORDS

Joint Venture, MGM Channel Joint Venture, Partnership, Agreement.

1.0 INTRODUCTION TO JOINT VENTURE

A joint venture, like a partnership, is created with a view to securing a financial benefit. In partnership, this benefit is expressed as an entitlement to share in profits. This is in keeping with the notion that partnership property, as such, is held by the partnership and that the partners are entitled to share in the profits which may be allocated to them. In general, the motives for setting up a joint venture were understood to include: were

- Using complementary technology or research techniques;
- Raising capital;
- Spreading the risks associated with establishing an enterprise in a new product or geographical area; enterprise in a new product or geographical area;
- Achieving economies of scale;
- Overcoming entry barriers to domestic and international markets; and, acquiring market power

As noted above, a joint venture may simply be the result of an agreement arrived at by the participating parties, or it may take on the more formalized structure of a corporation. Where the parties have agreed that the joint venture be structured by a separate corporation, it is clear, subject to the laws of the incorporating jurisdiction of such corporation, that the joint venture will be separate and distinct entity existing under law, all of the assets of which will be held by it. It is very common, even in such instances, for the parties to govern their relations in such corporations through a shareholders' agreement (Pearce, 1997). Corporations and shareholders' agreements have their own set of well-defined rules and internal logic, and once the parties have decided to opt for such a structure, the particular rules of "joint venture" as innominate or *sui generis* contract would appear less significant in that the parties have chosen a well-regulated vehicle (the corporation) to govern their business dealings. This raises the entire issue of characterization. Given the admitted similarities between joint venture and partnership, there is a natural tendency for a court which has the benefit of having before it a series of established rules (i.e. the law of partnership) to apply such rules where a joint venture is present. This could arise in any one of the following situations:

(a) Where an agreement characterized by the parties as "joint venture" is silent regarding the rules to apply in a particular situation. If the court characterizes the relationship as one of partnership, the resulting void would be filled by those rules;

(b) Where the rights of third parties may be involved and such rights may be determined in a different manner should the joint venture relationship be characterized as partnership?

(c) Where a provision in a joint venture agreement runs contrary to a partnership rule of public order or is at variance with that which is considered essential to a contract of partnership, such provision will be declared illegal or inoperative where the court has characterized the contract as one of the partnership. As noted above, the disclaimer by the parties of any intention to create a partnership will be of no effect where a court concludes, on a reading of the document and a consideration of the true relations of the parties, that a partnership was intended.

The result of all of the foregoing is that parties to an agreement who may have believed that they were not entering into a partnership but rather something else, may find that their juridical relations are indeed governed by the law of partnership, with all of its attending results.

1.1 PROBLEM FACED BY GENERAL MANAGER AT THE TIME OF JOINT VENTURE**A. MANAGEMENT / POLITICAL REASONS**

The first problem faced by general manager at the time of joint venture is management/political reasons. As joint venture means combination of two or more companies to fulfill specific objectives, In this a new management came in to existence that management may or may not have the behavior to consult with its employees in decision making. Both the company's management may have the different styles of taking decision likewise one may adopt democratic style and other may adopt autocratic style now when both are combined in new organization what will be their style is the main question (Banks, 1987).

B. CULTURAL REASONS

As we all know that due to combination of two or more organization a new organization came in to existence that management will start to implement their rules, privileges and rights to the employees. It would be possible that before joint venture strong as well as transparent now it is replaced by frustrated and hatred environment. When it happens surely the efficiency and performance of new workforce will decline. As well all know that human resources is an important source for differentiation and competitiveness for any company, so it is essential to take proper care of human resources as well as make investment in this during the period of new management and environment. in addition to this the method to determine the extent to which an organization can invest in human resource depend upon their financial capabilities.

In this I have studied the case of joint venture of MGM channel of Korea ,I which I taken in to consideration the problem faced by the manager at the time of joint venture their relative advantages as well as disadvantages,.

