

## Ownership Continuity

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The defining feature of a family business is its family ownership. Smooth transfer of ownership from one generation to the next is the core task in ensuring the continuity of the family enterprise. Ensuring this smooth transition is a key responsibility of the family business owners. In this article, the authors suggest measures for maintaining continuity in family business ownership to sustain the family enterprise.

### **Formalizing Ownership Transfer**

Traditionally, the family patriarch or matriarch used to exercise complete control over the business and family wealth. Ownership was transferred on the basis of his/her will, which was entrusted to be executed by the family's lawyer. The next generation members were often unaware of how exactly the ownership rights were apportioned. Usually, ill-prepared or caught off-guard, they were left to bear the consequences. Often, disputes erupted among successors due to ambiguities.

However, in the recent decades, family business leaders have become quite proactive in ensuring smooth ownership transfers. Mainly the owners of large and complex enterprises are relying more on structured documentation like shareholder agreements or family agreements. The trend of formalizing ownership transfer is now percolating across family businesses.

### **Documentation: A Key Requirement**

The authors suggest that it is important to hold discussions among the family members and invest time and effort in drafting a mutually acceptable shareholder agreement. In order to remove any room for ambiguities and to avoid conflict, it is crucial to formulate and document estate plans, procedures to buy/sell shares and other family wealth and family protocols. Many owners also devise agreements/plans for creation of family trusts, tax strategies, holding companies and their structures and offshore accounts.

Formal documentation helps the owners in removing doubts by having a common understanding and clear actionable process with regard to ownership transfer. It helps in clearly defining the rights and responsibilities of all individual owners. This minimizes the potential for conflict and ensures continuity of the enterprise.

### **Trust and Commitment**

Though documentation and formal agreements are essential for smooth ownership transition, these are only tools and frameworks for arriving at the solution. The final solution comes from the goodwill, trust and commitment of the ownership successors. Thus for any legal or financial transfer structure to succeed, the key is to evolve a process that nurtures trust among the owners and serves the interests of the

entire family. It is crucial to have governance mechanisms that honour the goals and legacy of the seniors.

### **Ensuring Continuity**

Family owners are advised to undertake a continuity audit to assess how they fare on account of smooth ownership transfer in future. This must be followed with planning for and implementation of ownership transition. The authors suggest that in collaboration with the family's legal and financial advisers, the owners need to undertake a three-step process:

1. **Preparing and visioning:** This includes setting up of forum(s) for ownership discussions. Current and future owners need to be helped in articulating their aspirations. Negotiations must be held to arrive at a shared vision for future ownership across generations.
2. **Designing ownership architecture and procedures:** This step involves creation of formal contracts and ownership agreements. The owners must decide on the financial structures like trusts, family offices, foundations and funds

that will be the custodian of family wealth and/or ownership. Norms and procedures of their operations must also be decided.

3. **Implementing:** At this stage, agreements made on paper are to be turned operational on ground. It is crucial to do so in a transparent manner while adhering to the agreed governance processes. It also includes mentoring new family owners to evolve as responsible family business leaders.

### **Practical Implications**

Maintaining ownership continuity in family business is critical for its sustainability. This article suggests specific measures that help ensure ownership continuity. The family owners need to understand that it is not only sufficient to establish a formal ownership structure. What is more important is to bring all current and future owners together and arrive at a shared vision for future ownership. Practitioners can also use the suggested measures to develop customized ownership continuity plan for the family enterprise they advise.

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*Source: Lansberg-Gersick and Associates (2016) (<http://www.lgassoc.com>).*