

## Activity 23. Activate Tactics

“Got to get the doers doin’ their doin’s” – paraphrasing a pipeline manager

### Introduction

All strategies are comprised of tactics, some more vital than others. Without tactics, strategies would be inoperative, like a body without its heart, lungs, kidneys, muscles, blood, skin and other integral, functioning organs. Just like the organs of the human body, tactics are systemic. If tactics are dysfunctional and failing then strategy(ies) will probably fail or be sub-optimal.

Tactics are pervasive in organizational management. Tactics are so numerous that many websites, books, articles and manuals are filled with knowledge about how to manage them .... better, optimally, etc. In this section, the reader will be merely introduced to some macro and micro tactics, some offensive and defensive short term, competitive activities, situations and issues and two sets of functionally-oriented tactical actions. Inherent in this material will be various ways of managing activities tactically.

As the TSMP illustrates, a stream of tactical activities needs to be managed. Those activities emanate from the aims, explicitly the goals and flow through the development, evaluation, choice and activation of tactics to their performance, modification and/or continuation. While management academics, consultants, senior managers and the media focus on the "sexy subject" of strategies, middle managers, supervisors and operative staff focus on doing their daily duties and tasks, i.e., their tactics, or what some experienced management people refer to as "the real world" of an organization, like the linemen on a football team.

Like football teams, management may start with a well researched, analysed and formulated "game plan" but as their opponents execute their game plan, the dynamics bring about changes in the activities of both teams. Coaches change players and the sequence of plays, quarterbacks change plays, even at the line of scrimmage with "audibles", running backs use various manoeuvres, receivers run different pass patterns and linemen use different "stunts". In effect, the team is both proactive and reactive. Tactics, more so than strategies, are more reactive and influenced by changing conditions. One study of 40 small and medium-sized industrial companies found that the process of implementing strategies involved "an almost certain deviation from original plans". Hemant C. Sashittal and David Wilemon, "Marketing implementation in small and midsized industrial firms: an exploratory study", *Industrial Marketing Management*, January 1996, volume 25, issue 1, p. 67. Members of the organization need to make a continuous series of adaptive decisions and actions.

Tactical actions are taken typically to deal with immediate problems or opportunities. A more definitive set of actions have been provided for the "rational manager". Kepner and Tregoe, *The Rational Manager*, 1965, p. 132. Five different kinds of action are provided to managers for considering and solving problems. The actions are:

1. interim which gain managers time for finding the cause of a problem;

2. adaptive: lets managers live with the tolerable effects of a problem or with an ineradicable cause;
3. corrective: managers get rid of the known cause of a problem;
4. preventive: management removes the possible cause of a problem or reduces its probability; and
5. contingency: management provides stand-by arrangements to offset or minimize the effects of a serious potential problem.

Managers and their organizational units (“teams”) have an infinite range and variety of tactics to use. To assist management in activating tactics, this section will present several ways of organizing and undertaking tactical activities.

### Creating Order, not Chaos

Without a sound TSMP and competent managers, the infinite variety, dynamics and demands of tactical actions can bring about organizational chaos of incredible complexity and dire consequences. Consider the chaotic conditions at the Chrysler Corporation when Lee Iacocca took over as President and CEO.

... the office of the president ... was being used as a thoroughfare to get from one office to another. I watched in amazement as executives with coffee cups in their hands kept opening the door and walking right through the president's office. Right away I knew the place was in a state of anarchy. Chrysler needed a dose of order and discipline --- and quick. Lee Iacocca, with William Novak, *Iacocca - An Autobiography*, Toronto: Bantam Books, Inc, 1984, p. 152.

Mr. Iacocca goes on to describe, somewhat incredulously, the corporation's organization,

... like Italy in the 1860s --- the company consisted of a cluster of little duchies, each one run by a prima donna.... What I found at Chrysler were thirty-five vice-presidents, each with his own turf. There was no real committee setup, no cement in the organizational chart, no system of meetings to get people talking to each other. The engineering and manufacturing people did not talk to each other. ... sales and manufacturing were under the same vice-president. This was inconceivable to me because these were huge and primarily separate functions. To make matters worse, there was virtually no contact between the two areas. The manufacturing guys would build cars without ever checking with the sales guys.

We were running out of cash. Gradually, I was finding that Chrysler had no overall system of financial controls.

... I don't think he (the previous president) ever really understood the fundamental business of the company. At one point during his administration, Chrysler was actually running marginal or losing operations on every continent except Antarctica." *Ibid.*, pp. 152-155.

Clearly, like strategies, tactics must be managed efficiently, effectively and economically within dynamic environments --- easy to say; difficult to do. Organization is imperative. Managers may organize tactical activities in various ways. My choice is

to organize them as follows: macro and micro in perspective, situational in orientation or focus and then functional in action.

### Macro and micro tactical activities

In strategic management, macro and micro perspectives are imperative, especially at the top levels of the organization. Quarterbacks look down the field before the team starts to execute its plays. Golfers look at the fairway and the putting greens before striking the ball. Logically then, managers think and act with macro and micro tactics. Since all organizations function within a larger environment, managers are well-advised to start with a macro perspective and increasingly focus on micro tactics, sometimes very quickly and astutely.

Strategic business managers and their tactical colleagues must be prepared to act or react to macro developments emanating from major politico-economic countries and regions. "When Uncle Sam sneezes, Johnny Canuck catches a cold" illustrates the sensitivity of Canada to the condition of the United States. Similar observations can be made about the interrelationships of numerous countries in the "global village". So when major nations, like the G8, take domestic or international actions, consequences of varying degrees of significance are likely to follow and impact on other nations, their governments, business and other sectors.

