

Setting Up Businesses

Topic 6. Legal procedures. Entrepreneurship Module



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Organisation of Business and Work, Administration
and Human Resource Management

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6.1. Legal procedures

- **Last step**: overcoming bureaucratic barriers:
 - Are these steps necessary?





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6.1. Legal procedures

- **Three generic options:**
 - Self-employed (empresario individual).
 - Civil society (sociedad civil).
 - Trading company (sociedad mercantil).

6.1. Legal procedures

The English terms for the legal forms correspond to the closest legal form, but it is likely that its features may be different. Therefore, the Spanish legal form is in brackets or italics.

- **Natural person (*persona física*):**
 - Self-employed (*Empresario individual*).
 - Community property / Joint property (*Comunidad de bienes*).
 - Civil society (*Sociedad civil*).

- **Legal entity (*persona jurídica*):**
 - Trading companies (*Sociedades mercantiles*):
 - General partnerships (*Sociedades Colectivas - S.C.*).
 - Limited liability partnerships (LLP) – *Sociedades de Responsabilidad Limitada (S.L. o S.R.L.)*.
 - *Sociedad Limitada Nueva Empresa (S.L.N.E.)*.
 - Public limited company (PLC) – *Sociedad Anónima (S.A.)*.
 - Limited partnership (LP) – *Sociedad Comanditaria – simple o por acciones (S.Com. / S.Com.p.A)*
(Sleeping partner (UK) or silent partner (US) – *Socio comanditario*).
 - Special trading companies:
 - Workers mutual company – *Sociedad Laboral – limitada o anónima*.
 - Co-operative – *Sociedad Cooperativa*.

6.1. Legal procedures. Basic features (I)

LEGAL FORM	NUMBER OF PARTNERS	CAPITAL	LIABILITY	
Self-employed (<i>Empresario individual</i>)	1	There is no legal minimum	Individual and unlimited	<ul style="list-style-type: none"> - No need for prior incorporation process. - Taxation system: personal income tax (<i>IRPF: Impuesto de la renta de las personas físicas</i>).
Community property (<i>Comunidad de bienes</i>)	Min 2	There is no legal minimum	Unlimited	
Civil society (<i>Sociedad Civil</i>)	Min 2	There is no legal minimum	Joint and unlimited	
General partnership (<i>Sociedad colectiva</i>)	Min 2 and max 50	Contributions of members, not exceeding 300.000 €	Joint and unlimited	<ul style="list-style-type: none"> - Taxation system: corporation tax (<i>IS: Impuesto de Sociedades</i>).
Limited liability partnership (<i>Sociedad de Responsabilidad Limitada</i>)	Min 1	Minimum 3,005.06 €	Limited to the capital for partners (not for managers)	<ul style="list-style-type: none"> - Taxation system: corporation tax. - Capital divided into shares of restricted transmission.

6.1. Legal procedures. Basic features (I)

LEGAL FORM	NUMBER OF PARTNERS	CAPITAL	LIABILITY	
<i>S.L. Nueva Empresa (S.L. N.E.)</i>	1 and 5	Min 3,012 € Max 120,202 €	Limited to capital	<ul style="list-style-type: none"> - Taxation system: corporation tax CT. - Generic purpose.
Public limited company (PLC) <i>Sociedad Anónima (S.A.)</i>	Min 1	Min 60,101.21 €	Limited to capital for partners (not for managers)	<ul style="list-style-type: none"> - Taxation system: corporation tax CT. - Capital divided into shares.
Limited partnership (LP) <i>Sociedad Comanditaria (S. / S.p.A)</i>	Min 2. No max	No min (S. Com.). Min 60,101.21 € (S. Com. p. A)	Partners: unlimited. Sleeping partners: Limited to capital	<ul style="list-style-type: none"> - Taxation system: corporation tax CT. - Partners: capital and labor. Sleeping partners: capital.
Workers mutual company <i>Sociedad Laboral (S.A.L. / S.L.L.)</i>	Min 3 (no one with more than 33% capital)	Min 60,101.21 € (SAL) / 3,005.06 € (SLL)	Limited	<ul style="list-style-type: none"> - Taxation system: corporation tax CT. - Restricted transmission shares.
Co-operative <i>Sociedad cooperativa (S. Coop.)</i>	Min 3 (First degree cooperatives) or min 2 cooperatives (Second degree cooperatives)	Minimum fixed in articles	Limited, unless articles otherwise stated.	<ul style="list-style-type: none"> - Taxation system: special corporate tax regime. - Regional laws.