2.0 EXAMPLE OF JOINT VENTURE**MGM'S WORLDWIDE CHANNEL VENTURES**

Unlike large diversified companies such as Viacom and Time Warner that seek to spread the risk of the new ventures across a wider media business field, MGM seems to mesh well with licensing. The diversification strategy of MGM is limited to the library channel, a less capital intensive business that ensures an outlet for film contents (Litman, 1997)

Nevertheless, the expansion strategy of MGM is significant. In 2002, MGM had ownership interests in both branded and other channels in over 90 countries around world:

- MGM branded channel: 100% owned by MGM (Europe, Africa, Middle East, North Africa),
- 50% owned by MGM: Latin America
- 35 % owned by MGM: Israel, Turkey

- 33% owned by MGM: South Korea
- 30% owned by MGM: South Asia
- 10%~20% ownership interest: USA AMC, WE, IFC, JAPAN, etc.

For the type of channel, MGM generally chose the “library channel” to profit from its enormous library of contents

2.1 ADVANTAGES OF THE BASIC LIBRARY CHANNEL IN KOREA

According to *Porter (1980, p.341)*, decisions to enter a market are usually based on a balanced consideration of cost and benefits in four areas investment required, additional investments to overcome structural entry barriers, potential cost of incumbent firm competition, and expected cash flows from being in the industry. Joint venture was chosen as the entry mode in the case of the MGM Channel Korea.

2.2 THE COST AND BENEFIT FOR MGM CHANNEL JOINT VENTURE WAS THE FOLLOWING:

- Low investment for the programming due to supply from MGM’s library
- No entry barrier because a satellite broadcaster would simply carry the channel, unlike a cable operator that would request high entry payments to cover expenses such as marketing
- Guarantee of revenue from Skylife, a satellite platform company In fact, MGM Channel Korea, a distribution outlet of MGM’s library and basic channel, didn’t seem to take a financial risk. It didn’t need significant start-up costs because its programming cost was extremely low compared with programming for pay channels such as HBO Korea (*Erramili, 1990*).

Also, MGM Channel Korea has a revenue guarantee from the newly launched satellite platform company. The shareholders of MGM Channel Korea wanted to secure the profit pool from the relatively new satellite market rather than from the cable market, which was extremely competitive at the time.

The joint venture of MGM Channel Korea seems to have had no large financial risks and offered assured returns. These were the most attractive factors that led the partners to sign the joint venture agreement promptly. Moreover, the company expected financial performance reported in the business plan shown in

2.3 HIGH ROI (RETURN OF INVESTMENT) OF MGM NETWORKS

The joint venture of MGM Channel in Korea particularly demonstrates its benefits to MGM Networks. MGM Networks recouped its investment in the first year. According to the business plan, MGM Networks would recover its total investment in the first year and it received a guarantee of programming revenue for more than 4 years. Within 3 years, the joint venture company was expected to achieve a breakeven point and return in the fifth year was expected to be US\$ 4.3 million, three times larger than MGM Network’s initial investment of US\$ 1.6 million (*Annexure 1*).

2.4 DRAWBACKS OF JOINT VENTURE OF MGM CHANNEL

• MANAGEMENT FAILURE IN JOINT VENTURE

Joint ventures are combinations of two or more companies created to produce a new product or service, or to gain entrance into a new market. Thus, regardless of the motivation, it needs careful management. Each partner hopes to gain access to some resource possessed by the other(s) such as marketing, technology, raw materials or financial, managerial, and political resources (*Katsioloudes, 2002*). The joint venture of MGM Channel Korea was created for the purpose of transferring each others’ strength. However, some misunderstanding about the business objectives of the joint company and a mismatch of expectation has often led to conflicts. Table 6 shows the business objective of MGM channel Korea for each partner. Skylife, the satellite platform company promptly provided a channel lineup that included MGM Channel Korea. The brand value of Spectrum DVD, which was about to be listed on the Kosdaq stock exchange, undoubtedly increased by cooperating with MGM Networks. The completion of the agreement between MGM, a major Hollywood distributor, and Spectrum DVD, a small- to medium-sized Korean company, was been covered by several newspapers, and the MGM brand would thus be recognized by the viewers easier than any newly launched channel without a recognizable brand (*Jaemin, 2004*). However, unlike the initial expectations and motivations, each partner focused on their own interests in the new company instead of promoting their common interests. Thus, their relationships soon began to deteriorate because of disagreements between the parties

• MISUNDERSTANDINGS ABOUT THE COUNTERPARTS

The Korean partner has considered MGM Networks almost as an MGM group. Thus, they expected that the MGM Networks would assist them in building a favorable relationship with other MGM subsidiaries because they were not aware that the MGM businesses are clearly separated in the windows from theatrical distribution to video on demand distribution. This misunderstanding was largely due to the different commercial atmospheres in the two countries. It is customary for Korean companies to give privileges to obtain benefits from other products in their sister company (*Annexure 2*).