Few domestic situations have caused as many major tactical actions as the dynamic devolution of the former Soviet Union and especially Russia. With some notable exceptions, businesses operating in Russia and any of its industrial sectors must be flexible and tactical in their endeavors. When Boris Yeltsin dismissed his entire Cabinet in early 1998, *The Economist* posed several questions among them: "Will the next prime minister, when he emerges, be a powerful political player in his own right, or a mere patsy for one of the powerful business cliques that vie to run Russia?" The Editors, "Leaders: The strange rage of Boris Yeltsin", *The Economist*, March 28, 1998, volume 346, issue 8061, p. 15. As the new Cabinet becomes established, many businesses with interests in Russia monitor and analyze the situation, cautiously making short term decisions and taking tactical actions.

National foreign policy evokes numerous tactical activities by a wide range of organizations, including business, charities and educational institutions. Trade missions led by government officials have attracted hundreds of leaders to explore business opportunities and sign some contracts. Multinational trade agreements have encouraged businesses to seek markets for their goods and services. Occasionally, a nation's foreign policy is criticized for being too tactical. For example,

The US approach to unilateral economic sanctions often backfires because it lacks common sense. Sanctions policy should be based on a systematic and strategic approach that takes into account human and economic repercussions.", claims the Vice President for Government Affairs and International Trade of the Nortel Corporation. Greg Farmer, "Unilateral economic sanctions: Gambling with lives, jobs and the economy, *Vital Speeches of the Day*, April 1, 1998, volume 64, issue 12, p. 357. Corporations want to minimize the unilateral actions of governments and competing industries so they can become more long term and strategic in their approach to investments and other business activities in foreign markets. That is one key

reason why American corporations have pushed politicians and government officials for international trade agreements, such as the North American Free Trade Agreement (NAFTA) and the Multinational Agreement on Investment (MAI).

Increasingly, industrial sectors are becoming globalized. Such macro-tendencies are bringing a multitude of tactical activities into the strategic management of such mega-mergers. In May, 1998, the German industrial giant Daimler-Benz and the Chrysler Corporation of the United States announced their intentions to merge into a \$140 billion global corporation. The size of such a corporation was roughly one-fifth of the then Gross Domestic Product (GDP) of Canada and exceeded the economies of most other countries in the world. A few days later, rumors were circulating that the proposed Daimler Chrysler "globoration" might merge with Nissan or another Japanese automotive conglomerate and form the largest business entity in the world. Are these mergers well-thought out strategies or near-sighted tactics to gain market dominance, satisfy executive egos or what? A continuing Mercer Management study concludes that almost two-thirds of all United States and Canadian merger fail, at least initially. Eric Reguly, "Does size matter?", *The Globe and Mail*, May 9, 1998, p. B4. The failures result mainly for tactical reasons, notably:

1. they were bad ideas to start with - the companies are too different to be merged successfully, e.g., American Express's purchase of Shearson Lehman Brothers brought together two organizations that were too different and too self-centered to be integrated effectively;
2. the acquiring company pays too much - in the 1980s, Campeau Corporation, a real estate developer, took over Allied and Federated department store chains after a high stakes bidding war. The resultant debt load, during a period of high interest rates and recession, was too much for the corporation to cope with, leading to bankruptcy proceedings and the ultimate sales of Allied and Federated. Air Canada experienced similar difficulties when it paid too much for the acquisition of Canadian Airlines and struggled with bankruptcy conditions into the 21<sup>st</sup> century.
3. management incompatibility - management turmoil has been a classic deal killer. The 1990s merger between Pharmacia of Sweden and the Upjohn Company of the United States illustrates the incompatibility of corporate cultures, i.e., the conservatism of the Swedish and the fervor of the Americans; and
4. difficult external conditions - recession and high interest rates at the time of the Campeau takeovers or North American governments concerns and legislation regarding restraint of trade and other monopolistic tendencies. *Ibid.*

While the mergers or acquisitions may (or may not) be strategic, many of the immediate and even longer term problems faced by management require tactical action. How does management resolve any or all of the four problems and others inherent in corporate takeovers?

Executives who pursue mergers may not be brilliant strategists and have shown that they are not competent in thinking through the tactical activities necessary to make such takeovers successful. In response to the spate of bank mergers in Canada, the United States and other countries, Canada's Minister of Finance, a multi-millionaire

businessman, rejected the Canadian banks' arguments that foreign banks and technology would fill voids in competition brought about by the two "mega-mergers" proposed in early 1998. Shawn McCarthy, "Martin rejects bank arguments", *The Globe and Mail*, May 5, 1998, p. B1. He stated that "No country in the world has had foreign banks come in and open up extensive branching operations outside of the major metropolitan centres." Further, Mr. Martin posed a strategic and tactical challenge to the banks when he said that "the banks would have ... to prove their case that size is the key to being globally competitive." *Ibid.* The proposed mergers of large banks in Canada and the United States precipitated a flurry of tactical activities by different levels of government and their agencies, communities, competing financial institutions, bank customers and other organizations that expected to be impacted by the proposed bank mergers.

While some macro activities of government and global corporations have major impacts on management, most of the tactical activities emanate from conditions within individual organizations. Consequently, our attention is directed to a set of general management and functional tactical activities commonly practiced by organizations, large and small, private and public, profit and non-profit in purpose and performance. Two functional areas, i.e., marketing and legal, are presented to illustrate the nature of such tactical activities.