Most common legal forms. Advantages and disadvantages (I)

- **Self-employed (*Empresario individual*):**
 - ✓ Simplicity. No incorporation process prior to the start of the activity. **Trade Register -- VOLUNTARY.**
 - ✓ Taxation. Personal income tax (advantage if profits are not very high) and possibility of choosing objective estimation in some cases).
 - ✗ Unlimited liability (business assets, personal assets...).
 - ✗ Taxation.
- **Community property and civil society (*Comunidad de bienes – S. Civil*):**
 - ✓ No need for public deed (unless they provide real estate), or to enroll in the Trade Register (*Registro Mercantil*).
 - ✓ Taxation. Personal income tax.
 - ✗ Joint and unlimited liability
 - ✗ No legal entity.
- **Trading companies (*Sociedades Mercantiles*)**
 - ✓ Limited liability of members (except *socios colectivos*).
 - ✓ Taxation: corporation tax is more advantageous than personal income tax. Tax benefits are higher if it is a reduced size company.
 - ✗ They require an incorporation process and a legal entity before the start of the activity.
 - ✗ Formal accounting and authentication of annual accounts.
 - ✗ Restrictions on the distribution of benefits (legal reserve).

Most common legal forms. Advantages and disadvantages (II)

- **General partnership (*Sociedad colectiva*):**
 - ✓ Easier to obtain loans as they are implicitly guaranteed by all general partners.
 - ✗ Unlimited liability.

- **Limited liability partnership (*Sociedad de Responsabilidad Limitada*):**
 - ✓ Limited liability, lower capital requirements than in a public limited company.
 - ✗ Restrictions on the free transfer of shares.
 - ✗ Personal guarantees required in loans.

- ***Sociedad Limitada Nueva Empresa*:**
 - ✓ Theoretically faster and cheaper than LLP incorporation. *Centro de Información y Red de Creación de Empresas* (www.circe.es) makes the process easier.
 - ✓ Chance to use a simplified accounting scheme.
 - ✓ Tax incentives.

Most common legal forms. Advantages and disadvantages (III)

- **Public limited company (*Sociedad Anónima*):**
 - ✓ Good image in trading.
 - ✓ Possibility of issuing bonds or going public (meeting certain requirements).
 - ✗ Minimum capital relatively high (60,101.21 €). Complex organization, having to convene a general meeting at least annually. Obligation to deposit accounts in the Trade Register.
- **Limited partnership (*Sociedad Comanditaria – simple o por acciones*):**
 - ✓ Possibility of attracting venture partners, without them interfering in the management of the company.
 - ✗ Formalities similar to PLC.
- **Workers mutual company (*Sociedad Laboral – limitada o anónima*):**
 - ✓ Access to grants for social enterprises, as employees are involved in the company.
 - ✗ Long, complicated and expensive procedures in setting up.
- **Co-operative (*Sociedad cooperativa*):**
 - ✓ Common good of shareholders.
 - ✓ Democratic management.
 - ✓ Tax credits (*bonificaciones*).
 - ✗ Complicated and costly procedures.

