ARE YOUR BOARD MEMBERS INDUSTRY EXPERTS OR ASSET MANAGERS?

By: Steven John Fellman
GKG Law, P.C.
Washington, D.C.

Introduction

In the past twenty years consolidation has caused a restructuring of many industries. Most of the profitable small and medium-sized companies have been gobbled up by large competitors. The total number of competitors has been reduced substantially. The family owned drug store, clothing store, or hardware store have been replaced by national chains such as CVS and mega stores such as Home Depot. For the typical trade association these changes have had three major ramifications. First, instead of a universe of 5,000 potential members, the association has a universe of 500 or fewer potential members. Second, the new members have different needs and require different services from the association. Third, there has been a dramatic change in the skill sets of members of the Board of Directors and these directors have a new prospective on what services the association should provide and how those services should be packaged. Unless the association chief staff officer recognizes these changes and reinvents her/his association, the association will soon be looking for a new chief staff officer. Let us examine these basic concepts.

A Smaller Number of Potential Members

In the 50's, 60's and early 70's, Federal Antitrust enforcement was based on the concept that a significant decrease in the number of major competitors in any industry would adversely affect consumers and be anticompetitive. If there were ten major companies in an industry, it was antitrust heresy to suggest that the largest could acquire any of the other major companies. However, the globalization of trade coupled with the meteoric outbreak of information technology, created a new antitrust vision. Industry concentration became necessary to enable U.S. companies to compete internationally. It was argued that larger competitors are more efficient and offer consumers lower prices. As long as there is no monopoly, antitrust enforcers decided that increased concentration is good for consumers not bad. With this regulatory mindset and reasonable interest rates, consolidation ran rampart in almost all industries. Trade associations found that rather than having a membership ratio of 70% small members, 25 % regional members and 5% larger members, the new ratio was 33% small members, 33% regional members and 33% large members. However, where the association originally had 1000 members, it now had only 100 members and these members had different needs.

New Needs Require New Services

The old members were most often represented at association meetings by CEO's of family owned businesses. These CEOs had grown up in the industry and knew the technology required to produce the product or service involved. These CEO's served on association committees and eventually were promoted to serve on the Board of Directors. They looked to the association primarily as a vehicle to enable them to meet face to face with their peers. They wanted the association to provide education programs, teach new marketing techniques, how to better manage their business and how to expand the industry product or service base. They looked for the week long annual association convention, preferably held in a warm location during the winter, where they could bring their families on a tax free vacation and spend time with long term friends with whom they shared a love for "the industry." At industry meetings, they wanted time to learn and also time to play. They expected the association staff to develop training materials, arrange good meetings, sponsor insurance programs and have a nice magazine paid for by associate member advertising, They looked for some industry advocacy but this was a secondary value. If there was a need for industry related expertise, the Board of Directors comprised of CEO's was the best source for such information.

The New Board

Today, the typical Board member is quite different. She/he is part of a large regional or national organization which is probably involved in several different industries, not just your industry. In fact, many of your Board members may not have any significant experience with your industry. They will often be asset managers with an expertise in taking over acquired companies and maximizing their value in order to either sell them as a whole to another buyer or break the company into parts and then sell the parts. These Board members are administrative whizzes and do not find any value in association business related or marketing programs. Their companies have their own training and accounting software programs that are designed specifically for them. They don't find value in the traditional association education programs. However, they want the association to develop a major advocacy program to keep government regulators off their backs. They don't want to spend a lot of time at industry meetings. Most of them have working spouses and don't schedule family vacations at industry meetings. They want you to change your week long winter meeting in a warm climate to a two and one half day meeting at hotel within walking distance of a centrally located major airport. No more 9 to 1 meetings followed by an afternoon of play. Let's start at 7:30 am and work to 5 pm.

These Board members don't serve on committees. If the association has a Safety Committee, they send their in-house Director of Safety to serve on the Committee. If the association has a plant management committee, they send their Director of Plant Management to serve on the committee. However, they believe that the fact that they pay large dues and authorize their mid level executives to participate in association activities, entitles them to a seat on your Board. Are they the CEO's of their companies? Probably not, they may be Divisional Presidents or Managing Directors. Do they have a good knowledge of your industry? In many cases they do not. However, they are experts in management and while they don't want to get into the type of industry specific discussions engaged in by the old Board, they do want to get into discussions on how you manage the association. The know how to manage organizations. They expect your staff to have industry technical expertise and also be efficient association managers. They are interested in how you spend their dues dollars. They ask what value does the association add to their bottom line. They want to know how you allocate the association resources.

But here is the dilemma; your new Board still has some of those old style directors. Remember as indicated above, 1/3 of your new Board are still those old time CEO's of smaller family owned businesses. They think that some of these new large company asset managers are out to ruin the industry. They want you as the association chief staff officer to be loyal to the industry and not play footsie with the large company asset managers. When you explain that the asset managers represent 75% of your dues base they are not sympathetic. They waive the flag of "the industry."

Your job is to balance these factions. It is not easy to do. You can shift your annual meeting to coincide with your committee meetings and make it a 2 1/2 day event at the O'Hare Hilton or a similar facility. Then you can schedule a winter CEO conference at a warm weather resort. You need to add industry expertise to the staff and beef up government affairs and departments dealing with regulatory compliance. You need to change the basic means of communications by relying on a weekly electronic news letter and turning your glossy monthly magazine into a quarterly. You may need to reduce the size of your Board and shorten Board meetings. You need to elevate the awareness of corporate governance considerations.

What happens if you don't do any of this? One day you will have an unexpected visit by your Chair and your General Counsel. They will tell you that you are a terrific person but the time has come for a change. Don't wait for that to happen. The time to change is **Now!**

Steve Fellman is a partner with the Washington law firm, GKG Law, P.C., where he is head of the firm's Association Practice Group. He has served as Chair of ASAE Legal Section and has written and lectured extensively on association governance issues. Mr. Fellman is a member of the Advisory Board of *Bottom Line Briefing*. He can be reached at **sfellman@gkglaw.com**.