S.S.D.N

HEC School of Management, Paris

Research paper on "Antitakeover Defense: Efficiency & Impact on Value Creation"

Mohit Chawla

Grande Ecole, Majeure Finance

Student ID: S46372

Title: Antitakeover Defense, Efficiency & Impact on Value Creation

Author: Mohit Chawla

Guide: Prof. Mr. Patrick Legland

Date: May 2015

Keywords: Hostile takeover, antitakeover defense, ATPs value creation, shareholder value, precautionary defense, reactive defense

Abstract

Takeovers are used as a mean for company(ies) to grow and gain entry to new markets. These can be of two types, Friendly & Hostile Takeovers respectively. When undertaken with support from the target management, termed as Hostile takeovers, whereas when an acquirer tries to takeover the company against the will of management, shareholders and board of directors of target company, is it termed as hostile takeover. Since all listed companies bear the (some) risk of being a target for a takeover, thus firms adopt a set of defense propositions & strategies regularly termed as Antitakeover Defence Provisions (ATPs), to protect them & direct their course of action incase of a hostile takeover threat.These strategies could be either precautionary such as poison pills, staggered board, fair price, and super-majority or reactive such as white knight, greenmail, and recapitalization. Lacking such protective measures could potentially prove to be a costly measure for the firm.

We use this research paper to serve as a medium to recapitulate a thorough literature review on the various defense mechanisms implemented by firms, the ideology & rational for implementing each of them, which defense mechanism is most efficient in limiting the raider and whether the strategy is management entrenchment or shareholder entrenchment. Further, we form a basis to In addition to theoretical analysis, we tend to model the behavior of participants in a hostile battle, include a lot of statistic research results conducted by scholars and explicitly take into consideration of actions of firms in the real world. By comparing the defense strategy by referring to similar benchmark, we are able to reach the conclusion of which antitakeover defense strategy is efficient.

Further, a consolidated literature review is conducted on one of the most discussed topics of corporate finance as to whether antitakeover provisions (ATPs) measures are value creating or destroying & with respect to the different stakeholders (shareholders, bondholders) each considered in detail with empirical data analysis to further consolidate on the inferences. Conclusions are hence drawn on the efficiency of takeover defenses & the effect of takeover defenses on value creation or loss. A radical approach to valuing the effect of ATPs both ex-post and ex-ante is proposed to form a comprehensive view on their efficiency & impact on value creation, as compared to the past scholarly works that model their conclusions only on ex-post analysis.

Acknowledgment

"First and Foremost, I would like to express my sincere gratitude to Prof. Mr. Patrick Legland (Global Head of Research, Societe Generale) for his guidance and regular availability for helping out and tackling all obstacles and queries in coming up with this research report. Secondly, I would like to thank my Majeure Finance batch mates at HEC Paris for providing an ever so important feedback and competitive spirit throughout the course of this work"

-Mohit Chawla

Table of contents

Section I: INTRODUCTION

This first chapter introduces the reader to the problem behind the research purpose. In the background a basic overview of the field of question is put forward, followed by the presentation of the problem & the purpose of research. A methodology has been laid and is consistently applied throughout. Further, In the last two sections useful definitions that will help the reader in its understanding and the limitations of the research are proposed.

1.1 Background

"M&A, deals, buyouts, LPOs, MPOs, private equity, venture capital, corporate development and a myriad of other terms are used to describe large transactions that fundamentally change the nature or course, and control, of a company" (Frankel, 2005).

Takeovers are used as a mean for corporations to grow and gain entry to new markets, and the global business environment has witnessed countless numbers of merger and acquisition activities during the past decades (Zollo, 2003). Hostile, unlike friendly takeovers is when an acquirer tries to take over a corporation against the will of management, share-holders and board of directors of the target company.

Historically, hostile takeovers originate from the USA and Great Britain but are an increasing method used all over Europe. During the 1980s hostile takeovers were considered a mechanism for enhancing the efficiency of the corporate systems respectively raising shareholder value. An unfriendly bid acted as an impediment for improvement for incumbent managers and aligning their interest with those of shareholders. Hostile bids had a propensity to provoke restructuring in target corporations, forcing on allocations of re-sources to more efficient uses elsewhere (Deakin & Slinger, 1997).

During the past few decades, corporate takeovers have reached a new level of hostility due to many innovations in the corporate takeovers art. Due to an increased number of sharks, vulnerable (target) companies have started to look for antitakeover defenses. Throughout the years of development, the antitakeover defenses have become more and more sophisticated. Companies usually adopt these ATPs either beforehand as a precautionary measure to prevent takeover attempts or implement some of these ATPs as a reaction to the takeover activity observed in their respective cases. Based on these two possibilities, Antitakeover defense Provisions can be categorized as a) preventive and b) reactive measures.

The preventive measures are the ones with characteristics designed to reduce the possibility of hostile takeover offers whereas the reactive measures are the ones implemented in the scenario of takeover threat. i.e.: once the bid to takeover has been proposed.

1.2 Discussion of the Problem

In recent years, arguments have come up that propose that antitakeover defense deter prospective bidders away and reduce the disciplinary effect (on management) from takeover threat. Also, scholars & researchers have questioned the efficiency of these Antitakeover Provisions & also in actually creating value for shareholders. Thereby arguing in favor of the fact that takeover defenses are not value accretive for shareholders. Further, based on these implications, it has been observed that more & more number of companies have started to reduce significantly the antitakeover provisions from their corporate charters, and some have shifted focus to cost effective reactive measures as compared to precautionary measures.

The present day corporate structure generally trends towards separate management & ownership, with management possessing a non-major holding. This differentiation tends to create a dispute around whether the ATPs are shareholder entrenchment or management entrenchment. To decide which and when to implement the ATPs is a decision that requires certain prerequisite questions to be thought over, discussed & answered in details. These include 1) whether the ATPs are easy to implement. 2) What is the mechanism & how effective is it in preventive the attacker (raider), possibilities of raider overcoming these & course of action in such a scenario. 3) What are the associated costs for the company (potential target)?

1.3 Purpose of the Research

Our main purpose of this research work is to form an opinion on this argument as to whether the antitakeover defenses adopted are actually an efficient proposition for firms globally as well as specific to certain national environments, and to further discuss the impact of these antitakeover defense provisions on stakeholders value.

Further, we seek to form an opinion as to whether the takeover defense measures & the ATPs adopted by firms in general are value accretive or destroying for the various stakeholders (stockholders, bondholders). Following a deductive approach, we not only draw inferences from the past research carried out in this field by scholars but also draw empirical evidences from multiple case analysis to form a defined opinion on this topical topic in corporate finance.

1.4 Methodology

1.4.1 Research Approach

Research works are often based on two specific pattern of approaches, these are inductive and deductive approach, respectively. The inductive approach is fundamentally based on empirical evidence, and you go from observations to findings and end up with theory building (Ghauri & Grønhaug, 2005). The inductive approach is often used in relation with qualitative research, and is seen as flexible and allows for changes throughout the research process (Saunders, Lewis & Thornhill, 2003).

The deductive approach is based on logical reasoning, where the researcher builds his/her questioning or hypothesis from existing knowledge, usually from secondary data. The questions or hypothesis is then tested through empirical analysis if it can be confirmed or realized (Ghauri & Grønhaug, 2005). If the theory used deviates from what is necessary, modifications are entitled to be made. The deductive approach gives the researcher both useful outcomes and the possibility to explain the relationships between variables (Saunders, Lewis & Thornhill, 2003).

In this thesis, we have adopted a deductive approach, whereby the scholarly research work theories are used as guidance when looking for rational & also for explaining. Based on the theoretical implications from the literature review, empirical data is gathered & analyzed with the aim to verify the propositions of the defense strategies, and conclude about their efficiency & further effect on value creation (or loss). Since we have used secondary data to come up with explanations, and not carried out any interviews or any other means to collect primary data, thus deductive approach seems more feasible in this situation as compared to inductive approach, which is also more suitable for qualitative data analysis. Further, since our approach is to form an empirical basis with thorough numerical analysis & quantitative data to verify the propositions, thus deductive approach is the logical choice.

The primary objective of the defense mechanism(s) implemented by a company is twofold. 1) To avoid a hostile bid or making it impossible for the hostile bidder to proceed with the bid and close the deal. 2) To force the hostile bidder to increase the bid and pay more for the target company.

To analyze the efficiency of each of the defense mechanisms, we develop & use statistical models to answer the following questions a) which of these strategies is the most efficient? b) The efficiency of Antitakeover provisions (ATPS) c) The impact of ATPs on value creation, shareholder & bondholder value

1.4.2 Research Theory & Data Selection

The theoretical framework is an effective mechanism for summarizing accumulative facts. Through connecting the results of the information to incoherent entity makes it more accessible and therefore useable for researchers (Polit & Hungler, 1995).

Hostile takeovers & takeover defenses has been one of the most discussed topic in corporate finance over the past few decades since the upbringing of takeover defenses in 1980s. Despite this, there has been limited agreement on the efficiency of these takeover defenses & the value implications they bring along with. To comment on this issue, we have conducted an intensive research to gather data from reliable sources such as the HEC Paris Library Resources, Thomson Reuters and its internet databases, Company Websites & Annual Reports (for the specific case studies) to come up with comprehensive literature & academic articles as well as industry & company specific data.

To better understand the whole picture, we start by investigating the behavior of hostile bidders.

We develop a comprehensive analysis by firstly investigating the behavior & nature of hostile bidders (attacker/ raider), their motive & line of reasoning for the takeover & for the hostility in their takeover approach (hostile takeovers) as well as the most relevant approaches adopted by them to pursue such interests. Finally, based on the implications from the academic literature review, we explain the impact of ATPs on the value creation in the corporate finance framework. Statistical & empirical evidence is provided to support our conclusions or to contrast from the present literary research propositions. Multiple case studies have been thoroughly discussed & evaluated in the end with the purpose of verifying the proposals made & research base proposed by logical & intuitive reasoning, as well as application of numerical & empirical analysis to real life corporate cases.

1.5 Definitions

Merger	A process when two companies join together into one entity. Both companies dissolve their assets and liabilities and fold them into a newly created entity, which refers to the creation of a new company (Weston, Mitchell, & Mulherin, 2004).
Acquisition	The process where one company takes over the controlling in-terest of another, through stock purchase or other means (Wes-ton et al, 2004).
Friendly takeover	An acquisition of one firm by another where both companies agrees to the terms of the takeover (Schoenberg & Thornton, 2006).
Hostile takeover	An attempted takeover of another company which goes against the will of the target's management and board of directors. (Schoenberg & Thornton, 2006).

Target	The company of aim in a takeover attempt (DePamphilis, 2005).
Acquirer	The company that is purchasing or trying to takeover another company (DePamphilis, 2005).
Bid Premium	The additional amount an acquirer has to offer above the share price in order to succeed in a take-over offer (Schoenberg & Thornton, 2003).
Defense tactics	Various methods designed prevent an acquirer from succeeding in their hostile takeover attempt of another company (DePam-philis, 2005).
Pre-bid defense	Defense tactics used by companies as a preventing method in order to avoid a hostile takeover (Schoenberg & Thornton, 2006).
Post-bid defense	Defense tactics used by target companies after a hostile bid has been placed, in order to fight off the acquirer (Schoenberg & Thornton, 2006)

1.6 Limitations of the Research

The usage of different defense tactics varies from country to country mainly due to different legal systems and regulations and it is very hard to find a strategy that is universal and can be useful for all companies (Schoenberg, 2003). The difference of legislation highly impacts the defense strategies a firm could implement & thus has implications on the specific behavior of cross-border M&A transactions. Our proposals obviate the differences across countries and tend to model the best possible strategies. But this country specific factor & the deviated brought in by the legalities of different legal framework should be kept in mind for further implications.

Although we have chosen to elaborate significantly & discussed the various defense mechanisms adopted by firms, yet we have focused more on certain specific ATPs based on their topical nature & widespread usage in corporate world based on preferential choices. Further, in a chosen timeframe there exists a sufficient amount of hostile takeovers. Due to a constantly changing business environment, hostile takeovers performed in a specific period of time have some similar specific characteristics while over a relatively longer period & out of period sampling methodology helps us avoid the statistical bias specific to a particular period, industry &/ or a country.

Section II: FRAME OF REFERENCE 'Hostile takeover'

The theoretical framework section introduces the reader to a more in-depth knowledge about takeovers in general and how they are performed and regulated. A further elaboration on hostile takeovers follows this, with the detailed outline of both pre-bid and post-bid defense tactics.

Before moving forward with our analysis with the desired outline proposed earlier, it is important to step back and investigate the general frame of reference that serves as a basis for this research work. Therefore to study antitakeover defenses, their efficiency & impact on value creation, it is important to learn & acquaint the reader with the essentials of the main reason behind the implementation of antitakeover defense measures, i.e.: Hostile Takeover attempts. It is further necessary to understand clearly the motives behind the bidder's actions as well as the primary measures adopted in the takeover battle, so as to address the grievances & issues of target properly & thus to analyze the strategies (ATPs) that are the most efficient in addressing these issues.

Compared to friendly takeover which generally refers to a well organized negotiation process, hostile takeover occurs when a bidder attempts to bid for a controlling interest in a target, which has been explicitly opposed by target management or for which the management has no acknowledge of the bid *(Damodaran, 1997)*. There is a common objective behind both the types of takeovers: to gain control of the target such that the combined entity delivers higher value as compare to the two entities value added on a stand alone basis.

Mathematically speaking,

If Va, Vb & Va+b represents the value of acquirer, target & the combined entity, then:

Acquisition makes sense if, $\quad Va+b > Va + Vb$

There is an opaque path b/w the friendly & hostile takeovers since in most of the cases observed, it has been noticed that the acquirer (bidder) tends to turn hostile in its measures if the bidding process does not work out in a friendly manner. i.e.: the acquirers turn to hostile measures after a friendly process fails to reap results.

2.1. The rationales for hostile takeover

Before we dive into how hostile takeover is launched and is processed, we would like to first address to the motivation of the bidder for pursuing the takeover in a hostile manner. M&A activities are primarily adopted by firms for growth of corporations, corporate control as well as for synergies that they create (operational, cost, financial etc.). In some cases they may also cater to management motives of empire building (management's ego) to control & operate a larger corporation. Adopting these M&A measures incorporates & brings along a certain level of risks, and uncertainties in implementation such as overpaying or overvaluing the target, error or inability in implementing the strategies for synergy synthesis among others. Therefore, keeping in view that these takeover activities are incorporated with the aim of value accretion, it is important to understand & acknowledge here that if a bidder is willing to pursue the target acquisition in a hostile manner, then he/she (bidder) is willing to bear the adder risks associated with this apart from the above mentioned risks. These risks include the risk of failure in attempt to takeover, the loss of money, time, and potential management resource utilization in value creating endeavors. Thus the bidder is willing to bear these opportunity costs apart from bearing the costs associated in the acquisition attempt. To understand & verify as to whether & why the bidder is willing to take these added risks by attempting to takeover in a hostile manner, we need to address a few questions that will provide us a better understanding of their rational & motives. These questions being as follows:

2.2. Why does the bidder want to pursue the target in a hostile manner?

Since the hostile takeover and friendly takeover share a similar motive of gaining corporate control of the combined entity (discussed in the previous section) thus it is intuitive to understand the scholarly finding backed by empirical observation, the claim that most takeover attempts are initially friendly in nature, whereas they converge to hostile measure when faced with retaliation or are rebuffed in this process by the target management, and or shareholders. Thus, when such attempts fail, bidders who are adamant in their approach to further pursue with the takeover attempt implement measures that are hostile and may potentially result in some unforeseen circumstances (public, private) for all the parties involved. Further, in certain cases it is efficient for a bidder to pursue in a hostile manner, since there is no constraint of retaining the current management (a common case in a friendly takeover) thus the acquirer is free to bring in the best human resources they deem appropriate for the efficient operations of the target, and the combined entity.

2.3. What are the reasons for target firm in not being interested by the acquisition offer?

It is also important to look at the potential causes & reasons why the potential acquirer may have been rebuffed by the target company. Answer to this gives us a better understanding of the fact as to why the takeover process has taken a hostile turn. To answer this question, we resort to two of the very essential corporate finance theories on information asymmetry & agency costs.

Information Asymmetry Explanation: In general (not always) the management of the bidder company values the target company on a status-quo basis & on a market analysis (peer valuation method, comparable transactions method etc.). Although these methods are fairly appropriate, yet one needs to understand the fact 9with a pinch of salt) that since every company is unique in its own sense thus these methods might not give us an exact valuation of the target company. We hereby clarify that this does not imply that these widely incorporated & used methodologies are inaccurate but merely stress the fact that these are good estimations and approximations. Thus, in our case, this means that the offer price (cash & or share price) of the offer by the bidder to the target management, shareholders might not actually represent the true valuation of the company business in the view of the target management & shareholders since they are the ones with better access to the sensitive & important information about the present & future operations of the firm. This information asymmetry might lead to the potential decline of the offer by the target shareholders, management, since it is in the fiduciary duties of the management, board of directors to act in the best interests of the shareholders, whereby accepting an inadequate offer violates that condition. It is also necessary here to understand that this cannot be the sole reason for such hostile measures adopted by the acquirer since if the management and/or shareholders are actually interested in giving up control/being taken over, then they could potentially negotiate with the bidder for a better & fair price that better reflects both the parties sentiments & incorporates fair valuation of the target. This brings us to the second explanation of the question s as to why the bidder is rebuffed by the target in an acquisition offer, "Agency costs explanation".