INCORPORATION FORMALITIES

Negative certification of company name - *Certificación negativa de denominación social.*

Articles of incorporation - *Escritura de Constitución.*

Payment of Property Transfer Tax and Stamp Duty - *Autoliquidación ITP y AJD.*

Registration in the Trade Register - *Inscripción en el Registro Mercantil.*

Qualification and registration of Workers Mutual Companies and Cooperatives - *Calificación e inscripción de S. Laborales y Cooperativas.*

Authentication and stamping of ledgers - *Legalización y sellado de libros de contabilidad.*

Creation of Civil Society / Community Property Agreement - *Elaboración del Contrato de Sociedad Civil / Comunidad de Bienes.*

TAX OFFICE FORMALITIES

Request of tax identification number / company tax code - *Solicitud del NIF/CIF.*

Registration in Tax on commercial and professional activities - *Alta en el IAE.*

Census declaration - *Declaración censal.*

LABOR AND SOCIAL SECURITY FORMALITIES

Membership/Registration in the Special Regime for the Self-Employed - *Afiliación/Alta en el Régimen Especial de Trabajadores Autónomos.*

Registration in Social Security and coverage for accidents at work and occupational diseases - *Inscripción de la empresa en la SS y cobertura de Accidentes de Trabajo y Enfermedades Profesionales.*

Registration in Social Security Regime - *Afiliación / Alta en el Régimen General.*

Communication of the opening of workplace - *Comunicación de apertura del Centro de Trabajo.*

Acquisition and stamping of visitor's book - *Adquisición y Sellado de Libro de Visitas.*

Registration of employment contracts - *Registro de los contratos de trabajo.*

Fuente: <http://www.empleacantabria.com/es/portal.do?IDR=58&TR=C>

OTHER FORMALITIES

Local authority building permit.

Local authority opening permit.

Change in ownership.

Garbage tax.

Trademarks, patents, brands, etc.

SPECIFIC FORMALITIES

Bars.

Cafes, restaurants and catering establishments.

Construction activities, facilities and/or electrical repairs, wood and cork industry, engineering and consulting activities.

Food establishments, hotels and anything else that involves handling food.

Fuente: <http://www.empleacantabria.com/es/portal.do?IDR=58&TR=C>

Incorporation formalities

PROCEDURE	DESCRIPTION	WHO? INSTITUTION	AMOUNT HOW LONG?	DOCUMENTS
Negative certification of company name – <i>Certificación negativa de denominación social</i>	There is no other company with the same name	Trading companies – <i>Registro Mercantil Central</i> Cooperatives – <i>Dirección General del Instituto de Fomento de la Economía Social, Madrid</i>	10.97 € – 15 days	Standard official form
Articles of incorporation – <i>Escritura de Constitución</i>	Acquisition of legal entity	Public notary	300 € – 7 days	Negative certification + Statutes + Capital + ID of partners
Payment of Property Transfer Tax and Stamp Duty – <i>Autoliquidación ITP y AJD</i>		<i>Consejería de Economía, Hacienda y Presupuestos. Unidad de Tributos dependiente de la Dirección General de Hacienda – Santander</i>	1% of capital – Immediate	Model 600 + articles of incorporation + Company tax code

Incorporation formalities

PROCEDURE	DESCRIPTION	WHO? INSTITUTION	AMOUNT HOW LONG?	DOCUMENTS
Registration in the Trade Register – <i>Inscripción en el Registro Mercantil</i>	Imperative for society to have full legal capacity	Trade Register of the province where the company is domiciled – Santander	Amount as deposit + fee + variable amount – 1 month	Articles of incorporation + Payment of Property Transfer Tax and Stamp Duty + Company tax code + model 600 + payment
Qualification and registration of Workers Mutual Companies and Cooperatives – <i>Calificación e inscripción de S. Laborales y Cooperativas</i>		<i>Dirección General de Trabajo de la Consejería de Industria, Trabajo y Desarrollo Tecnológico – Santander</i>	10 days	Application + articles of incorporation + Payment of Property Transfer Tax and Stamp Duty + ID of partners + company tax code
Authentication and stamping of ledgers – <i>Legalización y sellado de libros de contabilidad</i>		Trade Register – Santander	Depends on the number of ledgers – 1 day	Application + ledgers + payment in Bank of Santander

