

Tourist Attractions & Parks

World's Leading Publication for Management of Leisure Facilities, Attractions, Entertainment and Amusement Centers

BUSINESS STRATEGIES BY FRANK SENINSKY AND SCOTT BOROWSKY

CHALLENGES FACING OUR INDUSTRY

Depending on whom you talk to these days, there is an ever-changing laundry list of issues that concern all of us: the economy, falling home prices and the mortgage meltdown, high gas prices that cause everything to be more expensive, out-of-control health care costs, increased taxes, higher insurance rates, airline traveler frustrations, loss of jobs overseas, the weak dollar, global warming, immigration, and more government regulations for our industry. At first glance these appear to threaten our businesses but several may also offer opportunities if we can make the proper adjustments in time. Let's not forget how this election year outcome may add further hurdles for small business to jump over, run through, or maybe even be forced to run around.

Here is how we dissected the major challenges and tried to make some sense out of them:

THE NUMBER ONE ISSUE IS STILL THE WEATHER

For all of the up and down cycles our industry has faced over the past 100 years, the economy has been number two, but the weather comes up as the number one force that determines if we have a good day/week/season/year. When there is a summer heat wave, outdoor amusement parks suffer. When it is beautiful outside, the indoor facilities shake their heads. Most of us have diversified our facilities so that we have customers during most weather conditions.

HEALTHCARE COSTS

We certainly do not have all of the answers, but Texas may have provided the rest of the nation with the start of a plan of action. Five years ago, Texans agreed that there was a severe shortage of private orthopedic or baby doctors in their state. Through a tort reform law, they put a cap on malpractice awards and shifted the burden of proof. As a result, medical liability insurance premiums dropped by

35 percent and doctors started moving into Texas over the last one and a half years. In fact, over the past three years 7,000 doctors moved to Texas and through normal competition prices dropped. Additionally, hospitals are also saving money. The only losers in the process are the lawyers.

LEAD CONTENT

It started out with good intentions, reduce or eliminate lead from children's toys. I (Frank) started following the drafts of a Maryland bill that required testing of all toys and machine components for lead levels. More requirements were added and then fines and penalty clauses were inserted. The final bill called for every component of a toy or machine to be tested for lead content and a certificate issued for each component. Anyone who purchases these toys and products would be required to have all of the certificates available to any customer who requested them. Fines started at \$1,000 per violation and went up to \$25,000. Jail time was added. The result read like a fiction novel about a government conspiracy to shut down businesses and put all of the owners/managers in jail. Each component of every game, for example would need to be tested. Testing costs per component could range from \$50 to \$100. Technically, a game could have hundreds of components. It is doubtful if any manufacturer in our industry could comply. The legislation was aimed at the large toy manufacturers who might be able to test a product that they anticipated selling in the millions. Our industry sells a couple of hundred of a great game.

Well, the bill actually passed both the Maryland Senate and Assembly and was signed by the governor. It is now law. Only the largest of our merchandise suppliers will be able to get all of their products certified. The costs will be passed on to us. I do not believe that any of the games or products that we currently use are grandfathered.

HIGHER GAS PRICES

Gas is \$4 per gallon and heading for \$5 by summer's end. Eight dollars a gallon is what Europeans have been paying for years. All we read about is how much money the oil companies are making. Truth is, they make about 13 cents per gallon,—the rest goes to overhead cost and taxes on gasoline. We had better get used to high gas prices or start producing energy here in the United States. Colorado and Utah has as much shale as there is in the Middle East. Shale can be converted into oil. Alaska has lots of oil off shore. Coal is another alternative, and we have plenty of it. Nuclear energy needs to be put back on the table. France currently gets 80 percent of its electricity from nuclear power plants. We will have electric cars available by 2010 that can go 40 miles on a single charge and switch over to gas for longer trips. This could be a real plus for FECs that are within a 20-mile drive of their local customer base. Maybe we should start looking at putting battery charges in each amusement park and FEC parking space. Or at least issuing \$20 and \$50 gas cards as an incentive to visiting our facility.

RIDE SAFETY INSPECTIONS AND REGULATIONS

Kentucky just passed a law that requires that each inflatable be supervised/staffed by a person 18 years or older. This law may also apply to all amusement rides and perhaps even lifeguards or staff that watches children in zero depth spray elements.

In Oklahoma, a new law requires the Department of Labor to certify amusement ride operators. Oklahoma is the only state in the nation to require the state to license and certify amusement ride operators and may include criminal background checks. Tests may be written and/or conducted onsite. This law went into effect on July 1 and permanent rules must be in place by June 1, 2009. Hopefully FECs will provide input to the regulators. Additionally, the Department of Labor (no longer the Department of Health) will be responsible for testing water quality at state water parks and the related mechanical equipment.

