In-licensing by “big” Pharma and the consequent out-licensing by other companies remains an important (and growing) mechanism by which the former expand their pipeline and the latter maximise the market opportunity of their molecules.

Done correctly, in-licensing allows a mutually beneficial partnership to become established between the two companies which can be a very lucrative investment for both.

However the process is time consuming and expensive - one recent report\(^1\) has suggested that due diligence for a large or complex deal can run as high as $6million, with an average of $1.9m.

In these ever increasingly cost constrained times, it is important for companies to get the process right – we examine a few of the factors that may help in this short paper.

**Some Considerations**

One of the first considerations for successful in-licensing is finding the right partner. From a big company’s perspective, this usually means having a strategic approach to the type of products to be in-licensed as a result of a thorough analysis of the pipeline to identify potential “gaps”. For a company wishing to out-license, there should be a process that identifies interactions with potential partners in terms of disease fit and ability to commercialise the medicine.

Also of critical importance (and an area we will focus on a little later) is to have realistic commercial expectations of a product, backed up by robust either completed or planned clinical trials and data packages.

Internal relationships are often forgotten in in-licensing deals but are crucial to success. Both teams within companies and across the two companies need to be clear on their strategy, whether the medicine will meet that strategy and what they want to achieve out of the deal. They need to be well versed in their area of expertise, able to work across a matrix, adapt to changing data and deliver to tight deadlines. Most importantly they need to quickly become champions of a potential in-license medicine and be able to “sell it” within their organisation, often to the very highest levels.

**Challenges and pressure points**

The due diligence process is conducted by companies to minimise the risk of a potential medicine. Problems may arise in many areas but there are some common ones that may cause otherwise good deals to fail. Time and space does not allow detailed exploration of due diligence here, but there follows are few points which may be of interest to the reader:

- Clinical trials not conducted to the in-licensing companies’ exacting procedures can cause issues, and maybe delays, to original estimates of launch dates if they need to be repeated.
- IP is thoroughly investigated and issues in this area are often “show stoppers”. Manufacturing issues and high cost of goods can also cause problems in some cases.
- Commercial areas can be a significant cause of deals failing when there is a wide gap between the out-licensing company’s view of the market and that of the in-licensing company. The latter will usually develop its own view of the market potential for a product and, if this differs
widely from the other companies’ predicted sales, it can cause an element of distrust to creep into the negotiations from the start which may be hard to overcome.

**Overcoming issues and good practice**

With some potential opportunities, issues may arise which cannot be overcome and may mean a deal does not progress. However, some simple steps may help companies to achieve as smooth a passage as possible.

Companies wishing to out-license a medicine should have a REALISTIC expectation of its commercial success. They should be able to present a view of the market, the unmet need and the target patient population which the target company will buy into.

This should include intense analysis of price and reimbursement issues for the product as this area is now top of mind with many companies in the increasingly cost constrained environment.

The scientific rational and differentiation of the product is also key within this – so the potential partner can see how the medicine may fit into their portfolio.

Also, a clear understanding of the competitor landscape and how their product may be superior to competitors’ is important.

Proposed and completed trials that are robustly designed, timely and will deliver the right messages to the target audience will also help smooth the process.

Bear in mind the potential partner is likely to be independently working on all this too, so it’s critical to be realistic. Hopefully the two views are fairly close together rather than widely apart!

As previously noted, internal relationships are key to success both during the in-licensing phase and also afterwards, in terms of meshing the medicine in the organisation. In-licensing (and out-licensing) teams need to have “experts” in their field who can work together to achieve a common end – for example the commercial lead on such a team may be hugely reliant on the medical and clinical personnel to help them define a market in a previously unfamiliar product area.

Typically the type of people involved in due diligence come from many diverse areas within the company – these include the transactions team (who facilitate the deal), commercial, clinical / medical, manufacturing, regulatory, intellectual property, biology, pharmaceutical development and more.

In most in-licensing deals, the “team” need to be able to work rapidly and efficiently as deadlines are often incredibly tight. Gaining support across and up the organisation is also important – the team need to be credible, have the ability to work with their colleagues in markets where the product maybe launched and clearly be able to communicate the likely benefits it may bring to the company.

If a medicine is thought to be suitable for in-licensing, final approval for this to happen often rests with senior management. Therefore, it is critical for the team to be able to develop and present a well thought through recommendation with robust financial analysis that clearly sets out the benefits to the company of in-licensing, as well as illustrating potential risks along the way.
Such a presentation, which also has support from specific functions (for example the territories in which it will ultimately be marketed) will often help in gaining the approval from senior management teams.

The deal structure

In general, the phase of development of the medicine will influence the price paid and the deal structure – drugs in early stages of development are often less costly, although of course they do carry more risk.

Deal structures are usually a combination of the following:\(^{(2)}\):

- upfront payments, which are paid when the licence is signed
- milestone payments which are paid when milestones along the development path are reached (for example, commencement of phase II trials)
- royalties, which are paid once the product is being sold

The amount of each can vary depending on the deal structure, for example there may be smaller upfront fees and more emphasis on milestone payments.

Conclusion

The licensing area remains attractive and is likely to do so for the future. There are regularly deals being reported in the press, for example:\(^{(3)}\):

- Pharma Times July 12 2011 : Amgen reported to have linked with Micromet to develop cancer antibodies in a deal that could be worth €695m to the latter
- Pharma Times June 16 2011 : Boehringer Ingelheim has acquired global rights to diabetes treatment developed by Zealand Pharma in a deal that may be worth up to €376m to the Danish drugmaker

The process to achieve these deals may be complex. However there are some simple factors to consider which may help smooth the path a little. Among the many questions that you will be investigating, it may be worth asking yourself:

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<tbody>
<tr>
<td>1. Am I looking for the right partner?</td>
<td>✓</td>
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<td>2. Is there a realistic commercial assessment of this product which both parties are comfortable with?</td>
<td>✓</td>
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<tr>
<td>3. Will the clinical trials (and other elements of the data package – eg formulation, manufacturing) deliver what I need to support the commercialisation of this product (in the right timescale)?</td>
<td>✓</td>
</tr>
<tr>
<td>4. Have I got the right team in place to out-license this product to another company?</td>
<td>✓</td>
</tr>
<tr>
<td>5. Have I got the right team in place to work together to decide whether this medicine should be brought into my company and if so, have the skills to persuade senior management to “buy it” and mesh it into the company as development progresses?</td>
<td>✓</td>
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References:

1. Marketwire June 29 2011 “Cutting Edge Information”
3. Pharma Times June and July 2011

Disclaimer: this paper is not intended to be a detailed look at due diligence and in-licensing or out-licensing processes. It is written as a top line look at some of the factors involved. No actions should be taken by the reader of this article without obtaining specific business or legal advice. Neither the author of this paper nor Uptake Strategies Ltd accept any liability for any actions or activities taken by a reader as a result of this paper or for any inaccuracies or omissions within the paper.

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