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Abstract

This paper provides a comprehensive overview of the process of European mergers and acquisitions. We characterize the main features of M&A activity in Europe in the period 2001-2007. We review the process of M&A regulatory integration and patterns of activity. Most European M&As still take place among domestic firms, although cross-border transactions are larger in value and have been slightly increasing, especially in regulated industries. Transactions are likely to be friendly, partially negotiated via public tender offers and private deals, and paid in cash, especially for smaller deals. Competing bids are still fairly rare and less likely to be completed. Target shareholders obtain an average premium of around 20 percent and this premium is slightly declining with deal size. Regulatory differences are large, particularly in the application of takeover regulations, and uncertainty persists in the predictability of the national regulatory agencies.

Keywords: European cross-border and domestic mergers and acquisitions, EU M&A trends.

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Summary

Features of Recent Trends in European M&As

Despite the large increase in European M&As throughout last year, these transactions were driven by lower multiple valuation than during past peaks of M&A activity.

Strategic consolidation and cheaper debt financing were the primary drivers behind most recent transactions.

Most M&A deals in Europe continued to be domestic, with 81% of European deals being done between domestic companies. UK had the greatest number of transactions and a large proportion of domestic deals (89%). The proportion of domestic deals was similar in Italy (87%) and in France and Spain (80% and 85% respectively), while Benemark[1] and Germany showed a greater proportion of cross-border deals (25% and 28% respectively).

As industry consolidation reduced the number of viable M&A opportunities at home, larger cross-border transactions took place. To date, most cross-border deals have involved companies in neighboring countries, and this process is part of a larger worldwide trend of cross-border M&A activity.

In 2001-2007, the number of EU companies acquired by non-EU companies increased. Until 2004, EU companies were often involved in acquisitions of non-EU targets while, after 2004, the number of M&As involving European bids on non-EU targets decreased relative to activity by companies from the rest of the world. In contrast, companies in the new Member States of the European Union remained popular targets for EU companies.

M&As in the EU were equally likely to be within the same industry (50%) rather than across industries (50%). The number of within-industry M&As remained stable throughout the decade, only increasing slightly in the last two years. In contrast, M&As across industry declined until 2004 and picked up again in the last three years.

[1] Benemark is the aggregate of Benelux (Belgium, the Netherlands, Luxembourg) and Denmark.

Announced within-industry deals are not necessarily more likely to be completed. Overall, the sector analysis shows that the likelihood of success of deals across industry was higher (65%) than the likelihood of success of deals within industry (62%).

Regulatory Issues

The implementation of the EU Takeover Directive has resulted in large differences in takeover mechanics among countries. Most countries have opted for allowing the reciprocity rule that prevents a level of convergence in takeover regulation. Furthermore, the implementation of the board neutrality rule and the breakthrough rule is likely to bring more barriers to further integration.

Most countries are implementing the Directive in a protectionist way. Differences arise not only on regulation but also on the predictability of the implementation of these regulations. Participants perceive UK regulatory authorities to be the benchmark in terms of predictability. National continental European regulatory agencies are far less predictable. For instance, this lack of predictability is the largest complaint at this point to the Spanish CNMV.

Regulatory approval by national or EU competition authorities has become essential. Traditionally companies have not paid much attention to this but the role of EU competition authorities is becoming crucial. More often larger deals have cross-border implications and require approval by the EU Competition authority, but national deals are also being scrutinized by more active competition agencies. Although the number of transactions that effectively get blocked due to competition issues is small, appropriate planning at the beginning of the deal is essential.

Deals in regulated industries are subject to further approval beyond competition criteria. The room for government discretion remains very large on this front. Large cross-border deals seem to be clearly mistreated with a strong preference from National governments for domestic deals. The announcement of such deals results on average in price declines for the stock of the acquiring companies.

Further scrutiny on additional criteria beyond competition is also likely to become more important, especially in large deals, with environmental issues becoming the primary concern.

Regulatory approval can significantly delay the closing of a deal beyond the average of three months.

The Bidding Process

The great majority of the completed deals is friendly or neutral (97%). Only 1% of the completed deals is hostile. 48% of the hostile deals announced end up withdrawn or discontinued. Although the proportion of hostile deals is slightly larger in big and recent transactions, the trend is still very low. In contrast, hostile takeovers worldwide account for 12% of total deal volumes in 2007, considerably higher than the ten-year average of about 3%.

