



Concentrated Ownership and Corporate Control

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Contents

- > Background
- > Concentrated ownership and corporate performance
- > Related Party Transactions
- > Corporate control and takeovers
- > Conclusions

Background

- > CO typical in the Nordics
 - Competitive model for corporate ownership
 - Low levels of control premiums (“private benefits of control”)
- > CG theories generally reserved with regard to CO
 - Berle & Means (1932), La Porta et. al. (1998, 2000)
 - EU CG initiatives: The Takeover Directive, 1-S-1-V, Related Party Transactions (SHRD II, CG Action Plan)
- > What to think?
 - Is Nordic CG competitive and is regulation effective?
 - What to think about EU initiatives?

Ownership structure and corporate performance

- > CO provides a competitive form of ownership for business enterprise
 - Pedersen & Thomsen (2003), Weiss (2010), Achleitner, Betzer, Goergen, Hinterramskogler (2010)
- > Nordics report low levels of control premiums (“PBC”)
 - Nenova (2003), Dyck & Zingales (2004)
 - But this was not always the case!

Characteristics of CO Structure

- > Controlling sh/h has considerable power and ability to protect her/his interests/rights
 - Reflected in legislation
 - Control rights are key for Controlling sh/h
- > Minority "voice" is not so relevant
 - "Minority"
 - Opportunistic use?
- > Minority investor protection critical
 - Exit-rights
 - Cash-flow rights
- > Minority coordination problems
 - Court processes not a meaningful option
 - Ex-post reg. mechanisms less meaningful
 - Regulatory agencies are important
 - Other mechanisms to enhance minority coordination?
- > Entrenchment of control
 - Lack of mechanisms
 - Skewed incentives
 - "non-pecuniary PBC" also a problem



Related Party Transactions

Related Party Transactions

- > Private benefits of control
 - “Diversionary” (i.e. “stealing”)
 - “Distortionary” (i.e. “shirking”)
 - Idiosyncratic / Non-pecuniary
 - Systemic (tax benefits for large shareholdings etc.)

- > Regulation
 - IFRS (disclosure)
 - Company law (entire fairness –standards)
 - SHRD II (mechanisms: board conflicts, limited shareholder voting restrictions)



Corporate Control Transactions

Corporate Control Transactions

- > Mergers and Takeovers
 - Can create value (premium)
 - Can also be “empire-building”
 - Mergers: Corporate process - board and shareholders’ meeting
 - Takeovers: Shareholders decide

- > CO environment
 - Large shareholder has effective veto right
 - PBC provide disincentive to value-enhancing control transactions (systemic and ordinary)
 - How to ensure efficient control transactions can occur?
 - Limit PBC
 - Create incentives for change of control



Regulating Concentrated Ownership

CO and EU CG regulation

- > “Exit” rights vs. “voice” rights
 - Voice allows opportunistic minority behaviour
 - Voice less relevant in CO environment
- > Avoid challenging control structures
 - No break-through rules
 - No 1-S-1-V rule
- > Transfer of Control can be facilitated / incentivised
 - Dividend taxation / holding structures tax neutrality
 - Allowing premium in control transfer?
- > Problems with control regulation?
 - Are mandatory bids (always) necessary?
 - Redemption thresholds (90% or less?)

Concentrated ownership: relevant parameters for regulation

- > Mechanisms to restrict PBC (i.e. “tunnelling”)
- > Mechanisms to protect cash-flow rights
- > Induce voluntary change of control
- > Facilitate minority coordination problems
- > Effective enforcement

Thank you for your interest

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