#### General management and functional tactical actions

##### General management tactics

Since "day one", businesses and other organizations have had to compete for the scarce resources of society. Today, that competition shows no signs of diminishing. Quite the contrary prevails as more countries, notably China and India, greatly increase their competition in a world of diminishing natural resources and growing industrial and consumer demand. Annually, the Organization of Economic Cooperation and Development (OECD) measures and reports on the competitiveness of member nations. Every day, markets assess the competitiveness of goods and services provided by organizations. In the North American automotive market, for example, the Big Three offer various special incentives to attract buyers. In the spring of 1998, Ford Motor Company of Canada was giving interest free financing and \$500 - \$750 in cash back to existing owners if they buy or lease a new vehicle. Greg Keenan, "Ford offers cash to boost sales", *The Globe and Mail*, April 25, 1998, p. B3. At the same time in the United States, General Motors was sending coupons for discounts to owners of models going back to 1986. Ford Motors matched that and offered to accept the GM coupons for sales of Ford vehicles. Chrysler Corporation went further by offering \$500 cash to any Big Three car buyer and \$1,000 to any purchaser of a minivan. *Ibid.* Even politicians have to compete for their positions, elected or otherwise. Competition is pervasive in societies, be that competition in business, government, politics, athletics or other "games people play". (Please see, Eric Berne, *Games People Play*, New York: Grove Press Inc, 1964.) Competition is the main impetus for tactical activities.

While markets and competition provide the major set of forces and conditions that evoke tactical activities, other sets of circumstances precipitate such actions. In the hospitality industry, proactive managers are well-advised to have action plans for disasters such as food poisoning, fires, bombings, assassinations and other crises. Laurence Barton, "Crisis management: Preparing for and managing disasters", *Cornell Hotel and Restaurant Administration Quarterly*, April 1994, volume 35, issue 2, p. 59. All management and staff members have pre-determined roles to fulfill in such crises. Facing a crisis, managers have various tactical actions that they can use with their customers and other publics:

1. denial - In 1991, Pepsi Cola accused Coca Cola of charging its other accounts higher prices than it charged McDonald's. Coca Cola responded by denying Pepsi's charges. In a letter printed in an industry trade magazine, a senior vice president and general manager stated that these charges "were absolutely false" and that price increases are "universally applied; there were no exceptions". C. A. Frenette, "Open Letter", *Nation's Restaurant News*, April 28, 1991, p. 24.
2. evasion of responsibility - Companies may evade or reduce responsibility for an offensive act by:
  - a) claiming that the offensive act was a *response* to another's action and such reaction was a reasonable response to such a provocation;
  - b) "*defeasibility*", i.e., by citing a lack of information or control over important elements of the situation, e.g., new federal regulations have not been communicated to the organization
  - c) "an *accident or inadvertent incident*", i.e., if the act in question was not under control and the accused should be held less accountable and the damages should be reduced, e.g., in 1992, after Sears had overcharged for auto repairs, the corporation's chairman characterized the overchargings as "inadvertent" and "accidental". Edward Brennan, "An Open Letter to Sears' Customers", *New York Times*, June 14, 1992, p. A56.; and
  - d) claiming the act was done with *good intentions*, thereby reducing any responsibility for wrongful behavior, e.g., the chairman of Sears saying that "we would never intentionally violate the trust customers have shown in our company for 105 years." *Ibid.*
3. reduction of offensiveness - Benoit and Czerwinski identify six tactics for offsetting negative feelings created by a crisis.
  - a) *bolstering* - An organization or individual may strengthen the public's perception by emphasizing the positive acts they have done in the past;
  - b) *minimizing* - Efforts are made to minimize the negative consequences related to an act;
  - c) *differentiation* - Management may distinguish an action from other similar but more offensive acts;
  - d) *transcendence* - Organizational representatives may place a questionable action in a more favorable context, either a broader context or a different frame of reference;
  - e) *counterattack* - Based on the old adage that "the best defense is a strong offense", this tactical action endeavors to reduce the credibility of the accusers; and
  - f) *compensation* - By offering the victims some form of compensation often will help to mitigate negative feelings that have arisen from the

disaster.

4. corrective action - Offering to correct a problem provides an opportunity to restore conditions and public confidence in an organization. Promising to prevent the recurrence of an unsatisfactory occurrence may provide a positive image and prospects for the future.
5. mortification or contrition - Management or their spokespeople may acknowledge that wrong action(s) have occurred, that their organization is responsible, apologizes or expresses regrets and asks to be forgiven. *Ibid.*

In most organizations, management is expected to prevent disasters with foresightful strategies and tactics. If crises cannot be avoided then a well-formulated plan of tactical actions needs to be available for ready implementation in the event of such disasters. Such tactical activities are best understood and practiced in functional areas of an organization, e.g., marketing and legal departments.

### Marketing tactics

When activating tactics, marketing is a logical functional area to start with in most organizations. In business, many of the tactical activities take place in competitive markets, involving activities like business development, selling, purchasing, distributing, advertising, promoting, pricing and “wheeling and dealing” (bargaining and negotiating). In government, most political and administrative programs involve similar ways of maneuvering and manipulating public opinion and voter support by communicating, promoting, publicizing, negotiating and other tactical activities. Charities and other non-governmental organizations use donor development, targeted direct mail solicitations, promotion of fund-raising events, door-to-door canvassing, extensive advertising and public service announcements with testimonials by "celebrities" as component activities in their marketing campaigns. The marketing activities are as numerous and varied as the creative minds, initiative and resources will take them.

Creativity is a vital element in activating tactics, especially in the marketing field. Consider the creativity in new products. Go into any store and study the creativity in the design, production and packaging of the toys, clothes, tools, appliances, electronics and endless numbers of other products and services. Study the design, production and media tactics of most advertising and promotion campaigns. Consider the creativity used in marketing research activities, ranging from focus groups to developing survey questionnaires and conducting interviews and experiments. The importance and vitality of creativity is inherent in channels of distribution, merchandising, buyer incentives and most other tactical marketing activities. A new product development consultant provides the rallying call for creativity when he says,

Let's have action-oriented tactics that exploit market gaps and run around entrenched competitors. Let's have creative dreaming, not equivocating predictions and prophecies. Let's not accept the conventional wisdom. Let's champion new approaches to new products, investigations and inspiration. George Gruenwald, "Creativity's the critical link between new products and marketing", *Marketing News*, October 27, 1997, volume 31, issue 22, p. 4.