Given the predominance of friendly transactions, exploratory contacts prior to a tender offer are common. Ownership structure and regulatory differences across countries determine this initial approach. In case of dispersed ownership, these contacts take place among chief executives. Concentrated ownership is more dominant among Continental European firms, therefore contacts among controlling shareholders are more common in these cases.

Regulatory differences among EU countries imply that the extent and content of these contacts differ substantially by country. The UK has a tighter regulation limiting the extent of these contacts.

Formal board involvement is limited to final decision making.

Legal, financial and strategic advisors are commonly used. There is a high global concentration in legal and financial advisors across Europe. A few large multinational companies account for most of the industry. This concentration particularly occurs from their presence in larger deals.

Requirements for the launching of a public tender offer differ by country. Nevertheless, public tender offers represent 53% of all completed deals. The second most common acquisition technique in the EU is by private deal. Private deals represent 33% of all completed deals. These characteristics hold across the different EU countries. Germany represents the only exception, with more private deals than public tender offers.

The majority of deals in the EU are paid in cash, at least in part. More than 30% of deals are paid exclusively with cash and less than 12% of all deals used only stock as the payment method. However, stock is more widely used in large deals. In the largest 100 deals by value, payments with cash only account for 32% of the number (22% of the total value) of these transactions, while payments with shares account for 26% of the number of M&As (24% of the total value).

Only a third of deals are effective on the date of announcement. This happens mainly in smaller deals. 60% of deals become effective after the day of announcement and only 3% of the top 100 deals are effective on the announcement date. Italy (71%) and the United Kingdom (79%) are the countries where most deals are completed after the announcement date, while in Germany many deals are effective on the same date of the announcement (60%).

On average a deal takes 109 days from announcement to completion. 33% of domestic deals are effective on announcement, and for the remaining 60% it takes 109 days to completion. Cross-border deals take a very similar period of time: 36% of cross-border deals are effective on the announcement date and the rest take 107 days to completion. In Germany, Italy, and Spain, cross-border deals are slightly quicker to complete.

Large deals take significantly longer (156 days on average). United Kingdom deals occur faster with only 95 days from announcement to completion. Deals in Italy and Spain take the longest, with 127 and 126 days respectively.

The premium paid for the target relative to the share value prior to announcement tends to be large; 18% on average. The distribution of premium price relative to the share price on the day prior to announcement (one-day premium) is as follows: 31% of completed deals have a premium on the target price greater than 20%; 5% have a premium between 0% and 10%; 7% have a premium between 10% and 20%; and 5% yield a negative premium.

41% of the 100 largest deals have a one day premium greater than 20%, while 44% have a four week premium greater than 20%. However, of the 100 largest transactions, those that yield a premium between 10% and 20% (both one day and four weeks) have on average the greatest deal value.

The countries where M&As yield premia above 20% are France and Germany (both one day and four weeks), while Italy and Spain yield the lowest premia (respectively 14% and 9% one day and 17% and 14% four weeks).

Financial services account for the largest number of deals (14% of total M&A) and for an even greater amount of deal value (33% of total M&A value) during this decade. For banks, deal drivers include the desire to take advantage of strengthened capital positions, to create operating platform efficiencies and to enter new markets, leading to the creation of pan-European retail banks.

This predominance of the financial industry has been declining since 2004, while the number of deals in Energy, Mining, and Utilities has increased. Energy, Mining, and Utilities were the most active industries in the last year per deal value due to some very large transactions. Private equity houses also play an increasing role in this sector. They are increasingly seeking stable investments over a longer-term which the regulated environment of the energy and utilities sector provides.

In Europe the number of deals involving PEs has been slightly increasing until the second half of 2007, showing a peak in activity (by value of M&A) in 2006. United Kingdom is the country where the large majority of deals involving PE firms, both per value and per number of deals, take place.

