

US v Bazaarvoice

 **Abell, Christopher - 04/09/2013**

1 CLIP (RUNNING 00:01:15.866)

 MR. LIDDIARD: Mr. Abell, I've handed to you ...

ORCHARDSUPPLY-CLOSING

3 SEGMENTS (RUNNING 00:01:15.866)



1. PAGE 17:06 TO 17:13 (RUNNING 00:00:23.064)

06 Q And what is the reason for Orchard Supply
07 deciding to cancel ratings and reviews from its
08 website?
09 A So it's part of the broader budget decision
10 we made last September where we went from a \$2 million
11 budget to an \$800,000. Ratings and reviews just
12 wasn't deemed a priority, and it didn't fit into the
13 \$800,000 budget, so it was cut at that time.

2. PAGE 27:16 TO 28:03 (RUNNING 00:00:32.000)

16 Q Would it be fair to say, in your business
17 judgment, that the merger will not harm Orchard Supply
18 Hardware?

19 MR. HUSTON: Objection; lacks foundation;
20 vague and ambiguous.

21 THE WITNESS: It would depend on the time
22 line. So for the next two to three years, we have no
23 intention of jumping back into either space that we're
24 currently using them today.

25 If we were to jump forward three to four
00028:01 years, would I have some concerns if these were still
02 the only two players that had gone to one in that
03 space, yes.

3. PAGE 28:14 TO 28:20 (RUNNING 00:00:20.802)

14 Q Do you know, for example, if it's more than
15 five?

16 A All I know in that space is that there were
17 two big players and that those two players have gone
18 down to one. Our personal, the way we have designed
19 our business, we have no capability from an IT
20 perspective to be able to build that in-house.

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 **Eberstadt, George (Vol. 01) - 05/15/2013**

1 CLIP (RUNNING 00:03:01.962)

 And do you have an understanding ...

TURNT-O-CLOSING

9 SEGMENTS (RUNNING 00:03:01.962)



1. PAGE 45:19 TO 45:24 (RUNNING 00:00:14.593)

19 Q. And do you have an understanding
20 of the concept of fixed costs?
21 A. In general.
22 Q. What does it mean to you?
23 A. They are the costs that are not
24 related to any individual sale.

2. PAGE 44:18 TO 44:20 (RUNNING 00:00:04.793)

18 Q. Would there be fixed costs
19 associated with developing a ratings and
20 reviews product?

3. PAGE 44:23 TO 45:04 (RUNNING 00:00:23.097)

23 A. Fixed costs, yes. While I'm not
24 sure quite what you mean by fixed cost but
25 we pay our engineers who develop our
00045:01 EBERSTADT - CONFIDENTIAL
02 software product and the time they spend
03 working on developing a ratings and
04 reviews product is a cost to our company.

4. PAGE 45:06 TO 45:09 (RUNNING 00:00:06.092)

06 myself. The question I should have asked
07 you was what would the costs be associated
08 with developing a ratings and reviews
09 product?

5. PAGE 45:12 TO 45:18 (RUNNING 00:00:18.000)

12 A. Primarily the engineering time
13 needed to build the product. And by that
14 I mean broadly also the time needed to do
15 the research into the product features and
16 develop the specification and do the
17 design work. It's the time needed to
18 develop the product.

6. PAGE 46:11 TO 46:13 (RUNNING 00:00:09.934)

11 more focused question for you. If you
12 developed a ratings and reviews solution,
13 what steps would you take to market it?

7. PAGE 46:16 TO 47:12 (RUNNING 00:01:05.963)

16 A. We would do what in my business
17 is the normal set of things related to
18 selling this kind of product. It's a
19 business to business sale. Our customers
20 are merchants. We would go, you know, go
21 to trade shows, put out press releases,
22 host industry dinners. We have an inside
23 sales team that picks up the phone and
24 calls prospective customers and an outside
25 sales team that follows up when we get

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 Heverley, Jina (Vol. 01) - 06/13/2013

1 CLIP (RUNNING 00:02:29.773)

 And did you believe that Big Fish Games ...

BIGFISHGAMES-CLOSING

3 SEGMENTS (RUNNING 00:02:29.773)



1. PAGE 64:12 TO 64:16 (RUNNING 00:00:16.582)

12 Q. Did PowerReviews and Bazaarvoice know that
13 they were competing against each other for Big Fish
14 Games business?
15 A. Yes. Because I was pretty blunt with them
16 that they were competing for our business.

2. PAGE 65:18 TO 65:20 (RUNNING 00:00:09.616)

18 And did you believe that Big Fish Games
19 benefited from the competition between Bazaarvoice and
20 PowerReviews?

3. PAGE 65:22 TO 67:04 (RUNNING 00:02:03.575)

22 A. Honestly, I do believe that there was --
23 there was a number of concessions that I was able
24 to -- I was able to get from both sides that was
25 favorable to Big Fish that ultimately helped us to

00066:01 HEVERLEY
02 have a -- a tremendous deal.
03 Q. And what concessions were those?
04 A. Whether it's the -- the price of their
05 service, whether it's -- I mean it was primarily
06 the -- primarily the -- the price of the service.
07 Because, again, they had very similar feature sets.
08 So we were able to get, you know, a better
09 termination agreement, able to negotiate a cap in
10 terms of price increases. It could be conceivable
11 that maybe I could have done that without the
12 competition. But it just -- it certainly seemed like
13 it was -- it made it easier for me.
14 Q. Did -- how did these companies, Bazaarvoice
15 and PowerReviews, price their product?
16 A. They always priced their products and --
17 and their list price is always pretty incredibly high.
18 And then -- then you start to have the negotiations,
19 and they were able to drop, drop their prices probably
20 three times. I believe Bazaarvoice specifically
21 dropped their price three times.
22 Q. During the negotiations?
23 A. Yeah.
24 And PowerReviews was able to come back with a
25 more competitive price.

00067:01 HEVERLEY
02 And ultimately it -- we just bottomed out, and
03 Bazaarvoice just had a couple of things that made us
04 feel better going with them.

TOTAL: 5 CLIPS FROM 5 DEPOSITIONS (RUNNING 00:08:51.274)