Unlike the local partners, Spectrum DVD and Skylife, who were not able to capture benefits from the joint venture, MGM Networks accumulated revenue by receiving the programming rights and trademark fees. As a result, MGM Networks recovered its initial investment within a year by simply licensing its content and name. Due to unbalanced advantages shared by the partners, the conflict between the partners grew over time. Finally, Spectrum DVD, tried to sell its shares and avoid further funding, leading the other partners to take extreme measures. When Spectrum DVD decided to stop all investment and sell its shares, MGM Network nullified the attempt by citing the shareholder agreement on sales of shares (*Shrikhande, 2001*).

• LACK OF SUPPORT FROM EACH PARTY

The joint venture benefits neither merit the license fee nor guarantees the provision of competitive contents. MGM Networks offered its films to MGM Channel Korea at a fixed price due to the output deal. Thus, they never suggested exclusivity of titles at the fixed price and MGM also sold them to the competitor of the MGM Channel that pays more than the MGM Channel. No marketing support is offered by MGM Networks for promoting the MGM titles, such as preview tickets for newly released

MGM films because 20th Century Fox Korea provides distribution for MGM theatrical films. This creates no synergy in the company. On the other hand, expected support from local partners for the production of subtitling has not materialized because of disagreement between partners. As a result, the joint venture between MGM Networks and Spectrum DVD has not transferred support from the partners in the form of marketing, technology, ad sales, etc.

2.5 SAFETY DEVICES OR PRECAUTIONS TAKEN

The management structure of the joint venture of MGM Channel Korea contains several safety devices for MGM Networks:

- Equal number of board members even though there is an imbalanced portion of shares
- Deposit of one quarter of the capital as a payment guarantee for
- MGM programming rights
- Deposit from Spectrum DVD to guarantee future funding
- Agreement that all disputes should be resolved in a U.S. court of justice
- The structure and conditions of management by MGM Networks created conditions in which frequent disagreements between local partners and MGM cooled their relationship.

3.0 RECOMMENDATIONS AND CONCLUSIONS

As mentioned earlier, joint ventures are combinations of companies that enter a new market. To achieve great performance of these “contract marriages” between the multi-cultural companies, they need well thought partnerships and managements. At the same time, each partner has to transfer to the joint venture company their resources such as marketing, technology, raw materials, financial, managerial, and political resources. However, even though there were desirable initial motivations for a joint venture and lots of advantages for a library channel, MGM Channel Korea suffered conflict between its partners. This study showed the main reason for the difficulties of managing joint ventures in the Korean market through the case of the MGM Channel in Korea. The Korean media environment has a broadcasting law that restricts foreign equity, sets a programming quota, and controls the number of foreign channels that are directly transmitted. It seems that the Korean media environment remains highly protective. Some major Hollywood channels that seek to circumvent these regulation, which often kickstarts conflict. They try to control the joint venture company closely while making a minimum investment. Even though GM Networks has only one third of the shares in their joint venture, they want to manage the joint venture as if they were the largest shareholder and this uses their market