1. Introduction

The most recent wave of M&A in Europe taking place since the beginning of this century has some unique characteristics. M&A activity has been particularly remarkable both in terms of size and geographical dispersion. For the first time, the volume of M&As by European companies is similar to that of their United States counterparts. In the period 2001-2007 M&As in Europe has increased substantially both in number of deals (2843 deals announced) and total transaction value ($1,383.10 billion) compared to previous decades.

It is widely believed that the introduction of the Euro, the globalization process, technological innovation, deregulation and privatization, as well as the financial markets' boom and the surge in liquidity, have all spurred European companies to take part in M&As during this last decade.

This paper provides a comprehensive overview of European M&A activity in 2001-2007. We characterize the main features of the domestic and cross-border corporate takeovers involving public European companies in this period. We provide detailed information on the characteristics and dynamics of takeover activity in the Europe-15 area (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and United Kingdom).

The paper analyzes the M&A process within the context of the European Union. First, the paper analyzes the state of capital market regulations in Europe. The paper evaluates the applications of takeover regulation in EU-15, its shortcomings in the application of the EU takeover directive, the presence of takeover defenses and their type, frequency of use, effectiveness, and reciprocity rules. We also review the increasing focus on European industrial and competition authorities to understand the process of regulatory approval, including competition issues, specific sectorial regulations, and other government involvement.

The paper then analyzes the process of M&A transactions taking place by looking at a sample of 2,122 M&A that were announced in Europe in 2001-2007. We focus on the evolution of the deals and the processes followed. First, we examine the steps taken prior to the announcement of a transaction. We evaluate the parties involved in the planning process (External advisors), the deal attitude (Friendly vs. hostile), the content of the information discussed and the counterparties contacted (Executives & Directors, and Board participation), and the approaches, if any, prior to announcement (Ownership Stakes, Board Participation etc.). We then move to the analysis of the terms of the announcement to markets. We evaluate the premium offered to target shareholders, the form of payment, friendliness and bid structure. Finally, we examine the structure of the completed deals. We focus on those deals that imply control transfer and evaluate the likelihood of completion, the determinants of time to completion, regulatory status and likelihood of the presence of competing bids.

We believe that a European-wide study contributes to the extant literature on M&A that has so far focused primarily on the M&A markets of the United States and the United Kingdom. This study allows us to evaluate the impact of a wide range of institutional settings and legal and regulatory rules on the pattern of M&A activity in Europe. In comparison to the United States, European companies are characterized by weaker investor protection rules and less-developed capital markets, and by more concentrated ownership structures (Faccio and Lang, 2002).

The analysis shows that M&As in Europe have some distinct features. First of all, the rise of M&A activity in 2000s may be driven by the increasing legal and economic integration of European countries and to the introduction of the Euro. A consequence is that M&As within European borders are moving from being primarily domestic, as industries follow a process of consolidation, to cross-border deals, as companies expand abroad to other EU countries. Although the number of domestic M&As remains steady at about 81 percent of all completed deals through most of the period, the value of cross-border transactions increases, from 20 percent in 2001 to 34 percent in 2007. Given the larger size of cross-border transactions, their relative importance in terms of value is much larger.

Second, the vast majority of completed deals in Europe are either friendly or neutral (97 percent). Hostile deals are extremely rare (1 percent of the completed deals). This percentage is considerably below the worldwide trend. However, the proportion of hostile deals is slightly larger in recent transactions in Europe, repeating the experience of the last peak in M&A activity in 1990s, when hostile takeover activity also increased towards the end of the cycle.

Third, the paper provides detailed evidence on the likelihood and time to completion of announced deals, their determinants, and the likelihood of competing bids. Two thirds of completed deals are effective after the day of announcement, while only a third of completed transactions are effective upon announcement. Immediate effect happens mainly in smaller deals, while the totality of large deals is effective after announcement. Completion on announcement is also much more likely in open market purchases and in private deals than in public offers. Only 3 percent of the top 100 deals are effective on the announcement date. Large deals also take considerably longer to complete than the average of the whole sample. Cash deals are completed faster than share deals.

Fourth, the majority of completed deals in EU are paid exclusively with cash. These deals also represent the greatest value, although on average, deals paid with shares or cash only are smaller than deals paid with mixed forms of payment.

Finally, the results indicate that four industries account for the majority of M&A deals and that their relative importance has shifted over time. In the last two years, transactions in the energy, power, and utility industries as well as mining and industrials have taken over from the financial services and high-technology industries that were the most active at the beginning of the century in terms of transaction volume.