Incorporation formalities

PROCEDURE	DESCRIPTION	WHO? INSTITUTION	AMOUNT HOW LONG?	DOCUMENTS
Creation of Civil Society / Community Property Agreement - Elaboración del Contrato de Sociedad Civil / Comunidad de Bienes	It contains the percentage of participation of each member and the nature of the contribution	Notary or lawyer	Amount as deposit + fee + variable amount – 1 month	ID of all partners

Tax office formalities

PROCEDURE	DESCRIPTION	WHO? INSTITUTION	AMOUNT HOW LONG?	DOCUMENTS
Request of tax identification number / company tax code – <i>Solicitud del NIF/CIF</i>	Fiscal identification of self-employed person and the company	Inland Revenue	Immediate. Request within 30 days of the incorporation date	Model 036 or 037 + articles of incorporation + ID
Registration in Tax on commercial and professional activities – <i>Alta en el IAE</i>	To meet tax obligations in order to carry out an activity	Tax Agency	Immediate. Request 10 days before the start of the activity	Municipal fee: model 845; Provincial fee: model 846 + 850; National fee: model 851 + 851. Model 036/037 + ID + Company tax code + articles of incorporation. Exempt from payment: natural persons.
Census declaration – <i>Declaración censal</i>	Registration when starting or ceasing an activity	Tax Agency	Immediate	Model 036/037 + ID + Company tax code + Registration in Tax on commercial and professional activities

Labor and social security formalities

PROCEDURE	DESCRIPTION	WHO? INSTITUTION	AMOUNT HOW LONG?	DOCUMENTS
Membership/ Registration in the Special Regime for the Self-Employed	30 days before starting the activity	<i>Tesorería General de la Seguridad Social – Santander</i>	Immediate	Application + Registration in Tax on commercial and professional activities + Articles of incorporation + ID
Registration in the Social Security	For every business to make contracts	<i>Tesorería General de la Seguridad Social – Santander</i>	Immediate	Application + Articles of incorporation + Registration in Self-Employers + Registration in Tax on commercial and professional activities + Company tax code + Registration of workers
Registration in Social Security Regime	If workers are hired	<i>Tesorería General de la Seguridad Social – Santander</i>	Immediate	Hired worker ID + Model TA.2

Labor and social security formalities

PROCEDURE	DESCRIPTION	WHO? INSTITUTION	AMOUNT HOW LONG?	DOCUMENTS
Communication of the opening of workplace – <i>Comunicación de apertura del Centro de Trabajo</i>		<i>Dirección General de Trabajo. Servicio de Relaciones Laborales – Santander</i>	Immediate	Form
Acquisition and stamping of visitor's book – <i>Adquisición y Sellado de Libro de Visitas</i>	Any labor inspection	<i>Inspección de Trabajo y Seguridad Social – Santander</i>	Immediate (purchase ledgers in bookstores)	Visitor's book
Registration of employment contracts – <i>Registro de los contratos de trabajo</i>		<i>Oficinas de Empleo del Servicio Cántabro de Empleo</i>	Immediate	3 copies of the contract

Other formalities

PROCEDURE	DESCRIPTION	WHO? INSTITUTION	AMOUNT HOW LONG?	DOCUMENTS
Local authority building permit – <i>Licencia Municipal de Obras</i>	Permission is required to carry out work	Planning department before starting the work	Must take place within a period of 6 months from the date of approval	Request + Project + Estimated Budget
Local authority opening permit– <i>Licencia Municipal de Apertura</i>	First opening of establishments	Planning department	Must take place within a period of 6 months from the date of approval	Request + Project + Tax on commercial and professional activities + property tax + premises plan + ID
Change in ownership – <i>Cambio de titularidad</i>		Town hall	Must take place within a period of 6 months from the date of approval	ID + articles of corporation + Company tax code + opening permit + agreement
Garbage tax – <i>Alta en Tasa de Basuras</i>		<i>Departamento de Rentas y Patrimonio del Ayuntamiento</i>		

