Global Life Sciences Summit: Deals, M & A, Alliances

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It's a fast-changing environment for deals in the life sciences sector. Going beyond their strengths and value propositions, leaders need to enable synergies from people working together and be aware of recent interpretations of anti-trust law.

In the second session of the 2023 Global Life Sciences Summit, KPMG hosts and leaders from the industry discussed two critical aspects: the importance of collaboration and increasing scrutiny of deals in the sector.

The first part of session two focused on recognizing the value from partnerships and creating a conducive environment for trust and collaboration. Jean-Christophe Tellier, Chief Executive Officer, UCB, shared his insights with Kristin Pothier, Global Life Sciences Deal Advisory and Strategy Leader, KPMG US.

Why synergy is critical in the sector

Collaboration and knowledge, in many ways, form the bedrock for development in the life sciences sector. The vast and complicated nature of human biology makes it imperative to lean on the expertise of others in specific aspects. That's the reason we see partnerships between entities in the private sector thrive.

We also see a lot of success in public-private partnerships where there's no direct competition between the entities. In all partnerships, complementary strengths become the driving force for innovative solutions.

"You have to collaborate externally. You cannot do science and understanding of the human biology all by yourself," Tellier said.

As we collectively move forward from a complicated environment to an even more complex one, collaboration will become an increasingly important piece of the puzzle. In a complicated environment, just having experts by themselves was adequate. And that's why siloed and specialized departments in traditional organizations are so common. But solutions in a complex environment rely on people from different areas and backgrounds coming together and sharing ideas.

There's a greater need to be collaborative, internally and externally. We often undervalue the people from outside challenging and asking the questions that can easily be overlooked. For this, creating the right environment is critical.

Getting started by being aware

This starts by developing a notion of self-awareness, understanding our biases and simply acknowledging what we don't know. It's about being open to the idea that someone with a different approach may have a better solution to a given problem.

We have a bias of partnering with people we are familiar with, something that can get in the way of creating great outcomes. Overall, the biopharma sector has not been very successful in integrating people from other backgrounds and making a diverse recipe a success.

Tellier recounted his experience of creating a venture fund. Many people told him it would be difficult to understand and manage two very different business streams. However, he said he found the experience enriching—bringing together people with an understanding of financial due diligence and human biology.

Making the most of a partnership

The expectations from any partnership should be formed around synergies. What will make this partnership really successful? What does the partner bring to the table? This clarity matters. For life science firms, Tellier said, there could be three reasons for a partnership:

Scale: A firm specializing in research and development may not have the scale to bring a solution to the market. A partner can provide this. Tellier cited UCB's partnership with Amgen as an example.

Sharing risk: When going into uncharted territory, you might have to share risk with a larger entity. For instance, for Parkinson's or Alzheimer's disease modification treatments that have not yet been validated, UCB entered into partnerships.

Need for a non-core capability: Certain growth opportunities and projects might require capabilities that are not core to do what you do.

The scale of the entities in a partnership matters. Tellier said for major companies in large economies, the incentive is to continue with what has worked in the home country. Smaller players, on the other hand, need to branch out to other geographies, markets and cultures for growth. "I feel that having a very small domestic market, in a sense, is a chance to be more open," he said.

To do this successfully, dialogue at different levels and the spirit of co-creation is key. Our ways of working have an impact on this. Without a doubt, there's a lot we can get done virtually. However, face-to-face contact and serendipity matter for collaboration and co-creation. Idea generation and sharing cannot always happen on a scheduled call.

When it comes to fostering the right kind of environment, the key is to be curious about ourselves and our biases. Also, it is important to understand that trust is binary—it's either there or not. Being clear on expectations and listening well over a period can help build trust to allow for greater collaboration.

Navigating a tougher environment for deals

In the second part of the session, Arman Oruc, Partner and Co-Chair, Anti-Trust, Goodwin, shared his perspectives on the wider anti-trust landscape with Jeff Stoll, Principal and National Strategy Life Sciences Leader, KPMG US. He discussed the impact of other anti-trust cases on the life sciences sector and recent developments.

More scrutiny and enforcement

The conversation started with an overview of the evolving Federal Trade Commission (FTC) stand on deals under the Biden administration. All federal agencies, including the FTC and the Department of Justice, have been enforcing anti-trust laws more vigorously across the board, be it through the lens of monopolization or restraints of competition. Key appointments such as Lina Khan at the FTC and Jonathan Kanter at the Antitrust Division have also been made in line with this approach.

The Hart-Scott-Rodino (HSR) review process by the FTC and the US Department of Justice scrutinizes large deals in 30 days. This is a mandatory process before a deal can be closed. In recent years, there has been a lot more scrutiny in the process, especially in the last 18 months. Transactions that earlier used to sail through are now tougher to pass.

In line with the pro-enforcement mandate, more investigations are being opened after the initial process, leading to a cumbersome second request process. However, the pro-enforcement interpretation of the law has not worked well in the courts so far. "We see a lot of transactions pull their HSR and re-file, giving the agencies a fresh 30-day clock," he said.

Impact from recent cases

Oruc then shared his views on recent anti-trust cases and possible implications for life sciences companies. In the Meta-Within case, Meta didn't have a VR fitness app of its own and could integrate the app by Within on its platform. The FTC challenged the deal arguing that Meta's acquisition would harm competition in the virtual reality space. The theory was that if Meta has developed its own app for the same purpose, it would have added to a more competitive market. Similar argument could play out in Pfizer's acquisition of Seagen and the impact on the cancer treatment space.

The implication of such an approach is daunting for the life sciences sector. He said such a position does not factor in how innovation works in practice. “The whole ecosystem is in many ways built on the synergy—the symbiotic relationship between Big Pharma and the others,” Oruc said. The drug development or treatment is often done by a smaller firm while the commercialization is done by a major pharmaceutical company. Eventually, this benefits consumers. He added that such a broad interpretation of anti-trust laws also goes beyond their intended scope.

A lot of people in the sector are also closely looking at developments on Illumina’s acquisition of Grail, a firm that works on cancer detection solutions. It relies on technology from Illumina which wanted to reacquire it. However, the FTC has challenged the acquisition. Oruc said such an approach could also be harmful for innovation as it does not recognize the various synergies that drive the sector. This requires education for the agencies.

More alignment between agencies across borders

On anti-trust agencies in the US and UK challenging the Microsoft-Activision deal, Oruc said we are seeing more doctrinal and political alignment between agencies across borders. Earlier, coordination was limited to process, now we are seeing coordination on the substance. Agencies acting in sync in such a way would have been unthinkable a couple of years ago. What this means is that practitioners need to be on guard when it comes to the waivers to streamline reviews. Information can go beyond the anti-trust agency in a particular country.

He then elaborated on what leaders can do to be better prepared for anti-trust review. He highlighted that many times, agencies don’t have deep knowledge of a business and they have limited time to come to a decision. So, it’s up to leaders to provide information with the right context and be prepared for the hard questions. They might also have to gather more data and work with opinion leaders to make them aware as to why a particular transaction is taking place.