The rest of the paper is structured as follows. The next section provides an overview of the trends in M&A activity in Europe, also in the context of broader global trends shaping the industry. Section III evaluates the regulatory issues surrounding M&As. It evaluates the extent of the implementation of the European directive on takeovers as well as other competition and regulatory issues. Section IV presents the evidence on M&A activity on a sample of transactions involving publicly traded target companies for the period 2001-2007. We segment the discussion following the development of the deal, from the period before the announcement to the completion of the deal. The final section provides some conclusions.

2. Trends in M&A Activity

2.1. Global Trends

Worldwide M&A activity rose during the beginning of this century to reach levels not seen since the previous boom of the final years of last century. Substantial differences exist between these two peaks in M&A activity. During the 1990s the peak in international transactions came from a group of highly-speculative deals focused around specific industries (media, telecommunications and technology) in a context of raising P/E ratios to levels that made valuations seem unsustainable and discounted extremely high growth expectations. In contrast, after years of restructuring, in 2003 companies fuelled by cheap and abundant financing and worldwide expectations of economic growth again became confident. In the peak that took place around the first half of 2007, companies showed exceptionally high corporate earnings, healthy GDP growth, and strong consumer resilience. This macro context makes corporate valuations not seem out of line by traditional historical standards. This context rapidly changed at the end of 2007, with the slowdown of the United States economy and the tightening of financial availability after the evolution of the sub-prime related financial crisis.

About 80 percent of M&A activity during the last eight years concentrated in the EU, United States, and Asia. As industry consolidation reduced the number of viable M&A opportunities at home, especially in many European countries, more and more companies started looking abroad for acquisition targets or merger partners to help them meet their growth aspirations. Worldwide, cross-border M&A represents 40 percent of global activity in 2007, up from 20 percent in 2000 and 30 percent in 2005 (Capaldo et al., 2008). Overall, Asia and the Middle East represent about 15 percent of global volumes. However, this share significantly increases over time. In 2007, companies in emerging markets establish themselves as both buyers and sellers. Transaction volumes in India, China, and the Middle East were up by 110 percent, 4 percent, and 38 percent respectively over 2006 (Capaldo et al., 2008). Part of this increasing share in emerging markets comes at the cost of a lower relative share of European deals which account for 15 percent fewer deals in 2008 (almost 41 percent) than in 2007 (almost 27 percent). In contrast, the number of deals in America increased over the same period, from 45 percent to 50 percent.

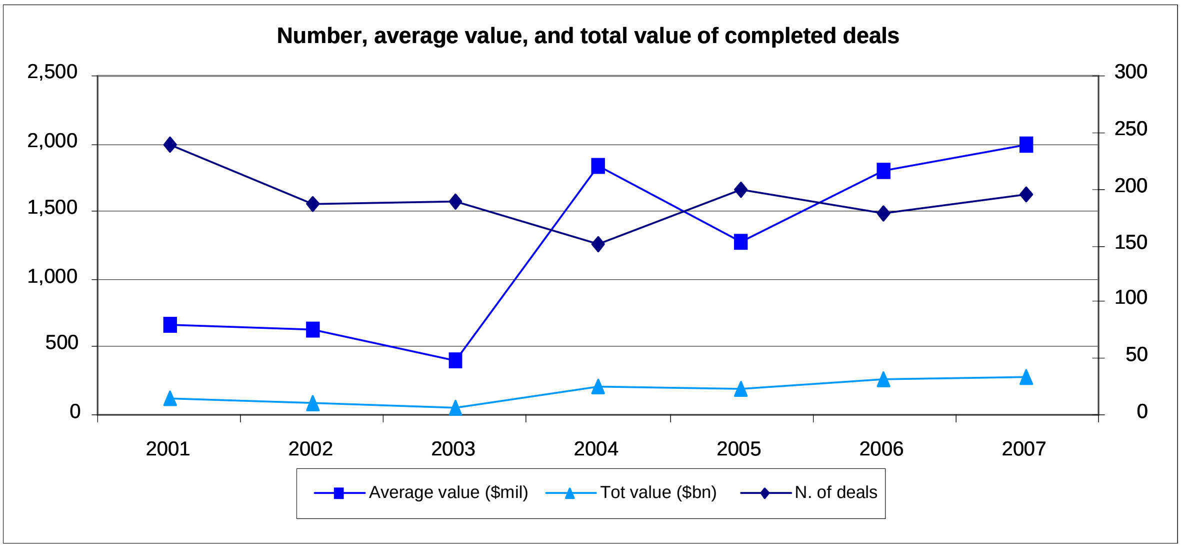
Recent years were increasingly dominated by larger deals and also more confrontational transactions. Megadeals – those with a value of more than $10 billion – contributed 30 percent of 2007 overall volume, considerably higher that the ten-year average of about 20 percent. Hostile takeovers generated 12 percent of total deal volumes in 2007, also considerably higher than the ten-year average of about 3 percent (Capaldo et al., 2008).