Other formalities

PROCEDURE	DESCRIPTION	WHO? INSTITUTION	AMOUNT HOW LONG?	DOCUMENTS
Trademark, patents, brands, etc.	Registration of ownership	<i>Oficina Española de Patentes y Marcas. Ministerio de Industria y Energía</i>		

Specific formalities

TYPE OF COMPANY	PROCEDURE	LUGAR
Bars	Opening permit	Town hall
Cafes, restaurants and catering establishments	Opening permit	<i>Dirección general de Turismo</i>
Construction activities, facilities and/or electrical repairs, wood and cork industry, engineering and consulting activities	<i>Documentación de calificación empresarial</i>	<i>Dirección General de Industria</i>
Food establishments, hotels and anything else that involves handling food	Food handling certification	<i>Información en el Servicio de Higiene Alimentaria de la Dirección General de Salud Pública y Consumo</i>

6.1. Legal procedures



Cámara de Comercio de Cantabria

<http://www.cantabriaemprende.es/emprendedores/portada>

<http://www.cantabriaemprende.es/emprendedores/formas-juridicas>



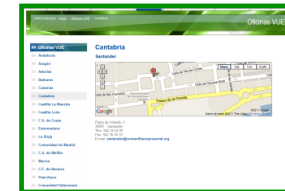
Ventanilla única empresarial

<https://www.camara.es/creacion-de-empresas/ventanilla-unica-empresarial-punto-de-atencion-al-emprendedor>



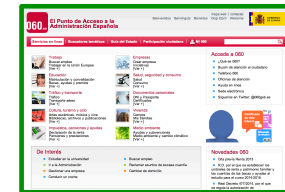
Ventanilla única empresarial (Santander)

santander@ventanillaempresarial.org



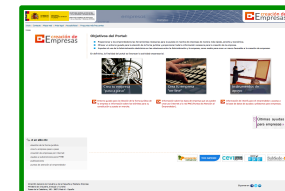
060.es

<http://www.060.es>



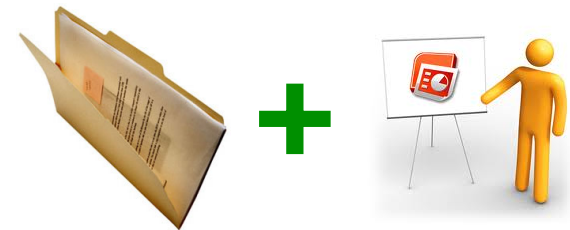
Programa de Creación de Empresas

<http://www.creatuempresa.org/>



Project guiding notes – Basic outline

1. General description of the idea. *How did I come up with the idea (opportunity, failure, inefficiency).*
2. Economic viability.
3. Commercial viability.
4. Technical viability
5. Financial viability.
6. Legal form and justification.



«I hear and I forget, I see and I remember, I do and I understand».

Confucius

Project guiding notes – Basic outline

THE BUSINESS PLAN MUST HAVE THE FOLLOWING CHARACTERISTICS (Suárez Sánchez Ocaña, 2011)

1. **EFFECTIVE**. It contains all the information to set up your business.
2. **STRUCTURED**. It is divided into sections, to make it easy to understand each part.
3. **COMPREHENSIBLE**. It uses clear and descriptive language.
4. **BRIEF**. It should not exceed 30 pages, if you want to ensure that someone reads it!
5. **ATTRACTIVE**. It contains data and graphs that make it easy to understand the business facts.

That's interesting... you should take a look!



PLAN DE NEGOCIO
Montar una empresa de catering desde una inversión mínima de 120.000 euros
El placer del buen comer

Desde comida, diseño de bodegas... Una amplia gama de servicios en un sector en pleno cambio y crecimiento. Si tiene experiencia en restauración, aquí tiene una muy interesante oportunidad de negocio.

El negocio de catering es uno de los más rentables y con mayor crecimiento en el sector de la restauración. Se trata de un negocio que permite trabajar desde casa o en un local propio, y que ofrece una gran flexibilidad de horarios y de servicios. Además, el sector del catering está experimentando un crecimiento constante debido a la creciente demanda de servicios de catering por parte de empresas y particulares.