Customer relations: Integral to any successful marketing strategy is the capacity of an organization to develop effective relations with its customers, clients or publics. While mass promotional campaigns and target or niche marketing help to create conditions conducive to such relations, a genuine customer-orientation must be manifest in the attitudes and daily activities of marketing personnel and virtually everyone else in an organization. Corporate cultures may (or may not) help to shape customer orientations. In its car rental division, Republic Industries has made a concerted effort to improve its customer satisfaction ratings. By 1998, the company reported that it had tied for first place in the J.D. Power annual survey of customer satisfaction in the car rental sector.

Republic Industries, Inc., *1997 Annual Report*, p. 3. Japanese companies with corporate cultures stressing competitiveness in the marketplace and entrepreneurship with its adhocracy outperformed those dominated by internal cohesiveness, clans or cliques and by hierarchies with their strict rules. Rohit Deshpande, John U. Farley and Frederick E. Webster, Jr., "Corporate culture, customer orientation and innovativeness", *Journal of Marketing*, January, 1993, volume 57, issue 1, p. 23. In other words, organizations with an "outer-orientation" are more likely to perform better in the marketplace than those with an "inner-orientation".

Developing an effective customer satisfaction program involves numerous activities, typically on an on-going basis. Developing such a program may be undertaken by: 1. conducting a customer satisfaction audit; 2. developing a service strategy and program of activities; 3. enhancing the employee relations program; 4. implementing such tactics; and 5. monitoring, maintaining and/or modifying such activities. Craig Cina, "Creating an Effective Customer Satisfaction Program", *The Journal of Business and Industrial Marketing*, Summer/Fall, 1989, volume 4, issue 2, p. 33. More important than the development of a program is the personal awareness and efforts made by organizational members to satisfy customers. Receptionists and others who answer telephones, greet and otherwise are in contact with customers or the public-at-large have vital roles and activities in creating or maintaining customer satisfaction with an organization. Every member of a legitimate organization ought to be a customer and a public relations representative if they are committed to the organization and its purposes.

While developing and maintaining close relations with customers is widely recommended, no clear line can be identified that determines what is to be too close to a customer. Stuart Macdonald, "Too close for comfort?: The strategic implications of getting close to the customer", *California Management Review*, Summer, 1995, volume 37, issue 4, p. 8. Experience indicates that determining what is the appropriate degree of closeness to a customer depends on several key variables including how well the customer is known, on what basis is the relationship with the customer, e.g., business, social or combination, how acceptable have past relations been, what are the present circumstances of the customer and suppliers and intuition.

In several organizations, notably technology-based corporations such as Intel, IBM and Microsoft, customers are involved in the development of new or innovative technologies that will serve their needs better than existing products or services. Such relations may have important implications for management. Increasing involvement in the customer's business may help lock in the customer as well as lead to increasing involvement of the customer in the supplier's business, thus locking in the supplier. *Ibid.* Such relations must be carefully monitored by managers and others in the supplier and

customer organization to ensure that they are symbiotic. If they are not mutually beneficial then such relations must be made so or discontinued before one party or other suffers unduly.

Product development. While the life cycle, R&D and other product-oriented strategies provide general guidelines to action, business development, customer relations and sales personal are vital in sensing and determining when new or innovative products and services are needed, by whom, where, why and at what price. While product management is commonly acclaimed as an important tactical area, a divergence of opinion exists as to what responsibilities and skills are the most essential. Companies differ widely as to what is important in product management. In the pharmaceutical industry, for example, some companies emphasize planning, sales forecasting, analysis and other "left brain" activities that are detailed and technical in orientation. Richard L. Berek, "Product management: a work in progress", *Pharmaceutical Review*, March 1998, volume 18, issue 3, p. 60. Other companies describe product management in terms of interpersonal, conceptualizing, more creative "right brain" activities. The ultimate objective is to utilize a "whole-brained" product manager.

One survey of pharmaceutical companies found that planning and communicating were the two most important responsibilities of managers. Yearly product planning is especially important and requires managers to place major emphasis on action programs that explicitly describe who does what and how much the activities will cost. *Ibid.* The survey indicated a need for product managers to gain expertise in obtaining, analyzing and acting on up-to-date marketing research as well as gain experience in the optimal positioning of products. The responsibility for communicating involves various media, suppliers, customers and public interfaces. When communicating with medical professionals and other highly qualified people, pharmaceutical representatives need an in-depth understanding of the "language" and responsibilities of their clientele. Pharmaceutical companies, like other organizations, provide formal training, on-the-job training and experiential opportunities for their "reps" to develop the skills to perform their vital tactical activities successfully.

Channels of distribution - In this age of growing globalization, distribution involves some of the most complex and intricate tactical activities. Imagine bringing coffee from the fields of Colombia to your favorite retail outlet. Think about cars with components made in several countries, assembled in one of six continents and sold through thousands of agents or private dealers around the world. Any number of products and services require channels of distribution that are highly time-sensitive, secure, cost-effective and capable of providing the facilities and skills necessary to meet the needs of producers, assemblers, wholesalers, retailers and the ultimate customers located around the world.

In a range of industries, the importance of distribution tactics is emphasized. In the insurance industry, for example, "Distribution is the key to successful marketing implementation and product launch, and insurers are heeding distribution issues as never before." Christopher G. Greis, "Distribution and channel conflict: why the field is concerned", *National Underwriter*, November 10, 1997, volume 101, issue 45, p. 29. Clearly, distribution tactics have been fundamental and vitally important to the whole range of consumer and industrial goods and services that flow

throughout the world. Even in the well-established automotive industry logistical activities are changing. Just-in-time inventory supply has become an integral tactical part of the input part of the process. In 1997, Republic Industries revolutionized the U.S. automotive retail sector and its distribution tactics by establishing a network of 270 franchised vehicle dealerships, 26 used vehicle mega-stores as well as six rental car companies. Republic Industries, Inc, *op. cit*, p. 2. Tactically, Republic was eliminating inefficiencies and lowering costs, notably through improved inventory management, cooperative marketing activities and customer services.