Agency Costs Explanation: Modern corporate finance literature reasons that in certain cases management might not act in the best interests of the shareholders and the stakeholders in general. This could be due to the possible self interests (potential loss of position post takeover, higher compensations, management perks & personal benefits, power associated with their position). Thus in such a scenario, management might potentially not be interested in an offer which otherwise on a standalone basis could be equitable for the shareholders. This is the basis of the 'agency costs' theory of corporate finance and explains the second/other major reason for the rebuffing of bidder by acquirer.

2.4. What are the ideal takeover targets?

After getting an idea about why the bidder is willing to pursue the target in a hostile manner. We now shift our focus to the question as to which firm(s) are the ideal takeover targets. The answer to this question could have multiple viewpoints yet the primary views to take into consideration are:

a) perspective of the bidder

In terms of an ideal target, bidding firms are looking for targets for financial purposes & business advantages, for instance, firms that ideally integrate well with their business (competitors etc.), serve the purpose of vertical/horizontal integration (in terms of supply chain), provide synergies, or serve diversification needs. Apart from these reasons there are certain characteristic features of the target firm that a bidder (acquirer) may potentially be interested in.

b) target characteristics

Strategically synonymous characteristics (similar strategy, areas of operation etc.) of the target would definitely place a firm as an ideal target. Further, cash rich companies or firms with low debt on the balance sheets have been historically seen as ideal targets for acquisitions.

We hereby elaborate on the more relevant features of these ideal targets as:

1) Synergies obtained by combining the entities: Since the basic reason that forms the backbone of mergers & acquisition activities is value creation, thus the firms with a potential of creating synergies & in process value accretion for acquirer are seen as ideal takeover targets. These synergies can be both operational (vertical, horizontal integration in supply chain leading to cost reduction, higher growth rate, frequently termed as cost synergies) and financial synergies such as improved debt capacity, diversification, tax benefits etc.
2) Firms with a possible undervaluation in a financial markets are viewed as potential targets by acquirers to improve their market performance. This is also one of the criterions that bidder uses so as to decide upon an acquisition offer price since the difference of the rest would factor into the synergies upon acquisition.
3) Cash Rich and/or low Debt companies: It has been regularly observed that companies with large (or huge) amounts of cash are seen as a potential takeover target. Intuitively the reader can very easily see that the large cash on the balance sheet of the target could be used partially to finance the acquisition. Although management views differ on this topic, in a sense that they perceive this cash to provide them the financial flexibility to pursue value accretive endeavors and avail fruitful opportunities when they arise, yet it has been noted that this could also lead management to invest in low rate of return projects or earning low interest on cash, which in a sense violates the shareholder interests & brings down their return on equity. This cash could easily be returned back to shareholders in invest in their self decided prospects rather than using this in the above discussed manner.

   Further, firms with low level of debt on their balance sheet, provide the flexibility to the acquirer to lever up & use the resources not only for financing the acquisition but also for improving efficiency (operational as well as financial). This is backed by the reasoning that debt has a disciplining impact on management since they are pushed towards paying off the debt service as well as interest payments.
4) Poorly Managed Firms: In a significant number of the hostile takeovers studied over the past three decades, evidence has been found in support of the fact that firms that are perceived to be poorly managed by markets & or by he acquirers are viewed as potential targets for acquisition since this opens up the room for improvement & efficiency in terms of management & operation that could drive superior performance & value creation for acquiring firm post acquisition. This is also termed as Value for Control in corporate finance terms.
5) Cash Rich and/or low Debt companies: It has been regularly observed that companies with large (or huge) amounts of cash are seen as a potential takeover target. Intuitively the reader can very easily see that the large cash on the balance sheet of the target could be used partially to finance the acquisition. Although management views differ on this topic, in a sense that they perceive this cash to provide them the financial flexibility to pursue value accretive endeavors and avail fruitful opportunities when they arise, yet it has been noted that this could also lead management to invest in low rate of return projects or

earning low interest on cash, which in a sense violates the shareholder interests & brings down their return on equity. This cash could easily be returned back to shareholders in invest in their self decided prospects rather than using this in the above discussed manner.

Further, firms with low level of debt on their balance sheet, provide the flexibility to the acquirer to lever up & use the resources not only for financing the acquisition but also for improving efficiency (operational as well as financial). This is backed by the reasoning that debt has a disciplining impact on management since they are pushed towards paying off the debt service as well as interest payments.

6) Synergies obtained by combining the entities: Since the basic reason that forms the backbone of mergers & acquisition activities is value creation, thus the firms with a potential of creating synergies & in process value accretion for acquirer are seen as ideal takeover targets. These synergies can be both operational (vertical, horizontal integration in supply chain leading to cost reduction, higher growth rate, frequently termed as cost synergies) and financial synergies such as improved debt capacity, diversification, tax benefits etc.

To summarize, in the table below, we characterize & match the target firm along with the acquisition ideology and motives of the acquirer.

Table 1: Target Firm Characteristics given Acquisition Motive

If motive is	*Then the target firm…*
Undervaluation	trades at a price below the estimated value
Diversification	Is in a business different from the acquiring firm's business.
Operating Synergy	has the characteristics that create the operating synergy *Cost Savings*: in same business to create economies of scale. *Higher growth* : with potential to open up new markets or expand existing ones.
Financial Synergy	has the characteristics that create financial synergy *Tax Savings*: provides a tax benefit to acquirer *Debt Capacity*: is unable to borrow money or pay high rates *Cash slack*: has great projects/ no funds
Control	is a badly managed firm whose stock has under performed the market
Manager's Interests	Has characteristics that best meet CEO's ego and power needs.

2.5. Valuing the Target Firm

The valuation of the target firm is slightly different from the valuation of a standard firm given the fact that we have to factor in the valuation of control and synergy. Thus we implement the method of valuing the firm on a regular status quo basis, and add the value of control & synergies to get the target valuation. In general the value of control of a poorly managed firm is greater than the value of control for a properly & well managed firm.

Value of Control = Value of firm optimally managed - Value of firm with current management

Further, to value the synergies (operating, financial) we need to look into the value of the combined firm with synergy and the value of the combined firm without synergy, the difference provides us with an estimate of the valuation of synergies.

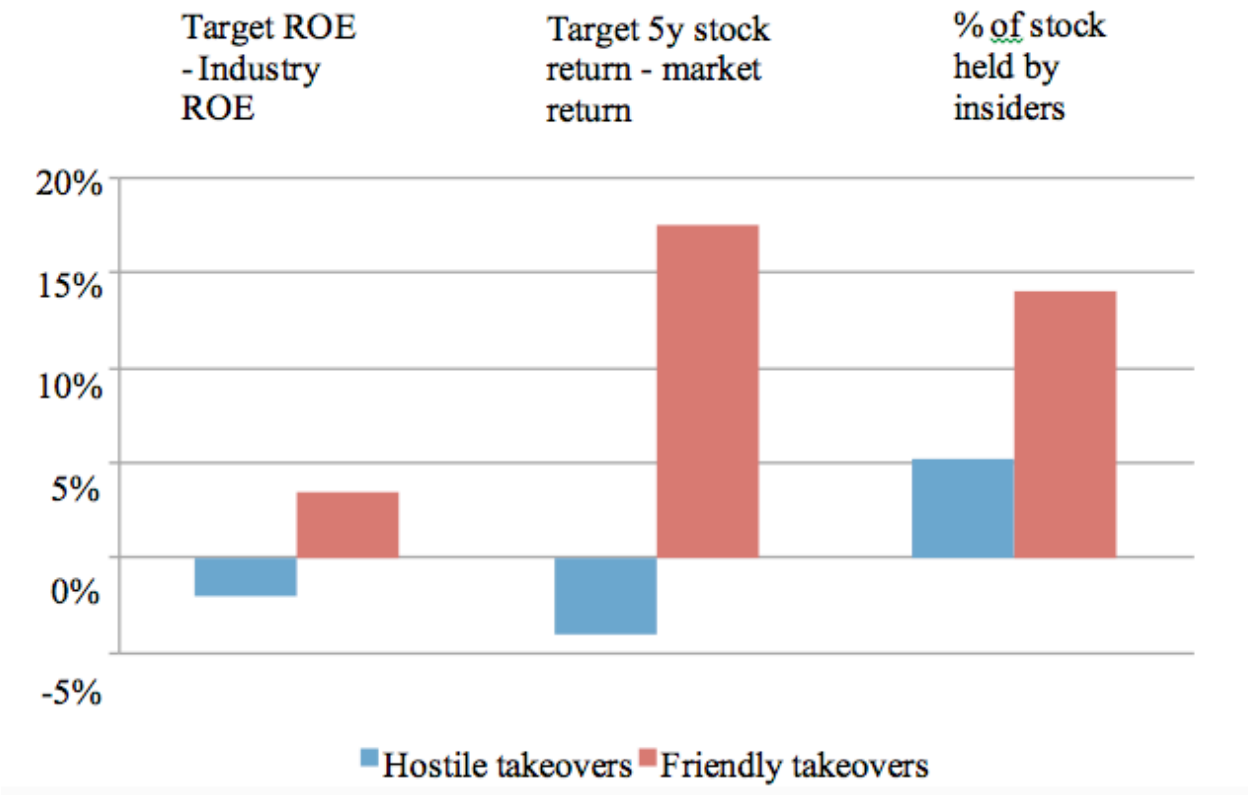
Table 1: Valuing an acquisition Summarized (D. Zeng, B. Lev, 1998)

Component	Valuation Guidelines	Should you pay?
Synergy	*Value the combined firm with synergy built in*. This value may include a. a higher growth rate in revenues: *growth synergy* b. higher margins, because of *economies of scale* c. lower taxes, because of tax benefits: *tax synergy* d. lower cost of debt: *financing synergy* e. higher debt ratio because of lower risk: *debt capacity* *Subtract the value of the target firm (with control premium) + value of* *the bidding firm (pre-acquisition). This is the value of* *the synergy.*	*Which firm is indispensable for* *Synergy?* - If it is the target, you should be willing to pay up to the value of Synergy. - If it is the bidder, you should no
	Value the company as if optimally managed. This	If motive is control or in a

Control Premium	will usually mean altering investment, financing and dividend policy: Investment Policy: Earn higher returns on projects and divest unproductive projects. Financing Policy: Move to a better financing structure; e.g. optimal capital structure Dividend Policy: Return cash for which the firm has no need. Practically, 1. Look at industry averages for optimal 2. Do a full-fledged corporate financial analysis	stand-alone valuation, the sum of the control premium and the status valuation is the maximum you should pay.
Status Quo Valuation	Value the company as is, with existing inputs For investment, financing and dividend policy.	If motive is undervaluation, the status quo value is the maximum should pay.

Previous Scholarly works of Aswath Damodaran reason that "hostile takeover targets are more likely to underperform the market and get undervalued by the market and enjoys less independence (higher agency cost)". This is also backed by empirical evidence that has been evaluated in the figure below.

Figure 2: Empirical evidence (Aswath Damodaran, Acquisition Valuation)



2.6 Hostile Takeovers: Bid Premium

In any hostile takeover process, a bid is to be made to the shareholders of the target company. This bid offer comes at a bid premium (a premium to the current market price of the stock of the target). This is usually incorporated so as to create & receive a positive response from the target shareholders and to offer them a value accretion in return for their stake of shareholding of be acquired by the acquirer. The size of this bid premium ideally depends on the acquirer's willingness to pay for the target and is usually less than equal to the amount of synergies the acquirer aims and hopes to generate out of the business post-acquisition of the target so as to be financially feasible for the acquirer. This premium can range from 15-30% in some markets whereas it can be as high as 30-45% in some others.

Defense tactics serve a strategic purpose of not only preventing the hostile takeover but also in sense to make the bidder increase the bid premium. Usage of legal actions by the target company in preventing a hostile takeover can lead to provocative competing bids as well as an increase the bid premium (Jarell, 1985)

2.7 Hostile Takeovers: The Process

A study made in the UK between the years 1996 and 1999 concerning hostile takeovers and the bid premiums, shows a weak relationship between defense tactics and increases in the bid premium. Apart from using a White knight as a defense tactic, the target company's ability to increase the price offered by the hostile bidder using different defense tactics or strategies, is rather restricted. The study points out that an increase in bid premium is more driven by competitive bidders or the overall market condition. (Schoenberg, 2003)

We utilize this sub-section to throw light on the next step of our analysis, the discussion of the hostile takeover's process. This refers to the fact that we would be embarking upon the step by step analysis of the various tactics adopted by the acquirer & thereby the subsequent reactions observed from the target, so that the process of hostile takeovers is made familiar to the readers.

Over the 3 decades of Takeover defenses activities that have been observed & recorded by scholars, we can infer & further comment that the major initiatives that are taken by the bidder to start the hostile takeover process can be boiled down to three major tactics or methodologies. These are namely: Bear Hug, Tender Offer, and Proxy Fight. We discuss & throw light on each of these individually in the next few paragraphs.

2.7.1. Bear hug

The main motive of the acquirer/bidder through the adoption of the bear hug strategy is to clearly & publically convey its interest in taking over the target company. This is generally (potentially) followed up by a tender offer to the acquirer board. Although it sends a clear market signal about the intensions of the bidder in its endeavors to pursue the target, yet this strategy leaves some scope of maneuver for the target & could have a negative impact for the bidder. This is due to the fact that this public announcement of the bidder's intention makes the target aware of the exact circumstances at hand & provides it ample time to implement & adopt antitakeover defense strategies (reactive ATPs) so as to prevent the bidder in acquiring control, incase the target is not interested in such an offer.

Before initiating an offer of any kind, bidders might express explicitly their interest in acquiring the target and imply a potential tender offer. The bear hug strategy would place a strong pressure on the management via a public announcement of potential offer. By making the intention and price publicly known, target's board of directors has less room for manipulation.

Generally, bear hug strategy is used in acquisitions where the bidders have realistic possibility to close the deal with board's consent. Otherwise such a strategy would in fact work against the bidder by giving more time for target to implement anti-takeover defense, which is the opposite of the blitz attack usually adopted in hostile situation.

2.7.2. Tender offer

The bear hug strategy is followed up usually by a Tender offer, or a formal bidding process by the acquirer, whereby the acquirer directly offers to purchase the shares of the target shareholders at a price in synchronous to the market price prevalent of the target and thus approaches these target shareholders directly instead of approaching the target management or board. This tender offer can be a binding offer whereby shareholders can tender their shares, but incase a certain minimum threshold percentage is not reached (for instance, majority stake for the acquirer) then the offer can be withdrawn too.

Since the tender offers are targeted directly towards the target shareholders and thus bypasses the target management, even if they are in opposition. Thus, the target shareholders can themselves decide as to whether the premium at which the acquirer is willing to purchase their shares is a fair price. Further, in some cases the acquirer adopts a two-tiered tender offer strategy. A two tiered-tender offer, also popularly known as front-end loaded offer is a medium of acquisition whereby the acquirer offers to purchase the shares of the target in two blocks, the first one at a higher premium offered (hence the name front-end loaded) and the second block, if required to obtain majority control, with a comparatively lower premium. Thus in a tender offer, the shareholders of the target face not only the prisoner's dilemma as to whether they should tender their shares or not, but also regarding the two-tiered tender offer.

2.7.3. Proxy fight

In cases whereby the management of the target rebuffs the acquirer in its endeavors of acquisition, the acquirer can resort to certain means such as a proxy fight. The basic idea behind a proxy fight is that since the board of directors are the one's overviewing the activities of the firm & the management, thus they are the one's responsible for selecting the best feasible management to run the company. It thus becomes a mean for the acquirer to have their way with the board of the target wherein if the acquirer has significant influence with the board of directors of the target or if they can gain majority of votes on the board of target, then they can oust the current acquisition-repellant management thereby turning the hostile acquisition into a friendly one by bringing in a management that favors the acquisition or by voting a majority in favor of the acquisition in the board meetings. Staggered board is one of the measures adopted by firms to prevent such an incident from occurring. Using the proxy fight measures, the acquirer could potentially use the voting rights to cancel the anti-takeover defenses adopt by target to prevent such acquisition.

"In a proxy fight, a bidder may attempt to use his voting rights and gain support from other shareholders to oust the incumbent board and/or management (Patrick A. Gaughan, Mergers, and Acquisitions & Corporate Restructures)"

2.7.4. Process of hostile takeover

Thus looking back at the takeover methodologies, we can summarize that, the takeover process could be initiated in manner as summarized below:

1) Friendly Takeover: Bidder makes an acquisition offer (price p) which the insiders accept or reject.
2) Hostile Takeover a) Bidder makes a public tender offer at price p, which the target shareholders could accept or reject.
3) Hostile Takeover b) Bidder makes a public acquisition offer (price p) which the insiders accept or reject. Further, incase the insiders reject it, comes down to whether the shareholders accept or reject in the subsequent step.