2.2. Trends in European M&As

There has been a pattern of strong growth in the European M&A market over the last twenty years. From being almost negligible in the beginning of the 1980s, the takeover market reached a level of almost 200 transactions (of publicly traded firms) completed per year in the period 2001-2007. This increase in M&A activity is even larger when measured by volume, as the average transaction size involving European companies also increased. M&A activity was very intense during the late nineties, following the 1990-1992 recession, especially in banking, healthcare, defense, and technology (Bruner, 2004). As shown in Figure 1, M&A activity decreased in number and size of deals considerably from 2001 to 2003. This decrease was due to the deceleration of the general economy and the fall in the stock market valuation of companies (Campa and Hernando, 2006). The number of M&As in Europe increased pace again in 2004 to the present. This latter change in the M&A trend may be due to an increase in larger, transformational deals that first began in 2004.

Figure 1

Number (right axis), total value (billion dollars, left axis), and average (million dollars, left axis) value of announced deals in EU-15 per year 2001-2007



Source: Own calculations; see Data Appendix for description of original source.

It is interesting to compare the last wave of M&As with the previous two in the '80s and '90s. The M&A activity of the late 1980s was mainly due to a significant increase in the number of transatlantic deals (whereby United States companies were most active as acquirers of EU targets). The M&A activity of the 1990s can be largely explained by the increase in intra-European transactions while the number of transatlantic M&A decreased. Most of these intra-European transactions took place within national borders. Cross-border M&As between companies of the EU area account for more than 50 percent of all cross-border transactions involving at least one EU firm throughout the decade. The increase of M&A in the 2000s seems to be driven by the increasing legal and economic integration of European countries and to the introduction of the Euro in 2001.

