MARKET ACCESS/PENETRATION STRATEGY FOR FOREIGN INVESTORS SEEKING TO INVEST IN NIGERIA

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INTRODUCTION

Nigeria has the largest market in Africa. It therefore poses huge revenue benefits for investors looking to expand their business operations. Typically, investors, particularly big businesses, intending to break into a foreign market would already have a business strategy in mind when seeking to invest in a foreign country. This may however not be the case for small and medium scale (SMEs) businesses. This article identifies various market access/penetration strategies which SMEs and large businesses looking to invest in Nigeria may consider in choosing the right business strategy to adopt.

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1. INTERNATIONAL BUSINESS LICENSING

This is a contractual arrangement whereby the foreign company, the licensor, offers proprietary assets to a local company, the licensee, in exchange for royalty fees. It is a commonly used strategy for entering into countries that are closed to imports or to protect intellectual property. The license is usually granted for a specified period. The rights granted pursuant to the license agreement may be exclusive (monopoly within a given territory) or nonexclusive. Essentially, a licensor allows a foreign company to manufacture a product for sale in the licensee's country and sometimes in other specified markets (e.g., the rest of Africa) and to use the licensor's branding, tradename/marks and other established intellectual properties as leverage for market share by the local company.

Multinational companies (particularly those in the FMCG space) commonly license their own foreign subsidiaries to establish legal ownership of industrial property, to facilitate repatriation of income, or to satisfy home and host governments. The foreign company uses its own wholly-or partly-owned local affiliate as an efficient way to compensate the local affiliate and transfer intellectual property to it within a formal legal framework.

This model is also very suitable for companies in the Information Technology (IT) space. The good thing about technology is that it transcends boundary and physical space. An IT company looking to expand to other countries may consider entering into either software licensing agreements, reseller agreements, Managed Services Agreement or Technology Transfer Agreements etc. However, due to the susceptibility of technology to intellectual property rights infringements, it is advised that investors seek appropriate legal advice before entering into such contracts.

2. FRANCHISING

This is a means of marketing goods and services in which the franchiser grants the legal right to use branding, trademarks, products and trade secrets to a third party – the franchisee – in return for a franchise fee. The franchiser provides assistance, training and help with sourcing components and exercises significant control over the franchisee's method of operations. Franchise business format is most suitable for sectors like fast food, restaurants, hotels and retail services. There are three broad categories of franchising:

- Manufacturer's franchise - the franchisor provides the particular specifications or a specific element which the franchisee uses in producing the product. The Beverage sector is a good example of the manufacturing franchise.

- Product Franchise - a product franchisor is a distributor who supplies goods to a retailer with the understanding that the retailer will have the exclusive right to sell goods in a particular area of the market. This market is usually, but not always, defined in geographic terms e.g., Gas stations, car dealerships, and some clothing companies are examples of this category.

- Business-format franchise arrangement the franchisor provides franchisees with a comprehensive, often extensive, operating system. Each franchisee must comply with the requirements of the system or risk losing the franchise. McDonald's fast-food outlets, Pizza Hut and Dairy Queen restaurants, Holiday Inn, Radisson and Best Western hotels are typical examples of this type of Franchise.

3. CONTRACT MANUFACTURE

This type of model involves the engagement of a local manufacturer by a foreign company to produce market and sell its products in the foreign country under contract.
The advantage of arranging contract manufacture is that it allows the foreign company to concentrate upon its sales and marketing activities in the local market and because investment is kept to a minimum, it makes withdrawal relatively easy and less costly if the product proves to be unsuccessful. It will, however, retain control of product design and development and put its own label on the finished product. Contract manufacture might be necessary in order to overcome trade barriers and sometimes it is the only way to gain entry to a country in which the government attempts to stimulate local production/employment by prohibiting importation or insisting on local production. If political instability makes foreign investment unwise, this may be the best way of achieving a marketing presence without having the risk of a large investment in manufacturing. Similarly, the foreign company does not have to commit resources for setting up production facilities and in many cases, the cost of the product obtained by contract manufacturing is lower than if it were manufactured for import by the international company. A significant advantage of this strategy is that it allows for easy exit in the event the market did not respond to the product. This however, will be difficult where the company has made significant investment in manufacturing facilities. It even becomes hard to dispose of such assets in the event of exit. The major disadvantage of contract manufacture strategy as an entry method is that it does not allow the foreign company absolute control over the manufacturer's activities. It also has a high risk of developing potential competitors.

4. MANAGEMENT CONTRACT

Under this mode a foreign investor may enter into management contract with a local company to provide key technical or managerial expertise or funding for a prospective business venture. Where the arrangement is to provides managerial assistance, technical expertise and specialized services to the local company this may be entered into for a certain agreed period in return for monetary compensation. Monetary compensation may be in the form of: A flat fee or Percentage over sales and Performance bonus based on profitability, sales growth, production or quality measures. This is usually adopted in industries such as shipping, aviation and IT industry.
The above strategies have their regulatory requirements which are industry/sector specific. We will discuss the regulatory aspect in our next article. This material is intended as a guide to prospective investors seeking to invest in Nigeria but are undecided on the best strategy to adopt. Our law firm has over the years advised on series of complex transactions including structuring business strategies tailored specifically to suit the business needs of the clients. We are available to render advisory support on the above subject tailor made to suit your unique business purpose.

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