Thus in conclusion, we have say that ideally for a target to prevent a hostile takeover, there can be two broad categorization of action implemented: to keep a check on the insiders (such as the board of directors) as well as to take necessary actions that make the offering of tenders, by shareholders directly to the acquirer, unattractive for either or both of the parties i.e.: acquirer & shareholders of target. Further the target could themselves make a better offer to their shareholders so that it incentivizes the shareholders to reject the acquirer's offer.

2.7.5. Implication of hostile takeovers

Hostile takeovers tend to have different implications for all the parties involved. We will justify this claim (affirmation) in the following paragraphs. In general, companies subject to takeover threats are those that are undervalued in the market, or the one's being run by a poor management, which when replaced could lead to value creation & operational efficiency. Many Scholarly works have been done to support this argument and have successfully verified these claims with empirical evidence.

As agency cost theory explains, interests' b/w shareholders and management may not always be aligned. Shareholders view takeover threat as a disciplining factor to discipline management to run the firm efficiently, since in the contrary case could lead to management replacement by the acquirer. But the role of the management in terms of takeovers can be ambiguous. In one sense, they could fear losing their jobs & the incentives associated with them incase a takeover occurs, whereas on the other hand they are the agents that make the bidder reassess their offer (w.r.t premium, price) when they reject offers that are not in the best interests of the shareholders thus leading to a better offer from the bidder.

On the other side, generally a hostile takeover process is not only risky but also very time consuming for the bidder. As mentioned above, bidders tend to increase their offer prices incase of rejection of offer by target management. Empirically, It has been observed that the higher gains made by the target shareholders (in form of the premium received) come at the expense of a reduction in the return and value of the acquirer shareholders (Shivdasani, Journal of Financial Economics 1998). Further, a longer process leads to more resource consumption for the target in terms of legal, advisory costs as well as its impact on the market reaction (share price impact) of the bidder due to repetitive unsuccessful attempts.

When looking at the social aspects of the takeover and takeover defense strategies, we can intuitively observe the double effect created hereof. Synergies serve as a value accretive factor in the post takeover scenario. Further, the target being taken over by acquirer for improved efficiency of operations & a leaner organization with better management would be a positive social consideration, since the acquirer, using the same asset base creates for a better management operations of the firm & thus creates an added value. On the Contrary, the defense mechanisms in place serve the purpose of preventing the acquirer/raider with short term vision of exploiting the resources of the target & creating better financial prospects for themselves rather than the focus on long-term successful operations of the firm.

SECTION III: Anti-Takeover Defense Provisions (ATPs)

3.1 Introduction

The Takeover defense mechanisms have peaked since 1980s with the development & implementation of two different type of defense strategies: reactive & precautionary. The preventive measures are those which reduce the likelihood of a potential takeover whereas the reactive measures are those which are brought into implementation if any action of takeover occurs on the target firm. Due to different restrictions pertaining to a specific legal system, some of the defense mechanisms may or may not be effective in a particular country. Thus incorporation of these takeover defenses also relies on the geographical scope of operations for a firm.

The preventive measures, also regularly recognized as pre-bid defense tactics are the measures taken by target firm before any takeover attempt is made on the firm, with the viewpoint of long term safeguarding interest of the firm. On the other hand, reactive measures or more popularly known as the post-bid defense mechanisms are those which are adopted in the event of a takeover attempt on the target firm by a bidder. The long term defense mechanisms are viewed as a way of making the target unattractive for takeover by a bidder, so that the firm's management can channelize their resources & focus on effective running of firm's operations & value creation whereas the short-term defense tactics are seen as an attempt to defeat the bidder in its attempt to takeover the firm or to provide resilience against such an attack.

When looking a major markets, a study conducted by Schoenberg & Thornton in 2006 reveals that the target company in the US market is more likely to avoid a hostile takeover if the company has implemented a pre-bid defense mechanism, but in the UK market a company with a post-bid defense mechanism is more probable to overcome a hostile takeover attempt.

We divide this section, into two sub-sections, each covering pre-bid defense mechanisms as well as post-bid defense mechanisms respectively. Before looking into each of these two sub-sections, we hereby categorize the various defense tactics in each of these two categories. It is worth noting that a share repurchase program (defense tactic) can be viewed & implemented both as a pre-bid & post-bid defense mechanism. In view of its relevance skewing more towards a post-bid defense mechanism, we have added it to latter category.

Pre-bid Defenses	Post-bid Defenses
Blowfish	**Attack the logic of the bid**
Poison Pills	**Corporate Restructuring**
Share Repurchase	**Crown Jewel Defense**
Shark Repellants	**Greenmail**
	Management Buyout
	Pac-Man
	Positive Publics Info
	Share Repurchase
	Scorched Earth
	White Knights, White Squire

Table 2: Pre- and Post-bid Summary

3.2 Pre bid Defenses

As discussed previously, Prebid defense mechanisms are the ones adopted so as to make the target unattractive to the potential bidder. Further they serve as value maximizing for the shareholders. Since the shareholders are satisfied by maximizing the shareholder value thus the incentive for change in corporate control is reduced. Corporations can skillfully utilize their share structure, as a pre-bid defense tactic, to reduce the attractiveness of themselves.

For instance, by utilizing employee shareholding scheme, corporations can build a shareholding structure that supports the management. Further, companies very frequently use a debt financed share buyback program to lever up and thus reduce the attractiveness of the firm. Good long-term public relations also serves as a credible pre-bid defense mechanism in a sense that the communication of the full financial and social value of the company builds loyalty to the existing management and board. (Schoenberg & Thornton, 2006)

3.2.1 Blowfish

One of the defense mechanisms adopted by firms which incorporates a strategy whereby the company focuses on buying new assets so as to grow its asset base & leading the firm towards growth focus thereby reducing the liquid asset base of the firm & potential excess cash at hand. This acquisition led growth strategy leads to an increase in firm value.

The primary logic behind this defense mechanism is that the higher firm value can potentially intimidate the bidder from pursuing their course of acquisition, since the increased (higher) firm value would lead to a higher price & thus premium to be paid in the course of acquisition. Thus an acquirer with limited financial resources is thus limited in carrying out the acquisition. Further, the reduced liquidity of the assets serves as a secondary aid in rebuffing the acquirer by limiting the attractiveness of the target company.

3.2.2 Poison pill

Poison pills has been historically seen as one of the most effective pre-bid defense tactic. The basic idea behind poison pills is that it entails creation of securities carrying specific rights which are triggered incase of a hostile takeover attempt. These special privileges entitled securities are levied upon the board and/or the management of a target company so as to enable them to fend of a bidder incase of a hostile takeover attempt.

But the corporate charter of these poison pills is defined in such a way that they can be withdrawn or taken back in scenarios where the acquisition process is a friendly one, and thus the target firm runs the risk of being turned down by a friendly bidder. This flexibility in taking back the poison pills makes the company attractive to a potential friendly takeover.

We now spend this section to discuss some of the very frequently implemented poison pill strategies. A Call-Option Plan is a common poison pill strategy. As in the case of a plain vanilla call option, the owner of the call option is entitled to an option to purchase the share of the issuer on or before a predefined schedule, depending on whether it is an American or European call option. These call-option strategies can be of two types:

a) flip-in call option poison pill strategy

b) flip-over call option poison pill strategy.

In case of a Flip-in call-option poison pill strategy, the board of directors as well as the management are envisaged with an option to purchase the shares of the target company, at a discounted prices, and are most frequently exercised incase of a hostile takeover attempt. As a result, the bidder's holding in the target company is diluted as the target shareholders, management exercise their call option. Thus the control of target company is redistributed in favor of the target management & board.

In the other case, a flip-over call option poison pill is the scenario whereby the call options are placed on the acquiring company by the target firm. The basic idea is that the target board & management adopt a strategy where they defend the target by buying large blocks of shares in the bidder (acquirer) company through call options. These flip-over options are frequently exercised post the completion of hostile takeover so that the target company can own a large shareholding in the combined new established entity. Thus this strategy makes the target company less attractive in terms of a hostile takeover since the target management & board can access this strategy in case of a hostile takeover attempt.

Just as we have discussed that there are two different mechanisms to use a call-option plan as a hostile takeover defense strategy, similarly there are defense mechanisms based on put-options too. The put option plans give the option holder a right to sell shares of the hostile bidder. Thereby they provide the holder with an option to sell their shares to the target company so as to eliminate the hostile acquirer. This results in a situation whereby the hostile attacker has to pay a high premium price to do away with these put options or else it risks loosing control of the target. Although their mechanism is just the reverse of call-option plans, yet put option plan are less frequently used in comparison to call-option plans.

It is also noteworthy that a specific type of poison pill mechanism is used in post-bid or reactive measures too. The exploding poison pill, as the name suggests creates an explosive effect as to when the acquirer makes a bid to acquire the target. This specific type of poison pill is a call option that comes with exclusive rights to huge dividend payments in the future. Since this could be potentially very costly for the target, thus they are implemented post hostile takeover bid and thus serve as an expense for the acquirer and not the target.

3.2.2.1 Effectiveness of poison pills

As discussed above, poison pills serve as an effective medium for fending off raiders. Yet to analyze its effectiveness, we need to analyze its effect in different prospects. Since it does not necessarily require shareholder approval, therefore it is easy to implement but comes at a striking observation from the shareholder's perspective. Poison pill essentially serves a dual purpose, pushing up the bid price as well as fending off the incoming raider. Therefore, in deciding whether to incorporate poison pills, the firm management, shareholders need to take into account the following two essential queries. Firstly, the chances of being taken over post implementation of poison pills as well as their impact. Secondly, whether it is a value accretive or value destructive proposition.

To answer the first query, we have significant empirical evidence from the studies conducted by Georgeson as well as from Varaiya, 2000. Each of these studies individually infers through empirical observation that firms with poison pills implemented tend to receive higher offers in terms of premium on the share price at the time of acquisition. Further, implementation of poison pills does not essentially reduce the probability of takeover since it is in itself not a comprehensive strategy to fend off a determined raider. We will discuss the shortcoming of poison pill in the next sub-sections. Further, to look into the fact whether poison pill is value destroying or accretive, there have been several studies conducted that refer to stock price movement. Most of these studies suggest that there has been a slight negatively correlation b/w poison pill implementation and stock price movement. Although one can take forward this view, yet, it is essential to note that stock price movement is a sensitive proposition that is factored and affected by multiple company as well as market factors, thus to study the impact of stock price effect and comment on shareholder value accretion or loss is at best a mediocre methodology. We leave this topic for further research implications.

3.2.2.2. Vulnerability of poison pills defense

Our analysis till now has helped us infer that poison pill is an effective mechanism for takeover defenses, its implementation potentially increases shareholder wealth more than the negative impact on value than it may cause. Despite the effectiveness of the poison pill strategy in being an effective ATP, there are certain issues that are related to this strategy that can be potentially harmful.

We now discuss these shortcomings. Firstly, in case of poison pill being triggered (or implemented) the acquirer can potentially question and challenge, in a court of law as well as with the regulatory authority, poison pill's purpose based on the ground that these are adopted by management so as to get higher offers for the target rather than being in the best interest of shareholders (the primary purpose of Antitakeover defense provisions). Another major flaw with the poison pills is that it is essentially a comprehensive strategy that can prevent an acquirer from pursuing the takeover on a standalone basis, apart from the fact that its dilutive effect makes it difficult for the firm to even adopt other defense mechanisms such as white knights, white squires among others. Finally, the in-built provision that the poison pills can be deactivated incase of an approval from the target board.

As an ending note to conclude about poison pills, we can say that although an effective mechanism, yet poison pills cannot stop a determined acquirer from pursuing the target. This does not question its effectiveness, since the dilutive effect associated with poison pill is immensely essential, to the extent that the acquirer may not pursue the target without deactivating the poison pill first.

3.2.3 Shark repellent

This Strategy is a pre-bid defense means by which the target company resorts to some measures that make it less attractive for a potential acquirer or bidder.

The most frequent strategies that are collectively termed as shark repellants include golden parachutes, dual class board as well as staggered board techniques we will discuss each one of them in detail in the coming paragraphs.

Golden Parachute: The golden parachute is a provision, or in a sense an additional compensation provided to the management if the company is taken over by an acquirer and/or if the management is forcefully replaced by the acquirer or relieved of their duties. It provides a large provision to the management which may include cash or stock compensation or both. Thus it serves as a costly provision for the acquirer who has to bear these expenses. Golden parachute strategy may not be viewed as quite effective in the view of the acquirer, given the fact that they are paying a premium to acquire the target, thus they are willing to spend a little extra on the outgoing management team for the compensation package, as then they can bring in their own management team to best serve their interests.

3.2.4. Corporate charter amendments

As we discussed earlier, proxy fight serves as a tactic that is implemented to overcome the poison pill mechanism and serves an s a takeover tactic implemented by the acquirer. Such a strategy among others such as supermajority, dual class recapitalization, and staggered board serve as corporate charter amendments. These Corporate Charter amendments are essentially the strategies that require the approval of the target board and/or shareholders. Thus winning the majority votes on the target board and/or their confidence is essential for these.

3.2.4.1. Staggered board

This is one of the very effective pre-bid defense strategies incorporated in the corporate charter of firms to prevent a hostile takeover attempt or to retaliate it in the best plausible manner. The basic idea behind a staggered board mechanism is that it prevents the complete board to be replaced at the same time. For instance, some of the members are elected for a period whose term ends at a year that is different from the term completion of the other board members. Thus not all of the board members can be replaced or won over by an acquirer in an attempt to gain corporate control over the target. The acquirer thus has to wait or keep pursuing the target for two or more years consecutively so as to get a majority at the board.

Thus this mechanism fends off hostile attackers, since there would be few highly motivated acquirer's willing to pursue the target for multiple years consecutively to gain control of the target.

3.2.4.1 a) Effectiveness of staggered board

Despite being a strategy that is in widespread use in firm's corporate charters, yet staggered board as a defense measure serves as a moderate defense strategy. This claim is based around the fact that on a stand-alone basis, in cannot essentially prevent an acquirer from pursuing the target but can only delay the process. Further the costs associated for a staggered board over-ruling from the perspective of an acquirer can be difficult since it would take a longer time to overcome such a strategy therefore, with time the revelation of financial information and operational performance of the target may or may not keep the acquirer interested in pursuing it. Many Scholarly works have been done to study the effectiveness of staggered board, most of these are based on finding evidence as to what the stock price reaction is upon implementing such a strategy. Studies conducted by DeAngelo, Ruback as well as by Jefferies each of them individually found a slight negative, to the tune of -1%, reaction of staggered board implementation with stock price. This can be argued as statistically insignificant/significant depending on the argument whether the stock price movement essentially represents the reaction to the strategy alone or is modeled by other factors too. Despite these shortcomings in a staggered board mechanism in terms of its effectiveness in fending off an acquirer, it is essential to note that certain variations of staggered board mechanism can be further effective as a defense measure. Further, the interaction of staggered board with other defense strategy(ies) can plausibly be an overall effective defense provision. We discuss such proposition in the coming paragraphs, in the form of effective staggered board as well the interaction of staggered board with poison pills.

3.2.4.1 b) Effective Staggered Board

Effective staggered board is a modification of the staggered board mechanism that makes overcoming the staggered board, a far more tedious process than in the first place. In a staggered board, the acquirer can potentially get a board approval to dismantle the defense but in effective staggered board this provision is ruled out and thus the acquirer has to spend two years in acquiring a majority on the target board so as to gain majority on the target board. This not only does remove the inpatient acquirer out of the scenario but also increases the risk associated with the process, since in two years, the interests of the acquirer may or may not be stable and the operational performance and market view about the target may potentially change thereby changing the acquirer decisions possibly.

3.2.5. Interaction of staggered board with poison pills

As we have previously discussed the effectiveness of staggered board, effective staggered board as well as poison pill individually, we observed that these strategies although effective in a sense but are strategically possible to be mended and/or overcome based on their respective shortcoming. However, an interesting finding is that a combination of these mechanisms could potentially prove to be a stronger and more effective defense mechanism. We discuss these interactions in this sub-section.

A poison pill and an effective staggered board could potentially serve as a lethal defense mechanism. This can be explained as follows: a poison pill can be overcome with a proxy fight or by convincing the majority of shareholders to tender their shares. However, since (effective) staggered board allows only a part of the target board to be replaced at once therefore the acquirer cannot stage a proxy fight for at least a period of two years, the time which will require to get a majority on target board. A poison pill is such an effective defense tool that no bidder would launch an attack without deactivating the poison pill because of the tremendous dilutive effect in the contrary case. It is possible that a scenario arises whereby an offer never reaches the shareholders and the directors have the discretion to reject offers at their own discretion (thereby an increase in implicit agency costs between shareholders and directors of board). Therefore, there arises a situation in which it would not be optimal for the bidder to pursue the target in a hostile manner. The only solution for the bidder in such a case would be to make an offer that is acceptable for and by the directors so as to turn the process into a friendly one. In conclusion, an effective staggered board and poison pill combination serves as a very comprehensive defense mechanism that prevents takeovers and would potentially give in, incase when there is huge increase in shareholder wealth through an improved offer.

