

How to *Gobble Up* Chains of Licensed Retailers

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Are you counsel, in-house counsel, management, or the food and beverage director providing advice to a large chain of restaurants or hotels seeking to acquire another? If you operate a regulated business and you seek to acquire another regulated business, you have your work cut out for you in terms of finalizing a large transaction and integrating one or more brands. No doubt you have thought about closing dates, human resources and management issues (who will stay and who will go?), tax issues, and real estate issues (will we absorb their warehouses and corporate offices)? But have you thought about all the regulatory changes you will need to track, manage, and complete prior to your corporate/real estate closing in order to have a seamless transition? Have you figured out how to complete these tasks so that all locations will be able to open on time and will be able to serve the public upon opening?

This session is devoted to discussion of the issues any chain confronts when acquiring another chain, and assumes that the two chains are involved in alcohol beverage sales. The individual issues may vary depending on whether the acquiring chain is a restaurant, hotel, grocery store, gas station, etc., but the main concepts will remain the same. Here is a list of some pointers to make the process easier.

- Identify licensing and permitting timelines and schedules and back them out from the closing date, making sure to leave yourself a “cushion” for unexpected problems which may arise.
- Work with the seller and its counsel to identify which licenses and permits you will be inheriting. If you are buying locations in states, counties or cities where you do not already operate, determine whether you will rely on the seller’s prior assessment of which licenses and permits are needed, or whether you prefer to do your own due diligence.
- Make sure that the seller did not allow any licenses or permits to lapse or expire prior to transfer to you. If this did occur, leave plenty of time to resolve the issue.
- Similarly, if the seller will hold licenses or permits which will be up for renewal prior to transition, clarify responsibility for renewing these licenses and permits and paying the associated fees.
- Touch every permit which impacts the business, *e.g.*, food, sanitation, water, alcohol, elevator, alarm system, etc., and determine whether some permits are prerequisites for others. For example, some jurisdictions require the issuance of a county permit (and even a copy attached) prior to filing an application for a required city permit.
- Determine in advance how many of the licenses and permits will require inspections, and how long scheduling these inspections will take. If the seller has had properties inspected inside the last year, work with local regulators to determine if the inspection can be postponed until renewal time in order to reduce your task list and possible delays.
- Will you be receiving alcohol or tobacco inventory from the seller? If so, determine how to acquire it legally depending on the rules of the relevant jurisdictions.
- Develop a tracking system to chart your progress on the licenses and permits you will be applying for, and the status of each.