Wholesaling and retailing of consumer products and, to a lesser extent, industrial and commercial products, continues to emphasize integration, economies of scale and other ways of increasing their competitiveness. Large volume, fast turnover stores such as WalMart, Office Depot and Chapters bookstores are using the latest advances in electronic and telecommunications systems to streamline their operations, gain/maintain market share and profitability. The combinations of retail product and service outlets are infinite. Such combinations are market-sensitive and determined largely by economic conditions and customer preferences.

Nowhere in the world has the changing distribution tactics been so apparent as in the former Soviet Union. Since the early 1990s, the growth of individual peddlers, small kiosks and specialty stores along busy streets has been dramatic. The area's traditional markets are expanding and modernizing, albeit slowly. Following the lead of private enterprises and with some individual initiatives, state department stores have greatly changed their mix and quality of merchandise, their in-store promotions and the customer services by employees. Increasingly, clerks are becoming less indifferent, even rude and being pleasant (even the occasional greeting or smile) and offering to assist customers. The line-ups or queues of patrons waiting for service or to pay for their purchases have diminished significantly as owners and/or managers change store layouts and adopt better ways of managing flows of customers. However, a traveler visiting Germany, Poland and Belarus will readily discern the differences in distribution systems and their tactical activities.

Promotion In no part of marketing have the tactical activities been as dynamic, creative and variable as is in promotion. With the exception of planned advertising and sales promotion campaigns, most other promotional activities are highly individualized with the people responsible for developing relations and "doing business" with the organization's customers, stakeholders and publics. Summarily stated, promotion tactics relate more specifically to advertising, publicity and public relations, point of purchase or merchandising, sales promotion and, with some organizations, personal selling.

The main purpose of promotion is to motivate customers, publics and/or others to take action. Promotion can be proactive or reactive but always active, typically in the short term. Even major advertising campaigns that are planned and developed for long term, strategic purposes may be abruptly stopped or shortened. The ad campaign that Coca-Cola used to introduce the "New Coke" was short-lived. When the "old" Coke was re-introduced as Classic Coca-Cola, the accompanying advertising campaign was

changed dramatically, also. More recently, after a ruling by the advertising industry's regulatory agency, Labatt Brewing Company stopped a popular television commercial depicting a high-speed shopping cart chase after consumers complained that it encouraged people to play race car drivers with their grocery carts. John Heinzl, "Labatt ditches ad after complaints", *The Globe and Mail*, May 12, 1998, p. B1. Political campaigns are some of the most short-lived, increasingly because they are offensive to public values and counter-productive. The United States Presidential campaign in 2004 had several short-term, often degrading media tactics.

## Legal tactics

As a general observation, legal tactics are increasing in most industrialized nations, especially in the United States. The range is extensive, the legalities are complex and the costs are considerable. Legal tactics are part of coping with an environment laden with legalistic situations ranging from anti-trust to ecological protection and product liability. Tactical actions are integral to proactive growth strategies, as reactive means of protecting patents, market positions and reputations, as ways of making claims for damages and as other organizational ploys.

Anti-trust. Anti-trust, restraint of trade and other anti-competition legal actions are usually the most threatening to management because they pit the company against the Government with all its access to information, expert people and other resources. As part of its on-going preventive action against anti-trust charges, Microsoft, led by its Chairman Bill Gates, used a range of tactics, including a press conference with 60 top executives in New York City, as part of a campaign to keep the U.S. Department of Justice from blocking the introduction of Microsoft's new operating system, Windows 98. Brian Milner, "Microsoft stages pep rally in antitrust campaign", *The Globe and Mail*, May 6, 1998, p. B. 11. The press conference, letters sent earlier in the week to industry analysts, mutual fund managers and software designers, other public relations activities and appearances by Mr. Gates before Congressional sub-committees were efforts to gain public support and prevent the states' attorneys-general or the Justice Department from launching a lawsuit and obtaining an injunction against the release of Windows 98, at the time Microsoft's newest and most advanced system to run personal computers and link them to the Internet.

The position of Microsoft and its allies was basically that its competitors were using politico-legal tactics to achieve what they could not accomplish in the marketplace. A contrary view was expressed by the Attorney General of Massachusetts. He said that "Self-serving spin will not deter antitrust enforcers from protecting consumers who want more economic choices in a competitive market-place." Scott Harshbarger, *ibid.* Microsoft's claimed that foreign competitors would take the market opportunities and job losses would result in the United States were compared to the approach taken more than 25 years earlier by General Motors. "... what's good for Microsoft is good for America ... . That idea didn't fly for General Motors in 1952 and it won't fly for Microsoft today", claimed the Executive Director of the Project to Promote Competition and Innovation in the Digital Age (Pro-Comp), the main alliance of computer companies and users aligned against Microsoft. As long as Microsoft has a dominant position in the computer software

market, the anti-trust actions are likely to continue, necessitating counter-tactics by the company.

Market power and unfair practices. Microsoft's dominant positions in several software markets are perceived as being too powerful and enabling it to influence buyers unduly. Similarly, Applied Materials Inc. has been sued by Varian Associates Inc. allegedly for unfair business practices. Dean Takahashi, "Applying pressure", *Electronic Business*, November 1997, volume 23, issue 11, p. 62. Varian claims that Applied gave one customer a discount of \$500,000 on an Endura sputtering system on the condition that the customer purchase an entire package of equipment from Applied. The courts could allow Applied's sales practice "as long as it doesn't egregiously conspire to put competitors out of business or come to dominate the entire field of processing equipment." Varian's legal action followed earlier lawsuits by Applied against Varian and its parent company for patent infringements.