3.2.6. Dual Class Stock:

The main idea behind the dual class stock defense mechanism is that, a firm can float two different kind of stocks in the market. The ones with significant voting rights as well as the others without voting rights. Thus the management or board can hold a majority of these voting rights stock whereas they can freely float the stocks without the floating rights to investors. Therefore the management & the board can keep a good control of the company.

Scholarly works have shown that although these strategies, collectively referred to as Shark Repellants can prevent a hostile takeover, yet they also come at a cost to the target company who bears their expenses until the time an actual hostile bid occurs.

3.2.7. CONCLUSION OF Preventive (pre-bid) Defense Strategies

In this section we have investigated and prepared a comprehensive literature review of the various pre-bid defense mechanisms. Having analyzed all these, we can make the following inferences. Firstly, in terms of the effectiveness, ease of implementation, scope, as well as impact on shareholder vale, we can conclude that dual class capitalization as well as effective staggered board are the most efficient preventive defense measures, followed by poison pill, on a stand-alone basis. The other defense strategies although effective, have certain shortcomings and vulnerabilities that leave a possible opening to overcome them or in certain cases their impact is significantly negative on shareholder value. One interesting finding is that an interaction of some of these pills, or rather a combination of some of these strategies put together can serve as an efficient and comprehensive defense strategy that makes overcoming them and thus taking over the target a very difficult task indeed. An example of such a combination is the effective staggered board in combination with poison pill. We have further summaries the various defense mechanisms in the appendix for the further reading and quick reference of the reader.

3.3 Post bid Defenses

As described previously, post-bid defense mechanism are those, which are implemented after a hostile bid is launched on the target company. These are the specific responses that the target company takes so as to counter the aggressive & hostile nature of the acquirer's strategy and are responsive to the acquirer's attack strategy. There are multiple of these post-bid mechanisms each of them specific in response to the acquirer's strategy such as corporate restructuring, white knight, white squire, attacking the rational or logic of the bid among others. We now take a look at each of these defense mechanisms to further understand their ideology and functioning.

3.3.1 Attack the logic of the bid

As the name suggests, this method focuses on convincing the shareholders of the target company y its board & management that the bid might not be fruitful for the target company or for the combined entity post-merger. The rational used by the management to convince the shareholders includes but may not be limited to these reasons: the acquirer is pursuing the target only for their short-term interests and not for the long-term sustainability of the target firm's operations. They could also argue that the businesses of the two firm's are not in synchronous and thus there would not be synergies or as much synergies as anticipated by the acquirer does the deal does not make much significance. Although, this is a very cost effective & simple strategy yet, it runs the risk of backfiring since if the board or management is not able to fully convince the shareholders about the adverse effect of the combined merger, then the shareholders could also believe and act in a manner that the management & board is interested in serving their own interests and keeping their positions.

3.3.2 Corporate Restructuring and Reorganization/ Recapitalization

Another useful post-bid defense mechanism is that of corporate restructuring and/or reorganization. Target firms incase of hostile attack tend to act by resorting to measures such as disposing of assets that are of prime interests or that serve the interests of the acquirer. Thus this deters the interest of the acquirer. Further, target firms could shift their focus from a business line to another in a sense that they restructure their focus on the line of business that is less attractive to the acquirer and exit the business that are attractive for the acquirer.

Further, firms could also resort to take private measures, or pursue an acquisition that could be less attractive for the acquirer or be a business that the acquirer may not be interested in. take private serves the interests of the shareholders as well as the management in a sense that target firms go private by purchasing back their shares at a premium price compared to the current market price as well as the management gets to maintain its control on the business operations.

Crown Jewel Defense: Target companies sometimes resort to measures such as disposing of valuable assets that are most attractive from the acquirer's perspective. Further, the cash proceeds from these acquisitions may be used to invest in further post-bid defense mechanisms or reactive measures, thereby hurting the cause of acquirer. This not only voids the cash balance (an attractive prospect from the acquirer's perspective) and thus weaken the firm's borrowing ability and liquidity.

3.2.2.1. Mechanism and vulnerability of recapitalization

A target company can bring about changes to its capital structure to make itself less attractive to the acquirer, such a mechanism is termed as reorganization or recapitalization. This can be implemented in two ways. Firstly, by raising the amount of debt and thus realigning the financial leverage and capital structure of the firm so as to make it highly levered (reduces attractiveness) as well as a potential credit risk associated with such a firm. Secondly, firm may resort to issuance of further equity to not only change its capital structure, but also increase the amount of spending that the acquirer will have to spend to pursue the target and acquire a majority stake in it.

In the first scenario, firms usually raise additional amount of bank debts or issue bonds so as to pay exceptional (one-time only) dividends to its shareholders. Ideally, a low level of debt and/or a strong operational cash flow firm is viewed as a takeover target. This is based on the reasoning that the acquirer can raise additional debt to pay for the acquisition for a low levered (low indebted firm) whereas strong stable cash flow firm would serve an ideal purpose to pay back the interest and the debt service expense incase an acquirer pursues such a target. There are certain limitations that come in with a recapitalization strategy. For instance, incase of raising additional debt (bank loan) firms have to adhere to certain covenants imposed by the banks that are restrictive in nature and could potentially limit raising further debt and or operational flexibility, as well as come in with regular monitoring of the firm's operations and financials by the debt issuing banks. The additional debt raised could also impact the firm's operational stability, its interest and debt paying capacity and could potentially lead to a situation of financial distress.

As a second alternative, target firm can issue more equity so as to increase the amount spend/ cost incurred by the acquirer in pursuing the target. The effectiveness of such a strategy can be questioned in certain ways. Firstly, firms usually issue shares when the management believes that they are overvalued. In case of using share issuance as a reactive defense mechanism, the timing of share issuance can be subsided by its actual essence. Further, the issuance of shares dilutes the stake holding of nonparticipating shareholder's equity, and thus the may be opposed to such an issuance in the first place. Further, since a share issuance is followed up with a market reaction of a decrease in share price (signaling theory) therefore it is based on a comparative analysis as to comment whether the reduction in share price is overtaken by the increase in number of shares, so effectively whether the cost for the acquirer increases, increases substantially or if it does not.

In conclusion, it is imperative to not that although recapitalization and restructuring create certain obstacles for the acquirer, yet the incumbent shortcomings as well as the risks associated with such strategies don't make them essentially an effective or efficient defense mechanism.

3.2.3 White Knight & White Squire

White Knight and White squire strategies are based around the idea that the target company is more receptive to a friendly firm and thereby to a friendly takeover as compared to a hostile takeover attempt by an acquirer.

White knight strategy is one whereby the target firm seeks another bidder that serves the target company's interests as well as matches the hostile acquirer's bid so as to outbid it in the acquisition. This is a necessity in terms of white knight strategy, given the fact that it is the fiduciary duty of the management and board to act in the best interest of the shareholders. Thus beating the hostile acquirer's bid by the white knight is a necessary prerequisite. The rational that drives the motivation of a target company to be acquired by a white knight and not by a hostile acquirer is that the white knight would potentially agree to favorable terms with the management and the board such as not divesting or disposing of certain lines of business or even continued operations in certain business lines, not selling of the target company in parts or pieces, continuing on a similar business strategy and acting in the long term running of the target company's business as a going concern in contrast to a hostile acquirer who might be short versioned in terms of the target firm's business prospects and could act so as to serve their own best interests only.

A limitation of the white knight strategy is that although technically it seems feasible yet finding a white knight at the time of hostile attack and who further agrees to these special terms (if any) of the management & the board, while outbidding the hostile acquirer and thus paying a large premium to acquire the target. Finding such a white knight is seen as a difficult task for the target management. Further, it might so happen in some case that the friendly white knight might turn into a hostile acquirer post acquisition or may sell off its stake to the hostile acquirer, thus worsening the situation for a target company.

Another modified version of the white knight strategy is the white squire strategy whereby the target firm finds a friendly company that is willing to buy a significant chunk of the target company's share, but not a majority stake or taking control of the whole company. The intuition is that the white squire purchases a block of target company's shares, and with it the voting rights allocated to these shares, thereby aiding the target company in fending off the hostile acquirer by outbidding the acquirer in the voting scenario. These shares sold to the white squire come in with a constraint that limits the sale of these shares to a third party for a specific period of time, since in absence of such constraints the strategy bears the risk of failing incase the shares are sold further to a third party or even to the hostile acquirer. In return for agreeing to such constraints, the white squire receives favorable terms from the target company which could include payment of exceptional dividends, discounted price in purchasing this block of shares or a seat in the board of the target firm.

3.2.4 Crown jewel & Scorched Earth defense

Generally, the acquirer before launching a hostile bid on the target analyzes the asset base and operations of the target thereby valuing it at a certain figure based on which the acquirer makes the acquisition offer. The target, in a way to retaliate to this acquisition by the acquirer, adopts a strategy wherein it (target) sells off some of the prime assets or businesses (frequently termed as crown jewels) to a third party or in the market. The idea is to make the target less attractive to the bidder by getting rid of the main assets of interest for the acquirer. This reduces the value of target in the view of the acquirer and thus could potentially lead to the acquirer backing off in the hostile bid attempt. The target can sometimes even sell these prime business assets to a white knight on a special arrangement to buy back later or in a sale & lease agreement where the asset is sold to the white knight but is immediately leased back by the target for use by itself. There are certain limitations that come across along with this strategy, for example, when the target firm sells of these prime assets, it becomes cash rich. Although it might become less attractive to the particular acquirer in question but a cash rich company is also a potential target for acquisition or a hostile takeover.

Scorched earth is another strategy that is in close synchronous with the crown jewel strategy. Its main objective is to make the target unattractive for the acquirer, when the hostile takeover is still in process. The target attempts to sell all the valuable assets that it owns so as to resist the hostile takeover attempt. Since it is very similar to the crown jewel strategy, this strategy bears a similar level of risk for the target since selling out important assets would reduce the company value & thus the shareholder value, whereas when the target succeeds in retaliating this hostile takeover attempt then the shareholders are eventually left with low or not much value shares of a company. Thus the target company runs the risk of its operating activities, and thus its solvency in the long run.

3.2.5 Share Repurchase

Before we dive in to discuss the credentials of a share repurchase program as an effective defense mechanism, it is important to note that share repurchase program are not solely intended to be a defense strategy. For instance, In the case where the management of a firm believes that its shares are undervalued in the market and are trading at a price lower that their actual value, then the management adopts a share repurchase or share buyback strategy to signal to the market participants that they believe that the shares are trading at a lower price as compared to their fair value and thus the management shows confidence in their firm's stock by buying them back. Other reasons for firms in buying back their shares include the rational for increasing internal control of the firm, as well as to increase the earnings per share of the stocks.

Now we come back to the primary question about the share repurchase program as a defense mechanism. A share repurchase program can be used both as a pre-bid and post-bid takeover defense based on its nature and effect. Yet we discuss it here in the section for post-bid defense strategy keeping in view its further relevance as a post-bid defense strategy. The share repurchase program not only increases the share price but also decreases the liquidity of the shares in the market thereby making it immensely difficult for the acquirer who will have to purchase these limited number of shares now as well as at a higher price. Thus is highly feasible as a defense mechanism for a target and can be easily implemented provided the target has the required sources of funds available. Further, the target firm can implement the share repurchase program in two different ways: firstly by offering the present shareholders to buyback the shares at a specific price, and secondly by purchasing the free-float shares themselves from the market.

3.2.6 Greenmail

A specific category of share repurchase program is termed as a greenmail strategy, in which a targeted share repurchase from a specific set of shareholders is undertaken by the target company. The repurchase of these shares is done at a premium to the at present market share price.

The idea behind the greenmail strategy is that a firm with or without the intention of pursuing a takeover might buy a large chunk of shares in the target company. Thus the target firm, is forced to pay a premium price to this specific segment of shareholders so as to prevent them from pursuing a hostile takeover. Further, this specific set of shareholders then agree to not buying a specific amount of shares in the target company of specific period of time. There have been examples in the past wherein a company who might not have an intention to pursue the target company buys a chunk of shares in the target so as to force the target to buyback these shares at a premium price to avoid the threat of a takeover and thus such a company earns a premium by adopting this strategy. It is now imperative to discuss that the term greenmail, is more a combination of green (dollars) and blackmail.

3.2.8 Management buyout

A management buyout as the name suggests is a strategy in which the management of the target company buys a specific amount of shares in their own company so as to fend off a hostile acquirer. As seen in an LBO an MBO is also backed by taking on additional debt by the management of the firm. MBOs can bring double effect for the target company, on one hand they serve as an effective strategy to put off a hostile takeover from an acquirer, whereas on the other hand it could also trigger a reaction from the market due to the incumbent management strategy and thus could attract other possible bids. Since this strategy is backed by a lot of debt as in the case of an LBO, thus it becomes a necessity for the firm to take relevant actions so as to generate lean operations & thus amortize the large amount of debt undertaken.

3.2.9 Pac-man defense

The pacman defense mechanism derives its name from the famous video game with the same name and uses a rational such as that in the game. Technically, it is one of the most aggressive and further a risky strategy undertaken by the target company. In a pacman strategy, the target reacts to a hostile bid by acting in the exact similar manner as does the acquirer. i.e.: the target pursues the acquirer company by buying shares of the acquirer and thus equally matches the actions of the acquirer like for like. Since both the acquirer and target pursue to acquire each other thus both of them rely heavily on their finances as well as debt to pursue the other. Thus it is a very risky strategy for either of these two since the firm which eventually succeeds in acquiring the other would potentially end up with huge amounts of debt from both the entities combined and would thus face a situation of financial pressure. It is worth noting that the target company, once being pursued by the acquirer may adopt such a strategy when it might be interested in the idea of the merger or combination with the acquirer but would want to be in control of the merged firm.

3.2.10 Positive public information

The positive public information is a strategy whereby the management of the target firm releases good information about the firm to the market so as to have a positive market reaction that would lead to an increase in the market value and share price of the target. This increased market value and share price would make it further difficult for the acquirer to pursue the target since they would have to readjust their valuation of the target firm and thus offer a price to the target shareholders that is in line with this increased share price and also incorporate a premium over this price. Thus serving a detrimental blow to the acquirer’s motives. Further, it also creates a positive view about the company in the market and thus the shareholders are more likely to hold on to their shares rather than engaging in selling of these shares to the acquirer, thus serving the purpose of the target firm.

3.2.11 CONCLUSION OF Reactive (post-bid) Defense Strategies

In this sub-section we have done a thorough literature review of the various reactive defense measures at the disposal of target firms, incase of a hostile attack from a bidder. We have further noted that these reactive measures, if adopted tactfully can buy the target sufficient time to prepare an effective reactive defense as well as in terms of cost-benefit analysis, they are relatively cheaper to implement. Further, when analyzing their effectiveness, ease of implementation, effect on shareholder value, we observe that white knight and white squire can be one of the most effective (and common strategy), provided the firm is able to find one in the first place. Other strategies such as recapitalization, restructuring pose certain limitations and expose the firm to certain level of risks that can have detrimental effect on the firm. We have classified the different mechanisms and their relative easy of use, through a comparative analysis table in the appendix for further & quick reference of the readers.

Section IV: Efficiency of Hostile Takeovers

Having previously discussed about the various anti-takeover defense provisions (preventive & reactive) it is essential to look into the rational for implementing any of them so as to throw light on their efficiency. We now spend our resources on streamlining the rationale put in place for hostile takeover defense mechanism and the representative defense strategies. This will be followed up by their impact on value creation with respect to the various stakeholders.

4.1. Ideology Against Antitakeover defense Strategies Implementation

One major inference that we have drawn from our study of the various defense provisions is that they have proved to be an expensive resource for the firm. Having said that, it is important to learn as to what motivates the firms to adopt them despite these in-built costs that they bring along with.

As discussed earlier, the fact that antitakeover defense provisions are a costly measure can be explained by three critical factors that are: their implication on shareholders' value, opportunity cost and management entrenchment. Having come to the conclusion in the previous section that most of these ATPs are value destroying in primary nature to the shareholders, since the markets react negatively to the implementation of these, there has been significant empirical evidence that the reduction in chances of being taken over and in the disciplinary effect from takeover threat are barely compensated by a higher premium. The opportunity cost refers to the provision on the balance sheet and business interruption when the takeover battle is engaged. Precautionary antitakeover defense measures have been perceived negatively by the capital market. On top of that, it is imperative to note that when firms are engaged in a takeover battle, they tend to deviate from their business strategy and put a lot of financial resources and managerial attention to the bidding offer & thus in fending off the raider. This deviation from business strategy is a huge cost for the shareholders. Also, the fact that managers can prove to be unfaithful representative to the shareholders, in certain cases, determines that most antitakeover defenses are put in place for managers' personal interests.