dominance. Additionally, unequal clauses in the shareholders' agreements are often written by a foreign partner. In such an environment, desirable co-management between the partners became nothing more than an ideal. Such factors create situations in which negotiations between prospective Korean and foreign partners rarely reach an agreement. Even if there is a successful launch of a joint venture, only half are able to sustain their operations in Korea. It seems that the partners of MGM Channel Korea think only of their own interests rather than the joint venture company's interests. The company doesn't receive any kind of support from the partners in terms of programming management and marketing. Also, to avoid further investment, the partners refuse to diversify the strategy of the company. MGM Networks strictly focuses on the payments it receives for MGM programming, a practice that may undermine the long-term vision for a joint venture. Furthermore, the conflict between the partners can have a negative impact on the MGM Channel in Korea and the MGM brand there. The domestic film market in Korea is rising rapidly and major Hollywood distributors time theatrical release of their hit movies to avoid competing with Korean blockbusters. Korean viewers want more domestic programming and tend to like to see current movies so Hollywood branded channels—especially library channels—do not guarantee success despite their many financial benefits from economies of scale as rerun channels. This challenge exists in other markets as well. In Germany, for example, the MGM channel does not operate as a library channel but as a premium channel called the "current movie channel." Korean viewers are enthusiastic about dramas, therefore drama channels are among the top ranked even though they are all rerun channels. It appears that mixed programming of films and drama series could be a good solution rather than the all movie programming offered by the MGM channel Korea and other countries. There are evaluation criteria in manufacturing industries for assessing benefits of partnerships with a foreign company and transferring technology can make a positive contribution to such industries. In the media industry, however, technology is rarely transferred and unequal contracts, unbalanced management by a dominating partner, and primarily serving the interests of foreign partners can create trouble for the future of such partnerships in Korea. In joint ventures risks have to be shared and resources transferred between the partners. Thus, the pursuit of a win-win strategy would be the ultimate resolution for successful partnerships in Korea. Lastly, the concept of a branded channel is effective because of the economies for the scale mentioned earlier. Thus, it could be expected to be more successful in countries in which the domestic movie industry is not largely developed or in which a different entry mode such as merger or acquisition is employed. The performance of the same branded channel in different countries, however, has not been compared in this study. We expect that the economics of branded channels under different Lee-Joint Management of the MGM Channel market entry modes or in different countries will be analyzed in future studies

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ANNEXURE

ANNEXURE 1

FINANCIAL SUMMARY					
(US \$ unless otherwise noted)	Year 1	Year 2	Year 3	Year 4	Year 5
Subscription Revenues	0	0	0	2,959,613	5,165,543
Advertising Revenues	320,944	936,087	1,860,374	3,068,633	4,008,653
Supplemental Fee from Skylife*	1,415,929	1,966,568	1,966,568	0	0
TOTAL REVENUE	\$1,736,873	\$2,902,655	\$3,826,942	\$6,028,246	\$9,174,196
TOTAL PROGRAMMING	1,839,600	2,023,560	2,214,828	2,424,668	2,654,911
MGM RIGHTS COST	1,260,000	1,386,000	1,524,600	1,677,060	1,844,766
PROMO & INTERSTITIALS	40,000	42,000	44,100	46,305	48,620
SALES & MARKETING	220,236	307,522	542,268	848,192	1,087,249
MGM Brand Trademark Fee	75,000	100,000	125,000	150,000	200,000
Web site Expenses	60,300	29,715	31,200	32,760	34,398
Technical Operations	280,000	294,000	308,700	324,135	340,342
Personnel & Office	477,554	501,432	526,503	552,828	580,470
TOTAL EXPENSES	\$2,992,690	\$3,298,228	\$3,792,600	\$4,378,889	\$4,945,989
EBIT	(\$1,255,817)	(\$395,573)	\$34,342	\$1,649,357	\$4,228,206
EBITDA	(\$1,255,817)	(\$395,573)	\$34,342	\$1,649,357	\$4,228,206

Source: Business plan inserted on joint venture agreement

¹ According to Business Plan, total capital of MGM Channel Korea is 3.9 million dollars (change rate is 1USD=1,150 Won), MGM Networks funding 1.2 million dollars (33%).

² MGM Networks gains revenue over 5 years 8.3 million US\$ (Trademark fee (650,000US\$) + Programming fee (7.7 million US\$).

ANNEXURE 2

Skylife (the satellite company)	Spectrum DVD (the largest shareholder)	MGM Networks (the second largest shareholder)
<ul style="list-style-type: none"> • Skylife needed the renown branded MGM Channel for its channel package in its newly launched satellite platform • To keep exclusively in the satellite channel package, Skylife guaranteed subscription revenue for three years • Skylife needed partnerships with major Hollywood distributors, included MGM distribution, to offer pay-per-view service 	<ul style="list-style-type: none"> • Spectrum DVD, the largest shareholder, needed to cooperate with a high brand value company to raise its company value • Through this relationship, Spectrum DVD wanted to make and keep a connection with MGM Home Entertainment for its core DVD distribution business 	<ul style="list-style-type: none"> • MGM Networks wanted to have the simple subsidiary outlet for distributing their library (250 titles per year) • It would not accept diversification of channel activity that would require possible further investment • It wanted to avoid a long-term contract, so set termination of agreement after 5 years

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