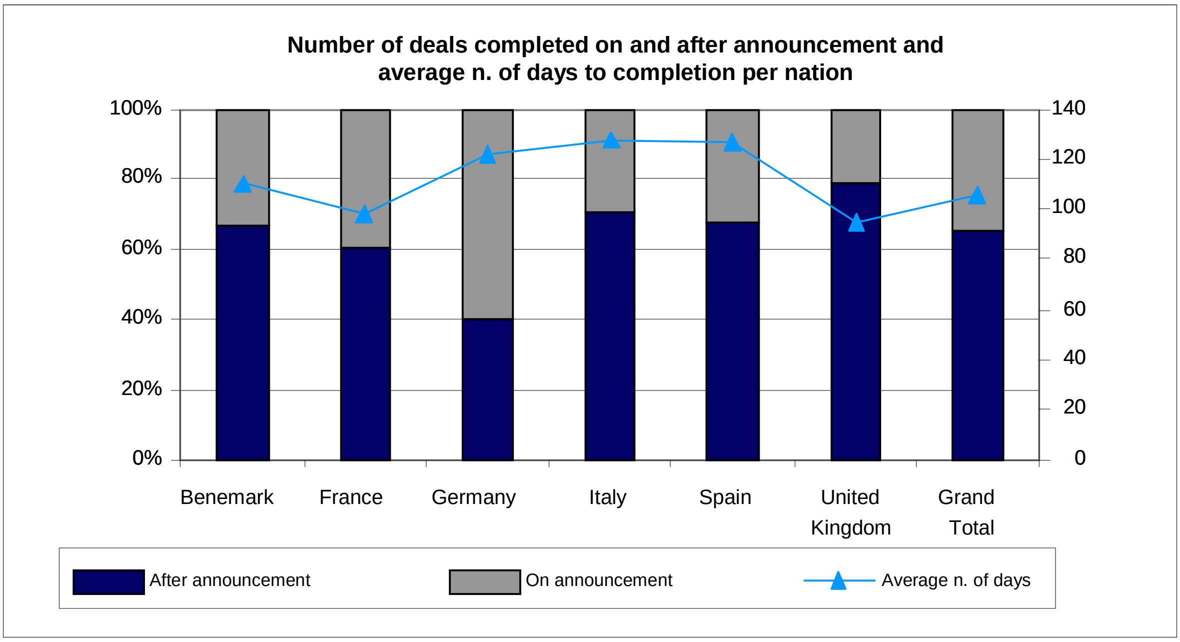
Much of the change in focus towards intra-European deals can be attributed to the challenges spawning from the development of the single European market. Fragmented and mostly domestically-oriented European companies start engaging in M&A activity to survive the tougher regional competition created by the new market. Cross-border acquisitions are expected to yield cost advantages and to enable companies to expand their business more rapidly abroad. Moreover, the introduction of the single currency created a more liquid European capital market which provides companies with new sources of financing (such as Euro-denominated bonds) (Martynova and Renneboog, 2006). The European integration also increases the attractiveness of EU companies as targets for non-EU companies. However, this attraction is not equal among different member states. According to a recent report by the European Commission (European-Monitoring-Center-on-Change, 2007), companies in new Member States of the EU are very attractive targets for EU companies – although not at the high levels reached in the 1990s – and not very popular for United States bidders.

2.3. Geographic Flows of M&A Transactions

The merger activity throughout the 90s in Europe was characterized by an increase in the relative weight of transactions involving only European companies. Transatlantic transactions remained relatively constant in number throughout this period with a slight increase in value towards the end of the decade as valuations increased. This trend continued throughout the more recent years with EU based companies becoming more important targets. Figure 2 shows the M&As distribution, in terms of number, total value and average value of M&As in EU-15 (2001-2007) by target country.

Figure 2

Number (completed and not completed, left axis), average (million dollars, right axis) and total (billion dollars) value (completed, right axis) of M&As in EU-15 (2001-2007) by target country

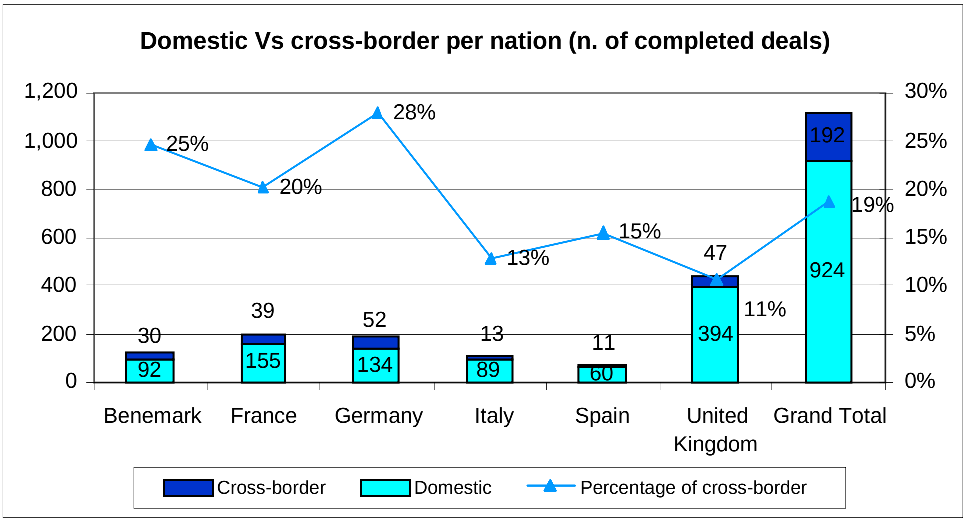


Source: Own calculations; see Data Appendix for description of original source.