PRIZE LIMITS

Ohio recently passed a law limiting the value of prize that can be awarded on a single play of a game to \$10. The way the law is written, there cannot be any prizes in a redemption prize center that costs more than \$10 each. It is not clear if the law applies to the actual cost of the item or the value of the item determined by the state. The law was aimed to make it illegal to offer gift certificates or prizes on certain games that were considered gambling machines but also throws a big net around games of skill that includes redemption and merchandise dispensing machines.

TAXES

"If Patrick Henry thought that taxation without representation was bad, he should see how bad it is with representation." - The Old Farmer's Almanac.

The outcome of the 2008 elections will determine what happens to the current tax laws. Small businesses should be very concerned, as not only will your business be harder to operate, but your customers may also feel the pinch. Here are some background facts:

The top individual income tax bracket is currently 35 percent. In 1980, the top rate was 70 percent on unearned income and 50 percent on earned income. In 1982 the rate was reduced to all income taxed at a maximum bracket of 50 percent and further reduced in 1986 to 33 percent.

Long-term capital gains apply to assets held for more than one year. In 2003, the rate was reduced to 15 percent (5 percent for individuals in the lowest two income tax brackets and 25 percent on real property recapture). These reduced rates were passed with a sunset provision that was scheduled to expire in 2008 but was extended through 2011 because of the Tax Reconciliation Act signed into law in 2006. For 2008, 2009, and 2010, the long-term capital gains tax rate is 0 percent for those in the 10 percent and 15 percent income tax brackets. If they are not extended before that time, they will expire and revert to the 2003 rates, which were generally 20 percent (10 percent for taxpayers in the 15 percent tax bracket).

Just to keep up with the history, in 2001 and 2002 the taxman offered low rates on sales of assets held five or more years. Those rates were 8 percent and 18 percent depending on the taxpayer's income-tax bracket. Those so-called "ultra-long-term gains" were swept away by tax-law changes of 2003. When these rates increase, government revenues actually fall. When they are lower, government revenues increase.

Inheritance Tax. The current exemption is \$2 million. This exemption will increase to \$3.5 million in 2009. For 2010, there is a zero inheritance tax exemption. The current top bracket for inheritance taxes is 45 percent and will remain until 2009. The rate will then revert to 55 percent if the current law is not extended.

Please be advised that some of the items above may be subject to change based upon what the federal government does or does not do. Ask your candidates where they stand on these issues.

AIRLINE FRUSTRATIONS

A Travel Industry Association study reports that during the past 12 months air travelers have avoided 41 million trips at a cost to the United States economy of \$26.5 billion (the airlines lost \$9.4 billion). The trips missed included 12 million business trips and 29 million leisure trips. With less airline travelers, our industry faces new challenges in targeting our local markets.

IMMIGRATION

Arizona's new immigration law took effect January 2008 and makes it possible for companies "to be suspended or closed if they are caught hiring illegal

immigrants and whose employees could be implicated for fraud." This past week was the first time investigators have actively raided businesses suspected of illegal hiring practices. Which businesses do you think that the State of Arizona went after first? They chose to raid three waterparks. A total of nine people were arrested on suspicion of fraud and being in the country illegally (less than 1 percent of the employees) and as many as 104 employees could be implicated in the fraud case. Waterpark officials denied knowing they hired illegal immigrants and Arizona officials stated that the companies are not suspected of breaking the Legal Arizona Workers Act.

The point to make here is that once again our industry is targeted because it is much easier to grab headlines. Why is it that Arizona does not go after a large business where a huge majority of the employees might be illegal?

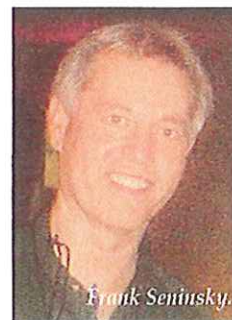
SUMMARY

Our industry is positioned to provide many local people with a fun-filled escape at a very reasonable price from the everyday pressures that we all face. Those that become a central part of the community and well known by the politicians and government officials will reap the benefits. The last thing you want to do is bury your head in the sand and leave your survival to chance. Even going green could not only save your business money on operating expenses, but serve as an example for other businesses to emulate. To be successful in today's economy takes a new approach. Are you ready to face the challenges and win? ♣

Frank Seninsky is president of the Alpha-Omega Group of companies, which includes a consulting agency, Amusement Entertainment Management, LLC (AEM) and a nationwide revenue sharing equipment provider, Alpha-BET Entertainment; all are headquartered in East Brunswick, New Jersey. During his 38 years in the leisure entertainment industry, Seninsky has presented nearly 300 seminars and penned more than 1200 articles. He has served as president of the Amusement and Music Operators Association (AMOA) and is a past president of the International Association for the Leisure & Entertainment Industry (IALEI).

Alpha-Omega President Frank Seninsky possesses extensive business and engineering credentials. He worked toward an MBA degree at Newark College of Engineering, now New Jersey Institute of Technology, and completed a multi-year Executive Development Program under the aegis of Notre Dame University's School of Business (1986-1990). He graduated Summa Cum Laude from Stevens Institute of Technology with a B.E. in Engineering & Computers in 1971.

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