For years, Intel Corporation feuded in the courts with Advanced Micro Devices Inc. (AMD) to the point that the courts, customers, distributors, shareholders and others disapproved. Hugh G. Willett, "A Kinder, Gentler Intel Worries About What Public Thinks", *Electronic Buyers' News*, January 16, 1995, p. 1. AMD wanted to settle the case years ago and agreed to abide by the decision of an arbitrator. Intel rejected such settlement. Most of the legal action initiated by AMD was in self defense or as a counter offensive. "So why did Intel continue to carry on a legal war of attrition with AMD long after the issue became moot?" Mr. Willett provides three answers:

First, it went after AMD because it wanted to send a message to competitors and OEM customers that it was prepared to fight as vicious a battle as possible to maintain its monopoly.

Second, the aggressiveness with which Intel has pursued the issue shows that it had the financial wherewithal to do so. Intel had the power to be an expensive and debilitating legal thorn in AMD's side through the next century with little pressure on its own resources.

Last, although perhaps more interesting from a psychological rather than a business perspective, is that there is no love lost between Intel president Andy Grove and AMD chairman W. J. Sanders III. *Ibid.*

Mr. Willett claims that Intel decided to settle the case after changes were made in its strategic plan and the negative reaction by consumers to Intel picking on "the defenceless little guy" and the resulting Pentium bug issue.

Component of growth strategy. Like Intel, companies commonly take legal action to gain an advantage over its competitor(s). Novellus, Inc. claimed that Applied Materials filed a suit for patent infringement to break up its deal to acquire the deposition equipment division of Varian Associates, Inc. Takahashi, *ibid.* In the spring of 1998, Pepsi Co. Inc sued Coca-Cola for attempting to "freeze" Pepsi out of the business of selling soft drinks in restaurants and movie theatres served by independent food distributors. Nikhil Deogin, "Pepsi sues Coke over access", *The Wall Street Journal*, May 8, 1998, p. B7. Analysts were divided as to whether Pepsi's action was a genuine complaint of anti-competitiveness by Coca-Cola or a tactical move to generate negative publicity for Coke products. After GTE Corporation lost its \$28 billion bid to take over MCI Communications Corporation, GTE sued in federal court to

block or, at least impede it for months, the \$37 billion merger of MCI with WorldCom Inc. John J. Keller, GTE sues to block WorldCom merger", The Wall Street Journal, May 8, 1998, p. B.7. GTE's grounds for the complaint were that the merger would hurt competition in the long distance communications industry and that it would give MCI-WorldCom an unfair dominance over the primary long-distance networks that carry Internet data traffic globally. In response, an MCI spokesman said, "This is a classic red-herring tactic by GTE, which is determined to keep WorldCom and MCI from opening up their local monopoly market to competition." *Ibid.*

Whether such actions are legally justified or not are often determined by the courts, mediators, conciliators, out-of-court settlements or other legal means. As will be elaborated in the following section, efforts by a company such as Western International Communications (WIC) to block a takeover by another one, e.g., CanWest Global Inc., may or may not be successful depending on the various legal tactics used and the way they are judged by the courts, tribunals and/or regulatory agencies as well as public opinion and market reactions.

Mergers and acquisitions. In a case involving a "poison pill" ploy (restricted by legal limitations in Germany), stock market regulators overturned the tactics used by Western International Communications Ltd. (WIC) to block a hostile takeover of WIC by CanWest Global Communications Inc. Robert Brehl and Jacquie McNish, "Regulators kill WIC poison pill", The Globe and Mail, April 10, 1998, p. B1. On April 16, Shaw Communications bid \$43.50 in cash and its shares for control of WIC and other concessions. In a subsequent decision, the Ontario Securities Commission agreed that an agreement involving the sale of WIC's 12 radio stations and a \$30 million break-up fee to Shaw Communications Inc. was "unusual" and should go to the Ontario courts for a ruling. Janet McFarland, "OSC questions WIC-Shaw deal", The Globe and Mail, May 6, 1998, p. B1. WIC had offered the concessions in its efforts to find an alternative buyer after CanWest's hostile takeover bid on March 24, 1998. These concessions were in addition to the "poison pill" tactics and a right of first refusal for Baton Broadcasting to buy WIC's giant BCTV station in Vancouver and other assets in British Columbia. Robert Brehl, "Baton in line for WIC's B.C. TV assets", The Globe and Mail, April 22, 1998, p. B1. Baton paid \$5 million to WIC for the right in 1996. On May 1, 1998, CanWest raised its offer from \$39.50 to \$43.50 in cash for all of WIC's class A and B shares. On May 6, 1998, the Ontario courts ruled on CanWest's legal action to allow it to convert its non-voting class B shares of WIC into voting Class A shares of the company. The action was based on a change in WIC's ownership and a provision in its bylaws that allows for conversion of class B shares into class A shares.

In Germany, various legal tactics are needed to acquire effective control of a company. Generally, the bidder needs to control not only the voting share capital but also the supervisory board (Aufsichtsrat) which appoints the management board (Vorstand). Philip Rogers and Christian Altvater, "How to defend a hostile takeover bid in Germany", International Financial Law Review, February, 1998, volume 17, issue 2, p. 24. Under the Co-determination Act (Mitbestimmungsgesetz), employees have a legal right to an equal number of places on the Aufsichtsrat in companies employing over 2,000 workers. Under national securities law, the acquirers have an obligation to notify the company and stock exchange

authorities within seven days if the percentage of voting rights held by the acquirer or vendor exceeds, equals or falls below specified percentages of the voting rights of a listed company. *Ibid.* In 1995, Germany introduced a takeover code (Unternehmenskodex) to which companies could submit voluntarily. However, the Frankfurt Stock Exchange states that from 1999 onward companies will not be included in the Dax exchange indices unless they accept the Code. Some of the Code's key provisions related to mergers and acquisitions deal with:

1. what the target company must do to ensure that all shareholders are treated equally as well as refraining from any action which would prejudice shareholders who have accepted a takeover bid;
2. defence actions taken by the target company, including the issue of new shares, convertibles or warrants to subscribe for shares, limits on voting rights and purchases of company's own shares, cross-shareholdings, relations with "white knights", major asset disposals, acquisitions and long term commitments; and
3. public awareness and lobbying. *Ibid.*

Given the complexity of takeover legislation in Germany and most other countries, management needs a well-developed strategy and well-executed legal and other, related tactics, e.g., marrying the organization's cultures, if they expect to make a merger or acquisition successfully.