Since there are multiple factors that support the idea that antitakeover defense mechanisms prove to be a costly endeavor for firm, thus we need to channelize our resources to find out as to why the shareholders of the firm, despite knowing these shortcomings resort to implement the ATPs. Consequently we find answer to this important question in this section. We intend to build upon our inference from the previous sections to come to a conclusive answer to this question. In the coming sections, this will serve as a sound base to reassess our claims as to whether these strategies are value accretive for shareholders

4.2. Rational for adopting antitakeover provisions (ATPs)

It has been observed in recent research works that shareholders of firms prefer adopting precautionary defense mechanisms when the firm is in process to going public. This fact could serve as a starting point basis for digging deep into the rational thought over by shareholders in implementing such strategies.

Empirical evidence reports that firms undergoing IPO have adopted various precautionary measures such as poison pills, staggered boards in the past decades. Research done by M. Coates describes that "only 34% of firms adopted staggered boards at IPO stage in 1991-1992, while the number rose to 66% in 1998 and 82% in 1999". It has also been observed in certain cases that shareholders of various firms are relentless to implement takeover provisions in their corporate charters, which in turn makes management overall a tedious task incase of ineffective management cases.

Having observed such findings, it is imperative to ascertain as to what drives the motivation for shareholders to implement these ATPs in the corporate charter of firms. A basic outlook would be that the benefits associated with these antitakeover defense strategies must be sufficient enough to out shadow the costs associated with them, pertaining to the shareholders.

An explanation for this could be an in built preference for a dispersed shareholding structure. Intuitively, for a minority shareholder, share value would be higher under a de-concentrate ownership as compared to the contrary case. The de-concentrate ownership theory propagates the idea that antitakeover defense strategies encourage firms to incline towards dispersed ownership when there is profitable investment opportunity.

We can explain this using reference to a basic model. With an antitakeover defense mechanism in place, the majority/controlling shareholders will be incentivized to seize profitable business opportunity that will increase the cash flow to the firm, and in turn to them.

Assuming that the investment of CF will increase cash flow to CF+X. All shareholders will eventually gain a value X, in total and the controlling shareholders will earn a fraction of a.X (a being their share). Whereas, incase there is no antitakeover defense mechanism in pursuit, we can assume that the benefits of shareholders will decrease by Y due to the introduction of new board members associated with capital raise to invest the project. Therefore the marginal value change for controlling managers will be a.X-B.When this results in a value less than 0, then the managers will decide not to undertake profitable projects. Under such a circumstance, all the shareholders bear a loss since the managers passed over the value creation project, but the impact on minority shareholders is double due to the fact that they not only miss the opportunity of being onboard with a new & diverse set of shareholders, the case of capital increase, but also the value loss associated with not undertaking the project.

Another explanation can be put forward through the *Efficient Rent Protection Theory*. Incase of the scenario, when firm goes public, the founding shareholder member of the firm undergo a dilution in stake holding but are very likely to still hold onto a majority of the shareholding pists the IPO float. Since the antitakeover provisions would potentially destroy value & thereby impact the share price of the firm which may not reach its fair levels in value, however the benefits at disposal of the majority stakeholders due to having favorable members on board of directors of the firm outweighs this cost due to a share price suppression. In a gist, the majority shareholders are thus willing to bear the costs and thus implement the anti-takeover provision mechanisms in the corporate charter whereas the minority stakeholders bear the price for it.

These explanations clearly lead us to concluding that the majority stakeholders are effectively better off as compared to minority shareholders with antitakeover defense provisions in place.

Further, when we look at this issue from the agency cost theory based explanation, we can observe that shareholders would prefer to adopt anti-takeover defense mechanisms so as to serve as a disciplining factor for management. An agency cost effect might occur when the founding shareholders pursue self-fulfilling objectives through the IPO. For instance, utilizing the IPO funds for the self investment recovery rather than using the funds for operation of the business of firm. The majority shareholders who run the firm operations post IPO will favor the atps since they would bear the benefits associated with these whereas they share the costs with all the shareholders, and are thus at an advantage compared to minority shareholders, or those who seek to exit by cashing out the returns and sell their positions during the IPOs.

Studies undertaken by practitioners & researchers, Karpoff & Milner in the 1990s, suggest evidence for this fact that firms undergoing ipo's in the period of 10 previous years suggest that the implementation of ATPs by firm is inversely proportional to the fraction of shareholding held by managers (pre-IPO) thus confirming our inference from the agency cost based explanation.

Another (final) explanation for such an observance is based on the asymmetric information & signaling theory. It is eminent that shareholders, managers and/or the insiders of firm have access to privileged information regarding the firm's operations, their asset base, and future strategic decision making endeavors.

Based on the powerful model of signaling theory, we can illustrate this fact mathematically. Keeping in mind, that a firm when undergoing IPO would sell a block of its shareholding to raise capital, such a firm can be attributed two types of value based on signaling theory i.e.: high type (the firm with an actual high value) and the low type (the firm with a low value). The information regarding the type of the firm is only available & known by the insiders of the firm and the market reacts to these or rather perceives the firms types based on the firm's actions. Considering a scenario wherein a profitable opportunity exists for the firm, which the shareholder-managers would pursue in either of the cases whether they adopt the ATPs or not. Thus for the market, investors would believe that for both type of firm (high, low type) it would be efficient pursue the investment opportunity without the implementation of antitakeover provisions (atps). Thus there exists a pooling equilibrium. The market will not be able to tell the difference between the types of firm and thus would attribute an average value to the firm. By getting such a reaction and thus valuation from the market, the shareholding managers of the high type of firm can pre-emptively realize the loss of firm value due to the market valuing both high & low type firm on an average basis. Thus it would make sense for the shareholding-managers of the high type firm to adopt anti-takeover provisions so as to signal to the market their actual (high) type. This could potentially lead to a separating equilibrium whereby the low type firm does not adopt ATPs and the high type does, provided there is sufficient cost restraint on the low type to not copy the act of high-type firm and thus obtain an average value reaction from the market who would perceive both firms as similar value in that case. In conclusion, we can say that it is in the interest of shareholding managers of the firm to implement ATPs to signal to the market about the type of the firm, and thus the quality of assets and firm operations. We can thus conclude with the fact that asymmetry of information tends to mislead the shareholders to vote in favor of implementation of (in) efficient antitakeover provisions.

4.3. Rationale behind reactive defense strategies

Apart from the precautionary defense mechanisms, firms also adopt reactive defense provisions when being attacked by a hostile bidder. Although the reactive defense measures are less costly compared to precautionary measures which are in-built in the firm's corporate charter, yet the idea is to analyze whether the costs borne in fending off the raider is marginally outweighed by the provisions in brings along in preventing a takeover or are these measures just a mere tool adopted by the management so as to cater to their self-interest and in defense of keeping their position, control. It has been observed that the major reasons for adopting reactive measures (atps) are threefold, namely: an increase in marginal return, stronger negotiation power and deterrence against short-term raiders.

Looking at the first line of reasoning, an increase in marginal return, the strategy is centered around the fact that firm management buys time so as to bring in other competitive bidders that they believe could bring in a potential friendly takeover process, are perceived a better strategically fit as per the firm management or who offer a significantly better offer price for the acquisition of the firm. Thus the main aim of such a method is not primarily to protect the independence of the firm but to act in the best strategic interest of the firm and the subsequent shareholders. It was this line of reasoning that made us back the white knight/ white squire strategy as one of the most impactful defense strategy, provided the firm is able to find such a white knight firm, that is willing to pay additional price compared to the hostile bidder and who is strategically interested in acquiring the target. One key thing to note is that since the upside of this strategy is potentially high, therefore the opportunity cost of such a method or the resources put in implementing such a strategy are considered relatively low in comparison to the prospective impact they could make.

The second rationale that leads management to implement reactive ATPs is the fact that it brings along an increase in negotiating power during the time that these strategies buy for the firm as well as the impact on value creation that such a strategy could potentially bring in. The bid premium paid by the acquirer can be attributed to two primary factors, one being the change in management of the firm and the second being the synergies generated by the operational efficiency in combining the two firms. We have previously stressed the importance of the capital structure of a (target) firm, in being evaluated as a potential takeover target. Generally firms with low level of leverage, high cash balance at hand and/or a strong stable cash flow since all these can be an effective source for funding the debt operations in taking over the firm or in paying back the debt provisions with these cash flows.

Finally, another rationale for incorporating reactive measures is the fact that (most) shareholders of firms usually have a long-term horizon, meaning that they are interested in long-term value gains rather than short term interest perusal. In contrast, the target firms that eye on acquiring target firms are either focused on operational efficiency and synergies for their firm business or may be certain firms with short-term horizon seeking to make gains in such a time frame. These can be the firms which may in future, sell off the firm in parts for pure financial gains, and thus, in the short term, modify the firm's investment strategy (lower R&D expenses, Capital Expenditure) and deviate from the long term initial business strategy & outlook of target firm. Without adopting any reactive measures, a firm could potentially be exposed to further hostility from acquirer and even corporate sharks who might also be interested in pursuing the firm, and are not interested in long run solvency of the firm & its businesses. Also, since these measures (reactive ATPs) do not come in with any or much upfront costs before any takeover attempt occurs, thus they are even more favorable & flexible in discretion of the management to react proactively to hostile attempts.

Section V Takeover Defenses (ATPs): Impact on Value Creation w.r.t Stakeholders

Over the years of study, there has been a very healthy debate as to what the impact of Takeover Defenses (ATPs) is on the value creation for the firm as well as with respect to various stakeholder. We dedicate this section to critically analyze the literature in this study as well as base our opinion on this drawing on to specific theories of corporate finance & empirical evidences.

5.1 Introduction

We now use this section to implore the role of takeover defenses in long-term value creation. Takeover defenses have been viewed as detrimental to firm performance. They can potentially cause managerial entrenchment as well as empire building. But, takeover defense mechanisms can also make managers less vulnerable to short-term pressures, thus helping them pursue long-term value creation, thereby suggesting that they can be of benefit if used wisely. Focusing on multiple literature reviews conducted in the past on the effect of takeover defenses, we critically analyze the various provisions proposed and form an informed opinion on them based on this.

5.2 Do Takeovers Create Value

The financial performance of takeovers has always been under vast scrutiny. There have been several ways discussed and implemented in various research works conducted. These are based on multiple methodologies:

1. Accounting studies base their analysis on certain accounting performance indicators such as ROE, ROCE, and ROA. They intend to compare the accounting ratios and factors performance pre takeover and post takeover/acquisition so as to observe the effects, these studies have been able to significantly infer that there is not a drastic improvement incase of such observations pre & post transactions.

2. Certain scholars base their study on the performance tracking or rather the stock performance post the announcement of acquisition. It has been observed that although the share price increases in the short term following the acquisition, yet tis price increase is factored to multiple noise & actual factors. These include the acquirer (nature, identity & scope), payment methodology implemented (cash, stock, mixed offering) among other factors. Stable long term research followings have shown that due to the acquisition, and the prices paid or agreed upon at the time of acquisition (value) there is an observed evidence of loss in value. Overvaluation (or optimistic valuation) at the time of acquisition generally results in loss of shareholder value as described above.

3. The third house of opinion steps from the fundamental value basis. Under such an

approach, the fundamental value of the bidder pre-acquisition is brought in comparison with the fundamental value post acquisition. This forms the basis to comment on the result of value creation or loss. The methodology implies two specific typologies, namely, accounting performance indicators and the residual income model. In the accounting performance indicator methodology, the scholars have utilized the performance indicators such as Return on Equity. By conducting & running a pre acquisition RoE regression in comparison with post-acquisition RoE regression, the scholarly works have shown evidence for improvement in RoE.

Based on the other methodology for residual income and fundamental value, it has been observed that the fundamental value of acquirer post-acquisition is comparatively lower than that of pre-acquisition. Given that indicators such as RoE are based on accounting numbers and backward looking rather than forward looking approach for analysis it is reasonable to incline towards the finding of residual income & fundamental value approach. This view is further supported by the fact that corporate takeovers tend to create a pressure battle wherein there is a comparative battle for superior impact & corporate control between the acquirer and target management on the combined entity board, thereby limiting the value and potential value loss due to such difficulties in post-merger integration. It is also supported by the fact that corporate acquisitions, are in general followed up by certain number of divestitures. The reasoning behind such divestitures could definitely be based on strategic planning and restructuring, but one cannot rule out the fact that these divestitures could also be driven due to the loss or rather difficulties in maintaining a significant corporate control or the case of difficulty in value creation in terms of acquirer assets, as compared to the initial planned value creation outlook, thus supporting our view of value loss due to takeovers rather than a value accretion.

5.3 Takeover Defense (ATPs) Impact on Shareholder & Firm Value: Present research Analysis scope v/s Our Analysis (a Radical Shift)

Over the past decades, scholars have researched and come up with numerous works that critique and analyze the effect of Takeover defense ex-post on the firm value as well as shareholder value. The results have been inclined towards a (potential) wealth loss. Although we base our analysis on these but we tend to focus on the ex-ante analysis as well so as to have a better understanding of takeover defenses and their impact on value creation or loss for the firm as well as the shareholders.

Although there can be many combinations of takeover defenses put in place, but it has been observed that a poison pill and a staggered board combination serves as a lethal combination in fending off the raider, which very successful as a takeover defense. Yet, it is imperative to note that in certain cases, such a defense mechanism more often than not could lead to a loss of value for the shareholders since it devoid the share holders of the wealth incremental effect in tendering their shares for a potential premium that has historically been viewed as higher than the synergies generated post acquisition. Thus in essence the shareholders of the target are potentially loosing out on wealth (value) creation. Such an analysis is based on the ex-post analysis of the effect of takeover defenses on shareholder and firm value. It is also essential to study the impact of value creation or loss due to takeover defenses ex-ante. Their impact right from the stage when the corporation has been incorporated or from when they have been put into place. To understand the comprehensive analysis, thus we tend to model a radical shift from the presently available research and model in an ex-ante analysis to conclude about the effect of takeover defense on firm value and shareholders from a complete comprehensive review. The inspiration for such an analysis is drawn from the scholarly works of Stout, Lynn in their research publication ‘Do antitakeover defaces decrease shareholder wealth? Ex-post, ex-ante valuation problem’

5.4 Theoretical Ex-ante benefits of ATPs

As discussed earlier, there are certain theoretical implications that help us observe and appreciate the benefits (ex-ante) of takeover defenses. Let’s look at this with some examples of firms in different stages of lifecycle to analyze and understand this. Firstly, considering the example of a start-up in initial stages, it is essential that anti-takeover provisions bring in benefits to the firm, we explain how. For a start-up it is important to hire and retain the most talented and resourceful individuals because it is the effort and the innovation, thought process of these respective individuals that helps the company develop a viable product and one that sustains in a market and thus helps company grow. To retain and hire such human capital it is essential not only to provide them the right spirit and environment to grow, learn and work but also a sense of association, job security and potential future benefits, if everything works out well. These maybe for instance, a fair board of directors and possible move up the hierarchy as well as protecting their position of interests. Thus ATPs can come in here, play an important role in firm production & growth, provide a medium for these essential pre-requisites discussed and serve as beneficial for the firm (start-up). Now, if we look at our second example through the case of a mature company (public). A common business practice and sense suggests that the extra contractual benefits of employees and management plays a vital roe in the firm’s success and growth. If not, then it would be difficult to explain why firms expend on hiring new talent, as well as motivating already hired and working talent/ workforce, when they could otherwise come up with an ideal work contractual obligation and try ensuring that it is coherent & is followed. ATPs encourage the non-shareholding employees or the workforce in general to commit themselves to the firm’s growth, provide services that are essentially beyond their work scope described and thus help the firm gain a position in their respective market. If the firm’s employees believe that the shareholders may sell the firm to (or if the shareholders have to sell off the firm to) an acquirer/ bidder firm in the coming years, then they would not be motivated and willing to invest their human self resources, and commit themselves and their long years to the growth of the company. Thus it would be reasonable to say that an attractive takeover target would essentially not become an attractive takeover target if there is no anti-takeover provisions in place that protect the firm’s independence as well as the employee’s position, job security. Thus these benefits (ex-ante) benefits cannot be overlooked. They have not been the focus of research in the past scholarly works thus we here tend to bring in a radical yet quintessential view about antitakeover defense provisions for the reader.

5.5 Empirical Evidence of Ex-ante benefits of ATPs w.r.t Shareholders

We have, in the previous section, observed how ATPs bring in ex-ante benefits to employees and the firm in general. Looking specifically at the shareholders, we observe that "over the past few decades it has been empirically observed that around 40%-80% firms when undergoing IPOs adopt poison pills, and /or staggered board or any other form of antitakeover defense provisions". *(John Coates, 2001, Explaining Variation in Takeover Defenses).*

This is a significant data output. Now, going essentially to the IPO stage of the firm, it is logical that the investors read the corporate charter of the firm when subscribing for an IPO and thus can very easily implore that ATPs have been included in the firm's corporate charter. If the investor believes that the ATPs are value destroying, then this should essentially reduce their willing to pay for this firm's share and would impact their share price/valuation of the firm. Therefor incase even after knowing this fact from the investor's perspective, firms are incorporating the ATPs in their corporate charter then they are essentially cheating themselves and not anyone else. It is reasonable to conclude that if this is not the case, then investors (shareholders) would believe that the ATPs are value accretive ex-ante and are thus willing to price in the share of the IPO firm accordingly, supporting our claim that ATPs provide ex-ante benefits to the shareholders of the firm.