¿Cómo funciona? El catering consiste en preparar y servir comida y bebida en un lugar que no es el restaurante habitual. Esto puede ser en un domicilio particular, en un salón de actos, en un restaurante, etc. El catering puede ser de diferentes tipos: catering de salón, catering de eventos, catering de bodas, etc.

¿Qué servicios ofrece? El catering puede ofrecer una amplia gama de servicios, desde la preparación y servicio de comida y bebida hasta el alquiler de vajilla y mobiliario. También puede ofrecer servicios de decoración y música.

¿Qué ventajas ofrece? El catering ofrece una gran flexibilidad de horarios y de servicios, lo que permite trabajar desde casa o en un local propio. Además, el sector del catering está experimentando un crecimiento constante debido a la creciente demanda de servicios de catering por parte de empresas y particulares.

¿Qué requisitos se necesitan? Para montar una empresa de catering se necesitan unos recursos económicos mínimos de 120.000 euros. También se necesitan conocimientos en el sector de la restauración y en el sector del catering.

¿Qué oportunidades de negocio ofrece? El catering ofrece una gran variedad de oportunidades de negocio, desde el catering de salón hasta el catering de eventos y de bodas.

¿Qué conclusiones se extraen? El catering es un negocio rentable y con gran crecimiento. Si tiene experiencia en restauración, aquí tiene una muy interesante oportunidad de negocio.



Health & Beauty - Spa

SoulSpace

This business plan can be edited directly with **Entrepreneur Magazine's Business Plan Pro** software.

[Plan Outline](#) [Previous Page](#) [Next Page](#)

Executive Summary

SoulSpace aims to be the premier spa/salon in the Raleigh, NC area. Through a unique combination of offered services and products, they will quickly gain market share. SoulSpace will provide customers with a relaxing, rejuvenating atmosphere where all of their mind and body needs can be met. The business will be set up as a partnership with Steve Long, Dabby Long, and Linda Hill-Chinn owning equal portions of the operation.

Products and Services

SoulSpace offers a wide variety of mind and body healing services and products. The salon aspect of the business will provide both males and females with any type of hair styling services. The spa business is devoted to providing holistic methods of massage, body work, and energy work. This is all done in a relaxing, serene setting.

Location

SoulSpace has chosen Raleigh, NC as their city for the business venture. Raleigh has consistently over the last few years been voted the best place to work and live in the USA, frequently making the top five and ten lists of Forbes, Money, and Inc. magazines. Raleigh has one of the most educated populations that loosely correlates to earning potential, or at least indicates a higher average household income. Additionally, the downtown area has undergone a recent renovation that has attracted a lot of new businesses as well as become a hot urban area.

Competitive Edge

SoulSpace's competitive edge is their unique combination of services, location, and customer-centric focus. Both the extraordinary services and location has been detailed previously. SoulSpace has set out since its inception to provide quality, dependable services. SoulSpace has an innovative training program that is extensive in its depth, properly training employees to provide an unprecedented level of customer service. All customers will leave SoulSpace with a feeling that their needs were met well beyond any expectations that they previously had and far better than any competitor. This customer-centric business model is not just rhetoric, there are financial incentives in place for employees to offer unprecedented levels of service. This will ensure a high rate of return customers, allowing SoulSpace to meet their ambitious goal of 90%.

PLAN DE NEGOCIO
El primer ejercicio en cifras

Plan de negocio

Resumen ejecutivo

Objetivos

Planificación de los recursos

Aportación de capital

El negocio tiene una gran oportunidad de negocio

La competencia

El negocio tiene una gran oportunidad de negocio

La competencia

PLAN DE NEGOCIO
Diferenciación y originalidad

El negocio tiene una gran oportunidad de negocio

La competencia

El negocio tiene una gran oportunidad de negocio

La competencia



Planes de negocio



Health Fitness Program

Automotive - Car Wash

Motel - Hunting Lodge

Cafe - Bakery

Free Sample Business Plans

How to communicate your idea

- **Goal** → raise likeability among your listeners: eye contact, tone, enthusiasm, body language, everything influences.
- Explain your strategy systematically and efficiently, demonstrating your understanding of the competitive market forces.
- Listen carefully to comments and demands.
- Use visual aids and, if possible, take and show your product or service.
- If listeners want more information, let them ask!