The battle over whether insurance giant American International Group (AIG) or the smaller Cendant Corporation would gain control over Bankers escalated into a series of lawsuits and advertising campaigns. In part, AIG's suit was based on charges that Cendant had embarked on a "campaign of misinformation" in violation of federal securities laws. Dan Lonkevich, "AIG, Cendant fight over American Bankers", *National Underwriter*, February 16, 1998, volume 102, issue 7, p. 1. Further, the complaint alleged that Cendant's conduct was designed to induce American Bankers' shareholders to vote against the AIG merger by deceiving them into thinking that Cendant's offer was superior to AIG's offer. Finally, the complaint charged that Cendant's President and CEO had "frequently used the highly leverage junk bond strategies of Michael Milken and his associates at Drexel Burnham Lambert ... and been affiliated with a number of companies that have gone into bankruptcy short after his tenure ended." *Ibid.* Cendant's President and CEO said that the lawsuit and advertising campaign by AIG are intended to distract American Bankers shareholders and employees and obfuscate the real issue: that Cendant's offer was superior to AIG's offer.

By the very adversarial nature of the legal system, tactics are offensive and defensive. Plaintiffs initiate legal actions based on claims or complaints. Defendants respond or counterclaim. Specialized offensive and defensive tactics are needed as takeover techniques and responses have become more sophisticated. Harry Friedman and J. Tomilson Hill, "Financial Implications of Offense and Defense in Corporate Takeovers", *Corporate Accounting*, Summer, 1985, volume 3, issue 3, p. 54. Offensive tactics include tender offers, bidder auctions, proxy contests and leveraged control. Within legal and regulatory guidelines, defensive moves include changing the corporate by-laws or charter, making the corporation less attractive, e.g., the "poison pill", putting stock in the hands of management's supporters, finding a more appropriate merger partner, the so-called "white knight" and increasing the market price of shares. Frequently, legal tactics are used to "buy time" so that management can develop and execute optimal takeover (or leave it) actions.

Protection of property. In the CanWest Global-WIC legal actions referred to previously, the tactics were intended, at least ostensibly, to protect the share value of the companies. One of Applied Material's actions against Novellus Inc. was for patent infringement. Intel's lawsuits against Advanced Micro Devices was to block entrance of several X86 microprocessor cloners into the market. Since 1989, high tech companies have been battling in the courtroom, fighting patent infringement and criminal and civil trade-secret theft charges. Nancy Rutter, "The great patent plague", *Forbes*, March 29, 1993, p. 58. Faced with increasing competition, eroding margins, escalating R&D costs and shrinking market share, some high technology companies are using the legal process to achieve business goals that should rightfully be determined by the rigors of the marketplace. *Ibid.* Structural changes in the courts, notably the establishment of the U.S. Court of Appeals for the Federal Circuit, have enabled companies to use intellectual property lawsuits as intimidating competitive tactics.

For even a longer time, companies have been able to use regulatory and legal tactics to delay the introduction of competitive products into markets. For nearly a decade, Duramed Pharmaceuticals Inc. has sought Federal Drug Administration approval for a generic version of the estrogen drug Premarin. John Carey, "The Politics of Generics", *Business Week*, February 3, 1997, p. 128. Using various legal tactics, the drug-making giant American Home Products Corporation has argued successfully that a generic counterpart to Premarin would be less effective. Similarly, in Canada, the typically multinational pharmaceutical companies have 20 years of patent protection for their products.

Few, if any, legal actions have been as contentious, complex and costly as those involving the tobacco companies. As the accounting proceeds, more than \$300 billion (\$300,000,000,000) in legal claims are either settled or faced by the \$45 billion tobacco industry in the United States. In 1985, a Brown and Williamson Company memo marked internal and confidential and signed by the lead lawyer of the company detailed the tactics to be used: "Fight all lawsuits. Never give an inch. But if losses in court start mounting, rush to Congress to forge a settlement." Mark Curriden, "Litigants talk tobacco", *ABA Journal*, June 1997, volume 83, p. 20. In 1997, the threat of such losses from states, class action suits and individual actions, apparently spurred the industry to put aside "its highly successful scorched-earth legal tactics and start settlement negotiations" with the lawyers representing governments and individuals with smoking-related illnesses. *Ibid.* Three pending class actions and three Medicaid cases were seeking a total of more than \$50 billion in damages. Late in 1997, a deal was negotiated requiring the industry to pay \$85 billion over a 20 year period in exchange for immunity against any further litigation. Members of the U.S. Congress wanted many more billions and were opposed to granting the industry immunity from further legal actions. The industry walked away from the deal, at least temporarily. Their legal tactics continue with appeals, "stone-walling", inaccessibility to legal documents and other delaying ploys.

While the tobacco industry will unlikely ever have a positive image or reputation to uphold, most organizations and individuals do. "Reputations take years to build and minutes to tear down" is an old adage that reflects the philosophy underlying some legal

actions. In 1990, McDonald's launched a libel action against two supporters of London Greenpeace for distributing leaflets critical of restaurant chain's environmental, nutritional, advertising and employment record. Genevieve Stuttaford, Maria Simson and Jeff Zaleski, "McLibel: Burger Culture on Trial", *Publishers Weekly*, October 20, 1997, volume 244, issue 43, p. 62. While the judge agreed publicly with the critique of McDonald's nutritional, wage and advertising policies, the company was awarded a judgment of \$98,000 (which it decided against collecting).