Lucien Bebchul & Cohen, in their research '*Firms decision where to incorporate'* support a similar claim on a differ line of reasoning. Bebchul and Cohen reason that there are essentially states/countries where the ATPs provisions and laws are more stringent as compared to other states/countries. Thus if the incorporation of firms with these imposed ATPs prerequisites in the corporate charter of the incorporated firms is necessary, then it is in the interest of the firms to avoid operations in such states/countries and not essentially incorporate their business in such place. But, contrary to this, it is observed that firms prefer incorporation in states/countries markets with stringent Antitakeover provisions as compared to the other. This can be reliably used to infer that ATPs offer certain ex-ante benefits that are overcoming or at least challenge the costs associated in incorporating them and even to overcome the value losses due to them in ex-post analysis. Thus further strengthening our claim for ex-ante benefits and value creation effect of ATPs.

5.6 Ex-Ante v/s Ex-Post Valuation Problem

Till now, as discussed, most scholarly works focus on the ex-post costs associated with takeover defenses for the shareholders, and thus essentially come to the conclusion that takeover defenses are value destroying for shareholders. We believe that although such an analysis is not wrong, but we propagate the view that an analysis based only on the ex-post view of takeover defenses is essentially an incomplete one, and thus it is important to look at the ex-ante benefits that the takeover defenses provide for the firm and thus the shareholders so comment conclusively on the cost-benefit analysis of takeover defenses.

In certain scholarly works, it has been observed that ATPs when incorporated midstream for a firm, tend to impact a slight negative effect on the share price of the company under observation (Bebchuk, Coates). But drawing such conclusion about the effect of ATPs from a midstream analysis, when the management, employees have already undergone several years of work scope with the firm, would not be ideally correct since an enhanced takeover provision would not motivate employees for further productivity enhancement but would serve majorly as a mean to provide enhanced job security that they have developed over the years working at the firm.

ATPs when put in place midstream, essentially without shareholder consent may reduce shareholder wealth as propagated by ex-post view. Secondly, in situations where the markets for corporate charters or the legislations of a particular market are revised so as to incorporate and further strengthen ATPs then the shareholders do not essentially have a say in ATP implementation. Thus under such scenarios ex-ante as well as ex-post, the ATPs could be inefficient for shareholders. In some scenarios, midstream implementation of ATPs can be efficient too. For example, there might be a situation where the associated management or firm human capital that intends to leave but decides otherwise because of implementation of ATPs (golden parachutes, staggered board etc.) that increase their job security and essentially help the firm retain important human resources that would have otherwise been lost. Thus in such cases, midstream ATPs may be value accretive. Therefor it is imperative to say that midstream implemented ATPs are not always value destroying for shareholders.

5.7 Conclusion

Overall, it is important to respect the fact that a complete analysis of the effect of Antitakeover provisions since the time they have been incorporated (initial stage, midstream, mature stage) that can give us an idea of the ex-ante benefits of the ATPs as well as considering the ex-post cost benefit analysis of ATPs is essential to come up with a conclusive study as to whether ATPs are value accretive or value destroying. Having seen that ex-post, if the takeover is unsuccessful due to the ATPs and if the merger takeover could have been potentially useful for the firm and shareholders then that bears a cost in term sof ATPs, but on the other hand if the implementation of ATPs delays the takeover process and poses as a hurdle to a takeover, that eventually goes through then the increase in value realized (better offer price per share tendered by the shareholders) is essentially a benefit of ATPs as they serve to increase the shareholder wealth. This serves as a basis for our ex-post analysis of ATPs.

As propagated in this research paper, the ex-ante effect of the ATPs may potentially be beneficial for the firm, in terms of increase team productivity, as well as contracting. Depending upon the stage of implementation in the company lifecycle they may serve as a motivating factor for employees to deliver beyond their contractual obligation, motivate them to involve in firm value accretive endeavors and provide better job security to employees/management. These effects can potentially serve as a medium for an ex-ante analysis of the effect of ATPs. In conclusion, antitakeover provisions provide ex-ante benefits to shareholders by propagating & enhancing team productivity and implicit contracting.

Overall the ex-ante benefits as well as the cost-benefits analysis of the Antitakeover Defense Provisions (ATPs) would serve as a comprehensive measure to understand the effect of ATPs on the firm value as well as stakeholder value. This may in complete sense be beneficial, value accretive and on the contrary prove to be inefficient & value destroying for the firm and thus the stakeholders, on the basis of a comprehensive analysis of ATPs as suggested in this research paper.

Section VI Empirical Case Studies

Having reasonably elaborated on the literature review pertaining to Hostile Takeovers in general, various hostile takeover categorizations, the rational & ideology behind each of them as well as their impact on the stakeholders, we now focus on the empirical side of our research synthesis. Our main outline for this section is to cover the various case studies that highlight certain aspects of different propositions made in our analysis & those that help us critique or support our inferences so as to draw a solid base for the conclusions to be drawn further. The scope of the cases covered are specific to certain aspects that we have focused our analysis on, some of them are highly relevant to comment on the practical efficiency of hostile takeovers whereas the other draw upon the fact as to what the impact of hostile takeovers is on the value creation w.r.t the various stakeholders. For further elaborate study, we have prepared a concrete list of some important recent cases in the corporate world that are of significant relevance to the topic and help one understand the various aspects related to hostile takeover. Covering each of them in detail seems beyond the scope of this research work but diving further into them can undoubtedly be an endeavor worth pursuing for our advanced readers.

6.1. Sanofi – Aventis merger

We start our case based empirical analysis with the premier case covering the Sanofi-Aventis Merger. The motivation in choosing this case is based on multiple reasons. Firstly, this has been recorded as the first hostile takeover in the pharmaceutical industry is the past decades, which has been a major industry for consolidation & thus mergers & acquisitions in the previous decades. Both the firms are multinationals with base in different cities of France, Paris & Strasbourg respectively. This leads us to our second measure in choosing this case. The fact that both these firms are based out of France eliminates the difference in legal framework & structure for mergers and acquisitions, and thereby restricts the involvement of states (national governments) involvement which tend to overrule & arbitrate in certain cases of takeovers so as to act in the best interest of national economies & to protect a national business company. Further, this case has a clear cut vision that leads us to understanding the Impact of takeover defense strategies & how the course of action evolves. Several additional supplementary factors sub-ordinate the selection of this case in our analysis such as the fact that both of the firms during their recent tenure had been actively involved in merger activities (a trend that had been a highlight in the pharmaceutical industry, at the time of the case).

6.1.1. Background and general description about the firms

During the late 80s & 90s, one major characteristic of the pharmaceutical industry was that it was driven by industrial consolidation or a part of an active merger wave. The reason for such huge industrial consolidation observed in this industry is that the increased competition, shrinkage of margins and immensely increasing (huge) R&D investments in the pharma industry could potentially drive major players out of business. This has led to a skeptical industry outlook wherein the players were becoming more prone to adopting strategies that incline towards providing an economy of scale, scope and there synergies (cost and revenues synergies). Undergoing Mergers and Acquisitions in pursuit of such attributes can lead to potentially unexpected risk taking for takeovers.

Sanofi was essentially a spun-off division from Elf Aquitaine (being spun-off in 1973). The name Sanofi Synthelabo was established as a consequence of the pharmaceutical division of L'Oreal and Sanofi-Elf in 1999, being driven by pursuit of several small, medium as well as large acquisitions to lead towards a major international brand name recognition across the globe. The shareholding structure of Sanofi is diverse yet having certain large stakeholders without major holding stake each. Total group, was attributed as the largest shareholder for Sanofi (pre-merger 24.4% stake) whereas L'Oreal held 20% stake in the company.

Aventis had essentially been formed as a consequence of the merger between French Chemical & Pharma group Rhone-Poulenc with the German leader in the industry, Hoechst, in 1999. Aventis has enjoyed a fairly diverse shareholding structure, with the single largest shareholder being Kuwait Petroleum KPC, owning roughly around 13.5% of the firm.

6.1.2. Case Introduction

The process in this famous takeover commences during early 2004 (25th January 2004) wherein a rumor built up in the market that a takeover bid from Sanofi has been poised on Aventis. The immediate market reaction, was followed with a formal mixed offer (a public tender offer had been recorded for AMF's approval) from Sanofi to the Shareholders of Aventis which would imply an 81% share swap as well as 19% cash offering, leading up to an offer price of 60.43 Euros per share to the shareholders of Aventis. This offer price represented around 3.5-4% premium in comparison to the last day's market price post the rumors and represented an overall premium of around 15% to the price bracket observed for Aventis in the past month period.

The next day, Chairman of Aventis, Mr. Igor Landau issues a public statement stating that Aventis management board, on behalf of its shareholders have out rightly rejected the offer. Mr. Landau commented that the strategic benefits associated with such a possible merger were far less compared to the huge risks associated with potential layoffs. The firm management also stated that the offer price put forward by Sanofi highly undervalues the share potential of Aventis and thus discouraged the shareholders to tender their shares. Further, Aventis approached & started talks with multiple investment banks to strategize & formulate their defense strategy as well as instills interests in finding potential White Knights for a counter offer, if so arises.

Two weeks into this process, the French market regulator, to whom Sanofi had put in a formal offer request for Aventis takeover, approves the takeover bid by Sanofi. This is followed up by Aventis' counter reaction in which it starts a litigation process seeking to invalidate the AMF's approval on the grounds that the legal conflict b/w Sanofi and the other pharma firms concerning their conflict about the patent of its (sanofi's) one prime drug, Plavix.

On 17th February, the day on which an official offer had been put forward by Sanofi to Aventis Shareholders, the Aventis Advisory Board unanimously declined the Sanofi offer. Further, they criticize Sanofi's interests in the firm that the financial projections put forward by Sanofi were insufficient for a formal shareholder reference & thereby for forming an opinion. During the course of activities, another major event that comes to surface is that fact that Novartis (another Pharma industry Giant) had previously attempted a takeover attempt on Aventis in 2003. Novartis, in light of present hostile attack on Aventis by Sanofi, emerges as a White Knight and proposes to start negotiation talks with Aventis to immediate effect.

Despite the French Regulatory authority (AMF) objection in pursuing other measures, Aventis began the process of negotiation & possible merger talks with Novartis. The supervisory board of Aventis, in the meantime passes a certain number of resolutions so as to prevent Sanofi's move to offer their shareholders an approval consent in the next upcoming General Meeting that was scheduled to be in May 2004. Having obtained the approval of French regulatory authority as well as a consent from Securities & Exchange Commission (SEC) US, Sanofi further strengthens its base for a prospective takeover. Aventis, advised by the investment banks on coming up with a defense strategy, implements a subscription rights plan so as to counter the effect of a potential shareholder approval case being sought after by Sanofi. This move (defensive action) is out rightly outlawed by the French regulatory authority AMF. Being cornered in its defense mechanism, Aventis finally agrees to the new modified offer proposed by Sanofi, in which the premium offered increases from the initial 3.6% to a significant 16% whereas the deal structuring is modified so as to increase the cash component to 29% from the previous 20%. The settlement, or rather the agreement of merger between the two firms thus leads to the formation of one of the largest pharmaceutical firms globally.

6.1.3. Hostile bid & ATPs: Validation of Literature Review w.r.t Empirical Case

As initially hinted in the beginning of the case study, this Sanofi-Aventis Merger Case serves as a brilliant corporate example that validates the literature findings that have been put forward by numerous researchers in the past & further proposed by us in this paper. Serving as an ideal example of the multiple defense strategies adopted by target firms in case of hostile takeover attempt, and the chain of events that possibly lead to a final merger or a fend-off is provide through the case. We further establish how one of the primary motives of an acquirer is based on the synergy (prospective) generation and thus validate our findings.

In this particular case, a stringent study methodology leads us to the findings that the motive behind the hostile bid, primarily synergies, is drawn essentially on the revenue synergies. Although Sanofi had comparatively lower sales w.r.t Aventis, yet the merger was possible due to Sanofi's capacity to generate & further continue on such margin levels, thereby leading to high market valuations.

This can also be validated by corporate finance theory wherein it is observed that acquirer generally prefer to make acquisitions with large or majority part of the offer price through their equity offering, if they are of the opinion that their (acquirer's) share maybe overvalued or have a high market valuations as compared to their realized fair value, thus explaining the equity offering as a majority chunk in this overall mixed offering scenario.

It is important to note that Aventis had primarily adopted a very minimal precautionary defense base (majorly limited to Golden Parachutes, which entitled the CEO, Mr. Igor Landua would be entitled to a remuneration package of $20million incase if Aventis is acquired by a hostile acquirer. This was also supplemented by share options possessed by its directors, the value of these share options would reactively increase incase if a hostile acquisition is successfully made). Aventis majorly adopted a reactive defense strategy in its attempt to fend off the hostile attack by Sanofi.

The major reactive defense weapon to which Aventis resorts during the battle is white knight. Bringing in a white knight in this case specifically shows how implementing such a strategy acts in the interests of target firm whereby a potential bidding war leads to an increase and thus the maximization in the offer rice, thereby providing maximum value for the target shareholders.

As we had previously discussed in our consolidated review, we notice here in this case that although the white knight strategy acts in the interest of target shareholders by serving as a measure to increasing the offer, yet it is a mild defense strategy since it does not fully incorporate a mechanism to fend off a determined acquirer, who incase believes that the premium being paid is less than the benefits they can reap out of this acquisition (synergies) would still pursue the target.

Critically analyzing the risks and the opportunity costs associated with this strategy for each of the parties involved, we see that firstly, for Novartis, the risk would be paying too high a premium than they would have initially been prepared to offer in contrast to the situation when they battle a white knight to acquire the control of the target firm. In general, as per corporate finance theory, an acquisition offer leads to a negative share price reaction for the acquirer incase the market perceives that the offer is unfavorable, expensive or the integration of firms would be a risky endeavor. Further, another key observation is that on the public announcement by Novartis Chairman, that the deal could potentially be unsuccessful (Novartis' role as a white knight) the market positively reacted to such a news by correcting the share price of Novartis, thereby signifying the market perception about the takeover. Thus it is essentially a challenging task for a firm to find and thus convince a white knight to takeover or merge with the firm and be willing to battle out the hostile acquirer.

Further, apart from these associated risks that the White knight has to bear, there are certain external factors which are also relevant and if active then can prove detrimental for the target firm and the white knight. For instance, in our case, the French regulatory authority (AMF) intervenes in the acquisition process and outlaws Aventis' subscription rights plan and further approves & supports Sanofi' s bid for Aventis that could lead to a potentially large national, international pharma solution. Thus, this external influence of the French government further reduces the market expectations of a successful Novartis- Aventis deal.

Such provisions expose the White knight to further risk in a takeover battle. Although the White Knight helps the target in getting a fairer and better offer for their shares yet, this strategy can sometimes backfire and prove to be extremely costly for the White Knight. For example, in the present case, Aventis management had commented that they considered the roughly $50bn offer by Sanofi as insufficient but they were open to the $58bn offer put forward by Novartis (white Knight). In fact, Novartis was a major looser in this case since it was taken aback by the fact that Aventis agreed to the Sanofi revised offer instead of pursuing further with Novartis, thereby making the process from a hostile one to a friendly one.

Apart from the White Knight defense strategy, analyzing the fact that the success factors associated with white knight mechanism could be low in the given case, since even the regulatory authorities were in support of Sanofi' s acquisition offer, thus, Aventis management had resorted to some other defense measures as well. They incorporated a corporate charter amendment, which limited the voting rights of a single shareholder to a maximum of 15%, but the restriction would not hold incase the single shareholder controls over 50% voting rights in a public bid offer. Such a provision would prevent any shareholder who holds a significant shareholding (but less than 50%) to control, dictate terms firing the voting term and thereby prevent such a shareholder from defining the course of action. As we had previously discussed, Aventis had also put in court a case of conflict of interest against Sanofi incase of a merger due to the patent rights associated with drug Plavix. Thus after being overruled by the regulatory authority for any such provision, the board of Aventis put out some special subscription warrants that would prevent Sanofi from transferring or sharing the risks associated to and after the expiration of Plavix's patent. Such a measure was perceived by the market as a *shadow poison pill*, since it gave Aventis Shareholders a subscription right that enabled them to subscribe 0.28 new shares per share that they presently hold at a notional price of 3.82 Euros. Mathematically, this represents a 22% premium over the actual Sanofi offer put forward. Thus, incase the takeover goes through, these warrants would immediately come into effect. Sanofi did not view this as a very intelligent move and thus challenged such a warrant entitled to him Aventis shareholders, with the French Regulatory Authority (AMF) on charges of such warrants being illegal. To solve the problem, Sanofi filed a complaint with AMF so that these warrants can be declared as illegal.