How to communicate your idea

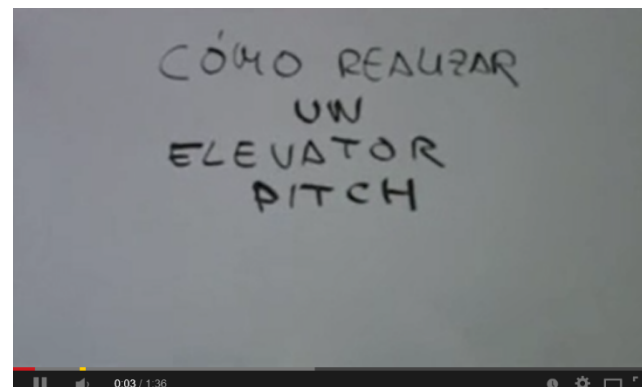
- It is a good idea to prepare presentations lasting 5, 10 and 20 minutes. You never know when the opportunity may arise to present your business plan.
- Could you communicate the idea in the time span of an elevator ride? Elevator Pitch.



6 Tips for Perfecting Your Elevator Pitch



Cómo realizar un Elevator Pitch



How to communicate your idea?

- It is a good idea to prepare presentations lasting 5, 10 and 20 minutes. You never know when the opportunity may arise to present your business plan.
- Could you communicate the idea in the time span of an elevator ride? Elevator Pitch.

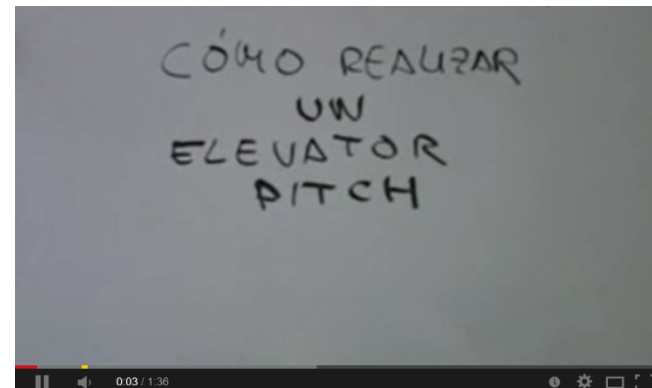
1. Introduction: name, project name, basic presentation.



Cómo realizar un Elevator Pitch

2. Skills + PAR format: Problem – Action – Result.

3. Why is it attractive to my customers?



Don't give up!

Frederick W. Smith, born in Memphis and whose father made a fortune creating a bus company, conceived the idea of an air transport company while studying economics at Yale University in the 1960s.

One of the lecturers was a defender of the current system for package air freight, when packages were sent by every free space on a passenger flight. Fred Smith saw things differently and, in a paper he wrote, he described the concept of an airline that would only transport packages that would be taken to a central point and distributed to their destinations. This could be done at night when there is less traffic and with proper logistical control, packages could be delivered the next day.

Whether it was the novelty of the idea, the fact that the idea went against the theories of the lecturer, or the fact that it was written in one night and delivered late, the first public exhibition of Smith's great idea received a fail grade.

Do you know what company was created by Fred Smith?  

Interesting profiles to follow on Twitter



Alejandro Suárez @alejandrosuarez

Un tipo normal. Emprendedor, Empresario y Business Angel. Diario Qué!, Ocio Networks, Revista Capital y Gestiona Radio. Autor de Desnudando a Google y otros



Siguiendo



Carlos Blanco @carlosblanco

Entrepreneur & Business Angel. Executive Chairman of Akamon Entertainment. Founder of Conector Startup Accelerator, First Tuesday Spain, OcioMedia & Grupo ITnet



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Siguiendo