Figure 3 reports the number of completed M&As segmented by domestic and cross-border deals and the percentage of cross-border deals in EU-15 (2001-2007) by target country. Most of the transactions took place within domestic borders as industries follow a process of consolidation. In the period 2001-2007, 81 percent of transactions within the European Union still took place among domestic firms, i.e. companies from the same country. Only 19 percent of M&A was cross-border. This can be explained by the fact that, in the case of cross-border bids, governments still tend to protect national champions and erect barriers for foreign raiders. However, EU companies are opening to cross-border deals. Although the number of domestic M&As remained steady at about 81 percent of all completed deals throughout most of the period, the value of cross-border deals increased from 20 percent of all completed deals in 2001 to 33 percent in 2006 and 34 percent in 2007. Despite a lower proportion of cross-border deal announcements, the overall likelihood of completion for the transaction is identical for domestic and cross-border deals (63 percent).

Figure 3

Number of completed M&As in EU-15 (2001-2007) segmented by domestic and cross-border by target country; and percentage of completed cross-border deals by target country in EU-15 (2001-2007)



Source: Own calculations; see Data Appendix for description of original source.

Although the geographic focus of EU companies is very heterogeneous, most of the cross-border deals involved companies in neighboring countries, although this pattern differs substantially by country. Most of the transactions taking place in the New Member States were cross-border transactions from bidders from other EU countries. In contrast, the proportion of domestic transactions in the larger members of the EU was much higher. The United Kingdom had the greatest number of completed deals (33 percent of all EU completed deals), of which 89 percent were domestic. The proportion of domestic deals was similarly high in Italy (87 percent) and in Spain (85 percent), with Benemark, France, and Germany showing only a slightly smaller proportion of domestic deals (75 percent, 80 percent, and 72 percent respectively).

There was a significant change in the relative weight of the different countries with respect to the 90s. In the 1990s the most active acquirers were British, German, and French firms, which jointly accounted for 70 percent of the total amount spent on cross-border European MAs; over $1 trillion. Companies from these three countries were also the most frequent targets of cross-border acquisitions; amounting to about 60 percent of the overall value of cross-border M&As (Martynova and Renneboog, 2006).

In 2001-2007, British, German, and French companies continued to account for a large share (67 percent) of the value of completed deals. They also remained favorite targets of cross-border acquisitions within the EU, with United Kingdom alone accounting for 56 percent of cross-border deals. Other countries received a number of cross-border bids greater than Germany and France, however: Benemark (10 percent) and Spain (11 percent). As acquirers, British companies accounted for a small proportion of the overall value of cross-border deals (6 percent). Instead, companies based in Benemark and Spain experienced 26 percent each, and France 16 percent, of the total value of cross-border M&As in EU.

Several factors can explain this change in proportion of domestic and cross-border deals. First of all, as industry consolidation reduces the number of viable M&A opportunities at home, larger cross-border transactions are taking place. This implies that when measured in value terms, the weight of domestic M&A decreases. Secondly, cross-border deals in Europe have different characteristics from cross-border deals outside the European Community. In general cross-border deals are important for organizations, not only for their volume, but also – and more importantly – because they can be disruptive, producing unexpected entries by buyers, cross-cultural dislocations, high purchase prices, and changes in strategic assumptions about a local market. Cross-border deals in EU-15 are typically motivated by a range of factors different from domestic deals. These include: growth by market expansion, either by the expansion of technology and brands across borders or by the establishment of larger market shares; acquisition of special resources; and the benefits of international diversification. One of the advantages for bidders within EU-15 is that they rely on a single currency, hence reducing risks of foreign currency volatility, and to some extent they operate in a single integrated market and legislative framework. Overall, this reduces entry barriers, easing exploitation of economies of scale and the transfer of intellectual capital and technology, and fosters growth in cross-border deals.

3. The Regulatory Environment for M&As in Europe

3.1. The European Directive on Takeovers

The creation of a cross-border takeover market is important for the evolution of capital markets and the overall competitive position of European companies. There are several reasons that may hinder firms' integration within Europe. Some of these reasons are structural to European societies. Cultural differences, language, little geographic mobility, or differences in taxation and the provision from the social state hinder the process of economic integration.