Besides the white knight & corporate charter amendments, Aventis had incorporated several other reactive defense mechanisms such as extension of employee's contract & the possibility of a share repurchase program. The rational behind extension of employee's contracts from Aventis' perspective is that such a provision would prevent Sanofi from laying off people post the merger (if successful) and thus reduce the cost synergies that Sanofi expects to gain out of this merger, thereby making the process less attractive for Sanofi both operationally & financially.

Looking back at the various defense mechanisms that Aventis implemented in this case study, we have been able to confirm for ourselves that despite being effective in one sense or the other, these defense mechanisms were eventually unsuccessful in fending off a motivated, interested acquirer. One cannot take away the fact that these defense strategies worked in favor of Aventis shareholders to the extent that they helped improve & thus obtained the best possible offer for them and bought them time to reconsider their decisions (delayed the process). Implementing reactive defense mechanisms, thus proves to be not very successful for the target. We will further look into the practical implications and effects associated with preventive defense measures in the other case studies to come, so as to comment on the fact whether they would be more or less effective as compared to reactive defense measures or a combination of both reactive & preventive defense measures.

6.1.4. Conclusion

In late April, Aventis shareholders finally agreed to the offer put forward by Sanofi and thus for the merger. In a public statement issued, the Chairman of Aventis commented that despite the initial hiccups, Aventis has finally agreed to accept Sanofi's revised offer and thus they recommend their shareholders to tender their shares to Sanofi, keeping in mind that the new offer has significantly weighted in value of Aventis from financial perspective & in terms of quality of their resources, work forces. The market's reaction to this merger was a negative one, wherein both Sanofi & Aventis' shares suffered a price decline to the tune of 7% and 5% respectively, post official merger announcement. It was noted that the market consensus about the difficulties in creating the merged syndicate as well as questioning the amount of premium paid (too high) in comparison with potential gains from the merger. It can thus be noted how the market quickly adjusts the price based on new information (market efficiency). The post-merger firm had representation from directors of both the firms to form the management board yet as is observed in a takeover, the acquirer tends to gain & keep control and is thus the dominating entity in the combined firm, thereby validating our views about the unequal in a merger wherein the party that pays the premium is essentially the controlling entity.

6.2 Hilton versus ITT

6.2.1 Introduction

After having looked at the practical implications & measures of reactive defense provisions in the previous case on Sanofi Aventis merger, we now shift our focus on the second empirical case of our analysis that features two major players in the gaming & logistics industry. We have chosen this case study so as to focus on the level of complexity & risks involved in a takeover battle of such immense scale. Further, during the takeover battle, ITT has implemented several precautionary as well as reactive defense mechanisms such as its pre-emptive poison pill, white squire, restructuring plans. We thus use this case to study the effect & implications as well as to comment upon the severity, success of a defense mechanism of such caliber.

Hilton ITT are two of the big players in the gaming & accommodation industry, and direct competitors in both these respectively industries. The basic reason being that both of them compete not only for the direct segment of customers in each of these industries but also in direct competition strategically. Both these firms share a history since early 1960s since ITT had shown interest in acquiring the hotel business of Hilton, and further in 1994 when ITT ‘s offer to acquire Hilton’s gaming business. During the late 90s, both these corporations were led towards an acquisition based growth to gain competitive advantage. The idea being stemmed by the fact that during the 90s, it was imperative that building assets (hotels) was comparatively costly than acquiring & purchasing assets. Both the firms were interested in expanding their foothold in the luxury & mid scale market. For instance, ITT had acquired Caesers Worlds Inc. in 1995, whereas Hilton acquired Bally Entertainment Corporation in 1996, directly outbidding ITT for the acquisition.

6.2.2. Background

Unlike the case in other line of businesses, which are based on external and/or organic growth models, the hotel & gaming industry relies heavily on acquisition led growth, since it is a capital extensive business and requires substantial investing.

ITT serves as an ideal target for Hilton hotel’s expansion strategy. This is in line with their views since ITT’s acquisition would save Hilton the time & resources to be put in to build real estate & gaming asset base, thereby requiring further time devotion in development. Further, the sale-off from non-core assets could serve as a medium to finance the ITT deal and would serve the interests of focusing on their targeted business. One also needs to appreciate the revenues and cost synergies associated with the deal by in taking the brand value as well as ITT’s foothold in major locations globally. Thus all in all, this served as a prime acquisition deal for Hilton.

6.2.2.1 Hilton Hotel Corporation:

During the 90s, Hilton Hotel Corporation was one of the largest hotel company in the world. It had an annual revenue base of around $4bn each year, with an asset base of $8bn. Its business operations included development, management of own assets, as well as franchised hotel-casinos, vacation resorts. The firm owned 11 Conrad International Hotel-Casinos in then countries, as well as 240 Hilton hotels, casino resorts & riverboat casinos.

6.2.2.2 ITT Corporation:

ITT hotels group is essentially a subsidiary of Delaware Corporation, previously known as ITT Corporation. During the 90s, ITT was one of the biggest hotel and gaming companies worldwide. It had an annual revenue of around $7bn and an asset base of $9bn. Some of its core assets include ITT Sheraton (one of the largest hotel company in the world with around 400 hotels and resorts in 60 countries) as well as Caesers World, a major player in the international gaming industry, with renowned casinos in major gaming cities such as Las Vegas, Atlantic City. In December 1995, ITT industries distributed all the common stock & outstanding shares of ITT Hartford Group, and further during the later 90s (1998) ITT dissociated from ITT Industries & ITT Hartford Group.

6.2.3. Hilton's Hostile Offer

During the late 90s, in 1997 Hilton made an attempt to acquire ITT's hotel & gaming business by putting forward a mixed deal offering, at a price of $55 which accounted for 50% cash & 50% stock offering for a total consideration of $6.5 billion in cash and stock. By taking in the $ 4bn debt of ITT, Hilton values & offers to buy ITT's asset base at $10.5 billion, which represents a 29% premium to that period's prevalent price of ITT. The offer comes as a follow up to a friendly offer that was put forward by Hilton, a few months earlier. If successful the deal would be one of the largest acquisition in the history of gaming & hotel industry, further, if the deal goes through then it would make Hilton the largest player in the global gaming & hotel industry. Given the international reach of ITT Sheraton, and the depth of Hilton's operation, this acquisition could potentially prove to be one of the most sought after & strategically significant deal. This view was further replicated in the market, where it was analyzed that financially, such a deal could make Hilton almost double in revenues and reach in the hotel business as well as quadruple the sales of the next largest competitor. This market sentiment was materialized in Hilton's Stock Performance, which rose roughly around 10% post the announcement of the acquisition offer, keeping in view the immense positive impact it could have on Hilton's global business. This is one of the very rare incidents in which the market reacted with a positive stock price reaction for the share of acquirer, post acquisition announcement signifying that the deal was fundamentally strong and viable for the firms, rather than being the general scenarios where a common market belief is put forward that the premium being paid for an acquisition is potentially larger than the synergies expected to be drawn out of the merger and thus the immediate market reacts negatively in terms of stock price.

6.2.4. ITT's response

Although the acquisition move was well received in the market reaction, yet it was not welcomed by ITT's management & board. ITT propagated the view that they were a better firm fundamentally and with good future growth prospects. Thus they decline dot negotiate any deal or even to commence any talks with Hilton management.

Having out rightly rejected Hilton's offer, ITT management went on record to comment that it was in the best interests of ITT, its shareholders, employees as well as everyone in direct business with firm that ITT maintain its independence as a firm. The management cited several reasons to back this viewpoint, these were:

1. The offer put forward by Hilton did not reflect the true/fair value of ITT's business and thus was not welcomed by ITT.
2. There could be potential conflicts among properties managed by Sheraton & Hilton.
3. The licensing of Sheraton brand name, a proposal put forward by Hilton in its offer could lead to sever damage to several of the brand's present contract & business.
4. There were other fundamental issues associated with the offer that included gaming laws, regulations, as well as anti-trust issues.

Keeping in mind what Hilton had proposed in its offer (Hilton intends to sell off the non-core assets post a successful merger), ITT adopts measures so as to make the deal unattractive for Hilton. This is done not only by pursuing and acquiring asset base that is considered not useful for Hilton's prospects but also by selling off assets that were of interest to Hilton. For instance, Sale of interest in Madison Square Garden for $650 million, Sale of five Sheraton hotels for $200 million.

6.2.5. Hostile bids and antitakeover action

As discussed earlier, the acquisition offer put forward by Hilton observes a rebuffed attitude from ITT, who rejects the offer. Further, ITT resorts to certain defense measures so as to counter Hilton's hostile bid strategy. ITT seek to implement several defense strategies so as to fend off Hilton's hostile bid. These measures such as finding a suitable white knight and/or a white squire, splitting up the businesses in three distinct units as well as selling off assets forced Hilton to reconsider its offer. Hilton reacted by proposing an improved offer of $8.3bn in total (plus the assumed debt of $4bn). Yet, ITT rejected the improved offer. Faced with such unaccommodating attitude from ITT Hilton reaches out to Federal Court & Casino Regulators to intervene Confronted with the stubborn directors, Hilton resorts to both Casino regulator and federal court to over-rule ITT's strategy to break up its business into three distinct companies.

To counter Hilton's motives of hostile acquisition, ITT resorts to several defense measures. We discuss each of them in a step by step methodology which takes us through the analysis of defense strategies adopted by ITT, and further brings up the measures incorporated by Hilton to counter these defense mechanisms.

To counter the pre-emptive poison pill incorporated in the corporate charter of ITT, Hilton resorts to the measure, which serves as the most effective way in countering the poison pill. I.e.: to win confidence off the shareholders and/or to win vote & majority on the board so as to deactivate the poison pill implemented. Hilton further clarifies its claim, position that it is willing to resort to a proxy fight measure, if a need so arises and is also open about its offer price that could potentially be accepted by ITT. Thus it offers to increase its proposed share price offer. Despite this, ITT rejects Hilton's offer and further resorts to defense measures to prevent Hilton in its course of action.

Keeping in view Hilton's proposed offer and the associated measures that Hilton proposes to resort to post the successful measures, mainly selling off non-core assets, ITT uses this as a strategic tool to sell off the assets that Hilton is interested in (Crown Jewel Defense Mechanism) and further plans to restructure the firm into three separate units that would significantly reduce the value of ITT in Hilton's viewpoint and thus make it a less attractive endeavor. Hilton further cites these measures adopted by ITT as means of entrenched management, which is interested in its own self sufficient interests rather than the interests of the shareholders of the firm (ITT) since such measures are potentially value destroying for ITT shareholders.

To counter ITT management's actions, Hilton resorts to filling in for a Proxy Fight thereby compelling ITT to hold its annual meeting so that Hilton could project its possible support from the board, and thus deactivate the poison pill.

These actions are followed with a surge in the share price of ITT that is coming in line with and close to Hilton's offer, thus creating a highly risky situation for ITT board where they risk Hilton winning the proxy fight at the annual meeting and without pushing Hilton for a further improved offer price.

Thus, ITT resolves to find a White Knight which could counter Hilton's motives. ITT does manage to implement a white squire strategy in which it acts as its own white squire. ITT uses the proceeds from the sale of assets (crown jewels) to further finance its defense strategies such as share repurchase program, at a share price of $70 for 30mn shares, thereby serving as its own white squire, which is accompanied by a special dividend to the tune of $3bn paid to its own shareholders (this amount coming in from the asset sales and the strategy being adopted so as to counter the management entrenchment claims put forward by Hilton, that the ITT management is self interested and not aligned with the interests of shareholders).

At an offer price ($70) that is comparable to the price offered by the acquirer, the shareholders of the firm would prefer to tender their shares to their own firm in comparison to the hostile bidder, as they obtain an opportunity to obtain a premium without the possibility of dilution. The tendering of these shares, or the share repurchase program gives ITT a significant hold on its own board so as to counter Hilton's proxy fight endeavors and make sure that they have sufficient majority to overrule the proxy fight. These strategies are also followed up by golden parachutes for the management of ITT, which would in turn provide three times the salary, bonuses and the provision for early exercise of stock options incase the hostile takeover bid is successful, thereby creating a further financial pressure on Hilton. But in comparison to the total deal amount, and the pros associated with the deal, one can argue that such an additional financial obligation would just delay the process further and not exactly be successful in fending off the acquirer (Hilton in our case).

Following up on ITT's strategy to divide the firm in three separate units/ companies so as to better control the operations and gain the status of pure players in a specific segment of industry, Hilton moves the federal court against this proposal stating that the division of ITT into separate units is a shallow attempt to fend off Hilton's bid and not in the long term interest of Shareholders. The court supports Hilton's claim and instructs ITT management to prepare a formal proposition for the shareholders of ITT to decide upon the proposed break-up plan or restructuring to a pure player in specific industries.

Despite this respite for Hilton, ITT further resorts to a staggered board mechanism to make the process further difficult for Hilton. But, Hilton being highly interested in the acquisition is ready to take control over ITT and battle the staggered board defense which would be able to prevent Hilton form gaining control of ITT for a period of maximum 2 years in which Hilton will try to gain majority seats & control of the ITT board. Noticing Hilton's intent ITT resolves to finding a white squire to beat Hilton's offer, in which it is successful by finding an interested firm in the form of Starwood Lodging which demonstrates its interest in ITT by proposing a formal offer for ITT, with a share price of $82 per share that significantly beats Hilton's offer price of $70. Hilton, in its measure to gain control of ITT proposes an offer of $80 days before the shareholder meeting for accepting the Starwood deal. Despite falling short of $82 offer by Starwood, Hilton offer is composed more of a cash component comparatively and is thus eventually accepted by the ITT shareholders and therefor despite illustrious defense efforts by ITT, Hilton finally manages to gain control of ITT for a final amount of $9.5bn in equity and assuming its $3bn debt.

6.2.6. Conclusion

Having reviewed this historic takeover battle between Hilton & ITT we can take away several inferences that can serve as keystones in our final recommendations for this research and for further propositions. Despite attempting several takeover defense strategies, ITT was eventually unable to stop a motivated acquirer in the form of Hilton from taking over. This clearly highlights the shortcomings of the takeover defense mechanisms that in case of a determined acquirer, takeover defenses could essentially create a long, and resource consuming hostile process for both the parties but may not be essentially successful in fending off the hostile attacker. The case throws light on agency cost theory whereby management entrenchment is put to light, in ITT management's resorting to restructuring the business in an attempt to prevent the takeover, and further backed by the implementation of golden parachutes. But it is essential to note that such measures have another side to them wherein they help the shareholders achieve maximum value for their shares, as observed with an increase in the share price eventually offered to ITT Shareholders. Thus looking at the final offer price, we can see that $80 represents an initial premium of ~45% to the first initial offer by Hilton and ~85% premium to the prevalent market share price at the beginning of takeover attempt process. Thus it would be too harsh to comment on the effectiveness of takeover defense mechanisms in a sense that they have been unsuccessful. Despite being unsuccessful in preventing the takeover, the several takeover mechanisms (a combination of both preventive & reactive defense mechanisms observed in this case) eventually assist the shareholders achieve maximum value for their holding and thus serve their essential function of value creation for shareholders on an overall basis.

Section VII: Recommendation and conclusion

In this research paper, we have made a sincere effort to analyze the takeover industry, the market for corporate control. How the takeover activities come into essence (merger waves) as well as the rational behind them. The market for takeover defenses has picked up since 1980's when companies invented sophisticated antitakeover defense strategies to counter the hostile takeover attempts. A sizeable amount of research work has been dedicated to the different effects of antitakeover defense from both corporate theoretical framework and empirical researches perspective, after providing a thorough literature review through critically analyzing some of the most related scholarly works in this field of study. This research paper is to study both sides in a hostile takeover battle and to have a detailed analysis on the antitakeover defense strategies, their efficiency in fending the raiders as well as their impact on value creation not only w.r.t the firm but also w.r.t the different stakeholders.

We have depicted that hostile takeovers, despite risky and expensive, bidders are willing to be engaged in these propositions provided there is sufficient synergy and scope for value creation through a change in corporate control. We have also studied both precautionary defense and reactive defense. We have defined the efficiency of a defense mechanism through its easiness of implementation, efficiency in fending the raiders, change in shareholders' wealth. We came to the conclusion that precautionary defense strategies are potentially expensive and their effectiveness is moderate since they may or may not be successful in fending off a determined raider.

After investigating the most commonly adopted antitakeover defense strategies, we came to the conclusion that a combination of poison pills and effective staggered board offers serve as the most lethal defense mechanism from a target perspective. As far as reactive defense is concerned, we formed an opinion that the costs associated with these defense strategies is significantly lower as compared to the preventive strategies. Reactive defense serve as a medium to prevent opportunistic raiders from acquisitions and only serves as a delaying factor for a more determined acquirer. They can essentially serve to improve the offer terms (price) and thus increase the shareholders wealth, value.