In another libel case, the Food Lion won a \$5.5 million judgment, subject to appeal, against Capital Cities/ABC, the American Broadcasting Companies and four of their producers. William Schechter, "Food Lion's 'victory' -- but at what price?" *Public Relations Quarterly*, Spring 1997, volume 42, issue 1, p. 20. Then the company filed a Federal legal action complaining about the methods that ABC used to get their story. An expert in marketing, public and government relations, questions the wisdom of a company that:

1. four to five years previously, suffered \$233 million in bottom-line losses, directly attributable to one ABC Prime Time Live telecast depicting unsanitary conditions, tampering with expiration dates on meats, bleaching soiled chicken and selling cheese gnawed at by rodents in their supermarkets;
2. slowly restored lost revenues and inventory confidence as memories of the scandal faded with time;
3. filed the Federal suit; and
4. put a bigger glare of publicity on the earlier allegations than the one which caused their losses in the first place. *Ibid.*

In addition, he asked two cogent questions that managers with inclinations toward legal tactics should think about carefully:

1. did Food Lion management really believe that supermarket shoppers will be so enraged against "gotcha" journalism and so sympathetic to a chain that was victimized by it that they will flock to Food Lion stores?
2. Or is it more likely that mothers and housewives, the largest segment of supermarket shoppers, will once again care more about the safety and well being of their families and take their business elsewhere? *Ibid.*

As illustrated by the acclaimed handling of the Tylenol bottle tampering situation by Johnson and Johnson, the murders in one of McDonalds restaurants south of San Diego and the World Trade Center bombing by several companies, tactics better than legal actions are available to astute managers.

In cases involving major disasters, attorneys agree that several common traits and mutual respect help them work out settlements that satisfy their clients, including the defendants' insurers. Stacy Shapiro, "Plaintiffs', Defence Lawyers Seek Settlements", *Business Insurance*, February 26, 1990, volume 24, issue 9, p. 18. However, some legal tactics used by the plaintiffs' lawyers are criticized. The determination of some United Kingdom lawyers to seek for "mid-Atlantic settlements", i.e., non-United States disaster claims that are filed in U.S. courts, has led to higher damage awards for victims of non-U.S. disasters. Another legal tactic that is criticized is naming corporate executives, rather than the companies, as defendants. *Ibid.* A leading plaintiffs' attorney in the United Kingdom claims that this technique clarifies the issues by showing that individuals are being held responsible ultimately for a disaster.

Others argue that the executives are agents of the corporation which, as the principal, has the ultimate legal responsibility (and resources) for any disaster occurring in the pursuit of business purposes.

As with many matters in strategic management, this section started and will end by focussing on governments, i.e., protecting property against governmental actions. Governments have a wide range of powers over the ownership and use of property. Governments or their agencies are empowered to tax, expropriate, confiscate, have easements, seize for "just cause" and other rights to property. Oftentimes, property owners need legal tactics to protect their property rights. In a Canadian case, the Province of Alberta sued Peter Pocklington and his companies for \$7.5 million. Brian Laghi, "Pocklington lawsuit over Gainers spiked", *The Globe and Mail*, May 2, 1998, p. B1. In that action, the Province argued that Mr. Pocklington had improperly transferred a parcel of land from one of his companies into his personal control. In a subsequent lawsuit, Mr. Pocklington claimed that the provincial government unfairly seized one of his companies and owed him \$20 million. Several legal actions remain to be resolved between the two parties.

As with other functional tactics, the scope of legal actions is limited primarily by the resources of an organization. Go to a law library or check the vast volumes available through electronic sources. This section on legal tactics provides a mere sampling of some areas in which managers need awareness, some intelligence and qualified expert personnel to pursue the best interests of the organizations for which they are responsible. While many managers view legal actions as excessive in terms of time and resources used and undesirable, sometimes such tactics are vital and necessary to the successful management of organizations in every sector.

### Integrative Tactics

While functional tactics are common and integral to the management of organizations, seldom is one functional set of tactics activated to the exclusion of others. In effect, management coordinates the functional tactics into concerted initiatives such as action plans, programs, activities and resource allocations. Tactical choices may be optimized if they can be carried out with specific action programs (SAPs). A specific action program is a structured, timed and evaluated set of activities aimed at achieving specified goals within a year. Such programs are major components of and support strategic programs. "Specific action programs are instruments to deploy strategic funds." Arnoldo C. Hax and Nicolas S. Majluf, *Strategic Management: An Integrative Perspective*, Englewood Cliffs: Prentice-Hall, Inc., 1984, p. 63. Specific action programs are used for much more than deploying funds.

A relatively small but progressive printing and publishing business faced some serious threats from technological advances during the early 1980s. At the same time, the firm's management and employees envisioned several attractive opportunities. The short term choice was made to re-construct the printing and publishing plant as an integral part of an overall strategy to be the market leader. Reconstructing the plant was not a simple matter. Few significant decisions are simple. The consensus decision of the members of the organization was to move the printing equipment, composition, photographic, artistic and other necessary operations to another location while the plant was re-constructed. A

specific action program was needed and prepared. The moving, setting up and operating actions had to be well planned and carried out in order to maintain the company's printing and publishing schedules and meet its commitments to customers. Imagine physically packing, moving hundreds, maybe thousands of artistic and printing items, materials, equipment, furniture, the list is endless and "setting up shop" during a weekend so that not one edition of the newspaper was missed nor one printing customer complained??? Imagine then, three months later, repeating the moving program back into our new plant with the same results!!! Specified action programs are valuable ways of activating tactics successfully. Not only do they provide focus, they outline ways to achieve operating goals in the short term.

Now that strategies and tactics have been implemented, management focusses on their performance. With objectives, goals and a range of performance criteria and indicators, management is enabled to monitor, evaluate and decide if modifications are needed in any of their operating aspects. Those decisions and others are integral to the last stage of the TSMP, i.e., Adaptation.