Over the past decades, scholars have researched and come up with numerous works that critique and analyze the effect of Takeover defense ex-post on the firm value as well as shareholder value. The results have been inclined towards a (potential) wealth loss. It is also essential to study the impact of value creation or loss due to takeover defenses ex-ante. Their impact right from the stage when the corporation has been incorporated or from when they have been put into place. To understand the comprehensive analysis, thus we tend to model a radical shift from the presently available research and model in an ex-ante analysis to conclude about the effect of takeover defense on firm value and shareholders from a complete comprehensive review. When viewed from ex-ante perspective, takeover defenses tend to not reduce the shareholder wealth (popular belief) but instead (potentially) increase it. This is based on their specific nature or context for which they are criticized regularly, i.e.: how they impact and make takeovers less likely. We believe that a thorough investigation through statistic data, real world examples and a concretive analysis on takeover defense mechanism and mutual dynamism of both bidder and target during the takeover battle would definitely help us with a better understanding in this field of research.

7.1 Further Reading & Recommendations

During this research paper, we have adopted an intuitive view to certain philosophies and literature studies put forward. It might be the case that these may seem counter-intuitive to some of the readers. Suggestions on these are most welcome as well as readers are encouraged to view the different scenarios on a case by case basis. Further, it is imperative to note that takeover defense is one of the most sought after and researched topic in corporate finance. Efficiency of Takeover defenses & impact on value creation is a topical topic. With a vast database of research available, it is recommended that readers looking for further detailed insights form an opinion not only on the basis of these works but also refer to standards & manuals of expertise in this field of study. Since takeover defenses is a complex and broad subject to analyze, hence the subject can be analyzed from many different perspectives and angles so as to form a (different) point of view. It is essential to take buyers perspective in a hostile takeover and analyze the actions he/she will take to counter the defense mechanisms put forward, this is the true sense of ideology that has helped us form a clear opinion on many takeover defense strategies. Is the only effective response to a takeover defense is an increased offer price? What are the in-built provisions for analyzing the effectiveness of some of the defense mechanisms that are rarely (or less used) in present corporate world. A Numerical analysis of the discussed propositions as well as for the ex-ante analysis of takeover defenses so as to form a concrete opinion on their impact with both ex-post & ex-ante consideration is left open to readers to further research and explore. Finally, due to legal and regulatory changes, it can be an interesting proposition to construct new and unproven defense mechanisms for use as takeover defense provisions in a hostile takeover.

Appendix

*ary of precautionary defense devices (***inspiration from Yuxen Li, HEC School of Management Masters Thesis, 2013)**

cription	Defensive impact	Shareholder	Dissolve defense	Stock price Effect	Change in takeover chance	Change in premium	Negative effect c Corporate gover
'erred rights issued to current :eholders. Flip-over right allows :ent shareholders to buy shares ›wer price in mergered company flip-in right allows shareholders :purchase target at low price	Dilute the raiders' control and increase the acquisition cost for raiders	No	Proxy fight - winning control of board of directors by purchasing a majority of stocks and remove poison pills.	-1%	Slightly decrease	Increase	Mild
rd is classified in several groups only a minority group is subject :election	Bidder can't obtain control of target right after acquiring a majority of stock	Yes	Shareholders approval or board approval	-1%	Slightly decrease	Slightly decrease	Moderate
ı to staggered board	Bidder can't obtain control of target without going through two shareholders election - minimum 1y delay	Yes	Shareholders approval only	Item to stagger Board		Slightly decrease	Moderate
:r to poison piland staggered rd	Board prevents the raider to remove pill defense through proxy fight	Yes	Win directors' support and wait for two years to win eventually the proxy fight	Unclear	Decrease	Increase	Severe
ı percentage of votes required to rove the merger related issues escape clause incorporated	Increase the minimum threshold of control that bidder must acquire; Protect other defense	Yes	Tender for the whole firm	Unclear	Slightly decrease	No change	Moderate

e price required in multiple-steps uisition process	Solve the prisoners' dilemma created through two-tiered offer	Yes	Replace two-tiered offer through establishing a toe hold and further delay the second step	-0.70%	No change	No change	Mild
erent class of equity with erior voting rights and can be verted into ordinary stock	Concentrate voting rights in the hands of managers who control the firm without possessing a majority of stock	Yes	Shareholders don't approve dual capitalization clause	Unclear	Decrease	No change	Severe
rative compensation paid to utives	Pay the salary package of executives in case of change in control	No	Pay the package to win managers' support	3%	Slightly increase	Unclear	Mild

*ed Hostile Takeover Cases (***inspiration from Yuxen Li, HEC School of Management Masters Thesis, 2013)**

Approval

	Industry	Description	Defense measure	Premium variation
	Pharmaceuticals	Sanofi launches a hostile bid against Aventis intending to create the world third largest pharma company and achieve synergies. Aventis rejects the offer by calling it inadequate and risky. The French government helps to push through the deal with Sanofi offering a better term.	Golden parachute/ Just say no/ Litigation/ Poison pills/ White knight/ Corporate Charter Amendment	Improve premium from 3.6% to 16% and increase the cash component from 20% to 29%
me	Pharmaceuticals	Sanofi-Aventis bids US based biotechnology company Genzyme to expand its product portfolio through a public tender offer. Genzyme's managers release financial guidance to the shareholders to prove that the offer undervalues Genzyme and calls shareholders to not to respond to the tender offer.	Just say no/ Shareholder campaign	Improve premium from 38% to 44% plus a contingent value right (CVR)
	Lodging and gaming	Hilton launches a hostile bid against ITT intending to acquire its hotel franchise and reduce the investment cycle by external growth. ITT counters the attack through very extensive defense devices.	Poison pills/ Just say no/ Litigation / White knight / Assets restructuring / Recapitalization / Self-tender repurchasing program	Improve premium from 45.5% to 87.7%
	Food and beverage	Kraft launches a hostile bid against Cadbury intending to further penetrate in the UK market. Cadbury rejects the offer by emphasizing the importance of an independent UK brand and of local job market. However, without the interference of UK government, Kraft eventually takes over Cadbury through a public tender offer.	Just say no/ Litigation / White knight / Recapitalization	Improve premium from 31% to 47%
	Luxury	LVMH acquires 22% of Hermès shares through equity swap. Hermès accuses publicly LVMH of failing to notify the regulator when passing the required threshold and places the majority of shares into a private holding company to reduce the chance of being attacked by LVMH.	Just say no/ Litigation/ White squire / Recapitalization	Unclear
	Information and Technology	Microsoft proposes a hostile bid to acquire Yahoo in order to compete against Google in the field of search engine. Yahoo reacts the offer by calling their shareholders to vote against the deal and searching for other potential partners.	Just say no/ White knight	Improve premium from 62% to 66%
	Information and	IBM launches a blitzer attack on Lotus by offering a high price all cash offer. A high	Just say no / Employees and	Improve premium from 100% to 113%

Technology	preimium makes the offer too lucrative to reject. Despite of board's objection to the offer, IBM successes in acquiring the shares through public tender offer directly.	shareholders campaign / Litigation	
Information and Technology	Oracle launches a hostile takeover bid against Peoplesoft intending to acquire its client base. Peoplesoft responds to the offer by rebating the license fee for its customers in case of a merger and refusing to dismiss the poison pill. The offer price increases from $19 to $26, then decreases to $21 and then back to $24.	Just say no/ Poison pills/ Assets restructuring	Improve premium from nearly 0% to 10%
Information and Technology	Hewlett-Compaq is called hostile mainly because only the founding members of Compaq opposing to the tender offer.	Litigation/ Proxy fight	No change
General industry - steel	Mittal proposes a hostile bid to acquire Arcelor intending to penetrate the European market and to create the world second largest steel company in the world. However, Arcelor rejects offer and French government also opposes to the potential merger.	White knight/ Recapitalization / Assets restructuring	Improve premium from 22% to 77%
General industry - mining	Equinox proposes to acquire Lundin for $4.8 billlion. However, Lundin's managers recommended the shareholders to not to tender and implements defense strategy to fend Equinox's attack.	Shareholders campaign/ Poison pills	No change
General industry - mining	Schaeffler announces a takeover tender offer for Continental with an objective of acquiring more than 30% in Continental. Contiental rejects the offer on the ground of an inadequate offer.	Just say no/ white knight	Improve price from $69 to $75

Bibliography

"An overview of takeover defense" by Richard S. Ruback

Bebchuk, L. (1982). The case for facilitating competing tender offers. *Harvard Law Review, 95,* 1028-1056.

Bebchuk et al., supra note 1, at 891-92 (discussing shareholder proposals)

Bierman Jr., H. (2003). *Private Equity – Transforming Public Stock to Create Value.* New Jersey, USA: John Wiley & Sons, Inc.

Deakin, S. & Slinger, G. (1997). Hostile Takeovers, Corporate Law, and Theory of the Firm. *Journal of Law and Society, 24(1),* 124-151.

DePamphilis, D. (2005). *Merger, Acquisitions, and other Restructuring Activities.* London, UK: Elsevier Academic Press.

"Explaining Variation in Takeover Defenses" by John C. Coates

"Firm performance and Mechanisms to Control Agency Problems between Managers and Shareholders" by Agrawal and C. Knoeber

Frankel, E. S. (2005). *Mergers and Acquisitions Basics.* New Jersey, USA: John Wiley & Son, Inc.

Gaughan, P. A. (1996). *Mergers, acquisitions, and corporate restructuring.* New York, USA: John Wiley & Son, Inc.

Gharuri, P., & Grønhaug, K. (2005). *Research Methods in Business Studies.* London, UK: Pear-son Education Limited.

Jarrell, G. A. (1985). Wealth effects of litigating by targets: Do interests diverge in a merger? *Journal of Law and Economics, 28,* 151-177.

Jenkinson, T., & Mayer, C. (1994). *Hostile takeovers: Defense, Attack and Corporate Governance.* London, UK: McGraw-Hill.

John C. Coates IV, Takeover Defenses in the Shadow of the Pill: A Critique of the Scientific Evidence, 79 TEX. L. REV. 271, 280-97 (2002) (discussing and citing numerous event studies of adoption of poison pill); Subramanian, supra note 18, at 1829-30 (discussing and citing numerous event studies on the adoption of antitakeover laws by state legislatures)

Lucian Bebchuk & Alma Cohen, Firms 'Decisions Where to Incorporate (John M. Olin Program in Law & Econ., Working Paper No. 352, 2002), available at http://www.law.harvard.edu/programs/olincenter/papers/pdf/352.pdf; Lucian Bebchuk, Alma Cohen & Allen Ferrell, Does the Evidence Favor State Competition in Corporate Law

Michael Klausner, Institutional Shareholders' Split Personality on Corporate Governance: Active in Proxies, Passive in 1POs (John M. Olin Program in Law & Econ., Working Paper No. 225, 2001), available at http://papers.ssrn/com/abstract=292083

"Management Ownership and Market Valuation" by Randall Morck, Andrei Shleifer and Robert Vishny

"Merger, acquisition and corporate restructuring, 4th edition" by Patrick A. Gauhan

"Pills and Partisans: Understanding Takeover Defenses" by Jordan Barry and john William Hatfield

Rungaert, M. (1988). The effect of poison pill securities on shareholder wealth. *Journal of Financial Economics, 20,* 153-173.

Saunders, M., & Thornhill, A. (2003). *Research Methods for Business Students (3rd edition).* Lon-don, UK: Pearson Education Limited.

Schoenberg, R. (2003). "Mergers and acquisition: Motives, value creation and implementation". *The Oxford Handbook of Corporate Strategy (Eds).* Faulkner & Campbell. 95-117, Oxford University Press.

Schoenberg, R. & Thornton, D. (2006). The Impact of Bid Defenses in Hostile Acquisitions. *European Management Journal, 24,*142-150.

Sudarsanam, P. S. (1991). Defensive strategies of target companies in UK contested ta-keovers. *Managerial Finance, 17(6),* 47-56.

"Synergistic Gains from Corporate Acquisitions and Their Division between the Stockholders of Target and Acquisition Firms" by Michael Bradley, Anand Desai and

Han Kim

"Testing of Pecking Order Theory of Capital Structure" by Frank M and V. Goyal

"The Acquisition of Aventis by Sanofi" by Günter Müller-Stewens and Alexander Alscher

"The Battle for Hermès" by Dana Thomas, *"Hermès accuses luxury giant LVMH of Stealthy takeover bid"* by Henry Samuel
http://online.wsj.com/article/SB10001424053111903596904576517151602728260.html

http://uk.finance.yahoo.com/news/herm-accuses-luxury-giant-lvmh-201725545.html

"The Powerful Antitakeover Force of Staggered Boards: Further Findings and a Reply to Symposium Participants" by Lucian Arye Bebchuk, John Coates and Guhan Subramanian

"The Powerful Antitakeover Force of Staggered Boards: Theory, Evidence and Policy" by Lucian Arye Bebchuk, John Coates, Guhan Subramanian

"Timeline of Mittal's courting of Arcelor" by Market Watch
http://articles.marketwatch.com/2006-06-26/news/30718407_1_guy-dolle-arcelor-shareholders-mittal-steel

"Timeline: Sanofi's quest for U.S. biotech Genzyme" by Reuters, *"Sanofi-Aventis launches hostile takeover bid for Genzyme"* by Ryan McBride
http://www.reuters.com/article/2011/02/16/us-genzyme-sanofi-timeline-idUSTRE71E62U20110216

The Global Competitiveness Report. (2007-2008). *World Economic Forum.* Retrieved 2008-03-01 from http://www.gcr.weforum.org/

Weston, J. F., Mitchell, M. L., & Mulherin, J. H. (2004). *Takeover, Restructuring, and Corporate Governance (4th edition).* New Jersey, USA: Pearson Prentice Hall.

Wilcox, T. L. (1988). The use and abuse of executive powers in warding off corporate raid-ers. *Journal of Business Ethics, 7,* 47-53.

Zollo, M. (2003). M&A's and corporate growth. *European Management Journal, 21,* 176-178.

Stout, Lynn A., "Do Antitakeover Defenses Decrease Shareholder Wealth? The Ex Post/Ex Ante Valuation Problem" (2002). Cornell

Law Faculty Publications. Paper 760.

http://scholarship.law.cornell.edu/facpub/760

Bebchuk et al, *The Powerful Antitakeover Force of Staggered board – Theory, Evidence and Policy*

Bhide, A., 1989, *The Causes and Consequences of Hostile Takeovers*, Journal of Applied Corporate Finance, v2, 36-59.

Bradley, M., A. Desai and E.H. Kim, 1988, *Synergistic Gains from Corporate Acquisitions and their Division between the Stockholders of Target and Acquiring Firms*, Journal of Financial Economics, Vol 21, 3-40.

Coates, supra note 40, at 280-86 (discussing results of event studies of

poison pills); Subramanian, supra note 18, at 1829-30 (discussing results of event studies of

antitakeover legislation)

Dann, L.Y. and H. DeAngelo, 1988, *Corporate Financial Policy and Corporate Control: A study of Defensive Adjustments in Asset and Ownership Structure*, Journal of Financial Economics, Vol 20, 87-128.

DeAngelo, H. and E.M. Rice, 1983*, Antitakeover Charter Amendments and Stockholder Wealth*, Journal of Financial Economics, Vol 11, 329-360.

Fruhan, W.E., W.C. Kester, S.P. Mason, T.R. Piper and R.S. Ruback, 1992, *Congloeum*, Case Problems in Finance, Irwin.

Georgeson & Co., *Poison Pill and Shareholder Value 1992 -1996,* Nov 1997

Günter Müller-Stewens and Alexander Alscher, Institute of Management at the University of St. Gallen, '*The Acquisition of Aventis by Sanofi Attack as Defense'*

Healy, P.M., K.G. Palepu and R.S. Ruback, 1992, *does Corporate Performance improve after Mergers?* Journal of Financial Economics, v31, 135-176.

Hong, Hai, Robert S. Kaplan and Gershon Mandelker. *Pooling Vs. Purchase: The Effects of Accounting for Mergers on Stock Prices*, The Accounting Review, 1978, v53 (1), 31-47.

Jarrell, G.A., J.A. Brickley and J.M. Netter, 1988, *the Market for Corporate Control: The Empirical Evidence since 1980*, Journal of Economic Perspectives, Vol 2, 49-68.

Jensen, M.C. and R.S. Ruback, 1983, *the Market for Corporate Control*, Journal of Financial Economics, Vol 11, 5-50.

KPMG, 1999, *Unlocking Shareholder Value: The Keys to Success*, KPMG Global Research Report.

Marco Hannm Yohanes Riyanto, Feb 2000, the Effects of Takeover Threats on Shareholders and Firm Value

Nikhil Varaiya, *Determinants of Premiums in Acquisition Transaction, Managerial and Decision Economics*

Yuxen Li, HEC School of Management, Masters Thesis 2013, 'Antitakeover Defenses'

CASE STUDY REFERENCES

The data in the case studies were collected from public resources including company press release, press articles in Financial Times, Wall Street Journal Europe, Economist, Business week etc.