Other reasons, however, spawn from the legal, normative, and political differences in the framing of economic activity that are still present in Europe. Managers and policy makers in the EU believe that the creation of an integrated economic space within Europe depends on changing and homogenizing EU legislation. Yet this process of integration at the European level is still subject to considerable institutional and nationalistic barriers. This is particularly evident in the regulation for M&As across different European countries (European-Commission, 2005, 2007).

Takeovers may be efficient drivers of value creation. They facilitate corporate restructuring and consolidation and provide a means for companies to achieve an optimal scale; a precondition for competing effectively on an integrated European market as well as on the global market. They are also beneficial for investors, allowing them to obtain a better return on their investments. However, progress towards a European cross-border M&A market is still hindered by the existence of different national systems of takeover regulation and the retention of costly structural and technical barriers to takeovers.

For these reasons there has been for a long time a widely held sentiment that a coherent EU policy for the regulation of takeover bids is needed. The materialization of this policy however has been extremely painful. The European Commission drafted a first proposal for a Takeover Directive for European companies as early as 1985. The directive aimed to create favorable conditions for the emergence of a European market for corporate control: efficient takeover mechanisms, a common regulatory framework and strong rights for shareholders, including minority shareholders (European-Commission, 2007). Yet the approval of this directive proved extremely difficult. After fourteen years of negotiation among the member states, the Directive was finally approved in the fall of 2003. However, the final outcome was far from satisfactory. Mr. Fritz Bolkestein, the EU Single Market Commissioner at the time, stated that "We have gone a long way in reverse gear. If the council continues to take decisions like this one, the EU will never reach its target of becoming the most competitive economy in the world by 2010".[2]

The final objective of the directive was to create conditions for the development of an active, cross-border European market for corporate control, to help exploit the benefits of a harmonized market for takeovers at European level, and to promote integration of European capital markets. The new regulatory framework was meant to harmonize different national takeover laws through consistent takeover rules across the EU. The approved Directive established a new mandatory bid rule and the prohibition against defensive measures initiated by the management board. However, on the negative side the Directive made all of the controversial rulings merely optional for member states, allowing them to maintain controversial practices in their national legislation such as poison pills, or multiple voting shares.

Four key provisions of the Directive – board neutrality, breakthrough, reciprocity, and squeeze-outs – were considered to be particularly important in this respect. These rules restrict the use or availability of different types of instruments which can be exploited by companies to thwart hostile bids (takeover defenses) (European-Commission, 2007). The first rule – the board neutrality rule – is a form of post-bid defense. It provides that during the bid period the board of the target company must obtain prior authorization from the general meeting of shareholders before taking any action which may result in the frustration of the bid. This rule may facilitate takeover activity by limiting the board's power to raise obstacles to hostile takeovers to the detriment of shareholders' interests. It safeguards shareholders against opportunistic behavior of the incumbent management and ensures that it is indeed the owners who decide on the future of the company (European-Commission, 2007). The board neutrality rule limits the potential coercive effect of a bid (McCahery et al., 2003).

The second rule, the breakthrough rule, neutralizes pre-bid defenses during a takeover. This rule is considered to be a radical tool to facilitate takeovers as it makes certain restrictions (e.g., share transfer or voting restrictions) inoperable during the takeover period and allows a successful bidder to easily remove the incumbent board of the target company and modify its bylaws (European-Commission, 2007).

The third key element of the Directive, the reciprocity exception, was viewed as a high barrier to integration. It allows EU states to permit companies to disapply one or both of the previous rules, if these are not applicable in the home country of the bidding company. Thus the target company could 'retaliate' against a bidder who is not subject to the same rules. The reciprocity rule gives management new powers to take frustrating action and defend against non-friendly bids (European-Commission, 2007).

Fourth, the Directive also regulates the right to squeeze out minority shareholders. This provision allows a bidder who has acquired a very large part of the share capital to acquire the outstanding shares. Forcing minorities out of the company, it allows bidders to finalize a takeover, while at the same time protecting minority shareholders by forcing a bidder acquiring control over a company to make a full takeover bid at an equitable price for all the remaining voting securities of this company.

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[2] *Financial Times*, November 28, 2003, p. 1.

Furthermore, although the Directive homogenizes M&A legislation across the EU, it still allows for considerable deviation at national level from its key provisions. Member states are allowed to not impose the provisions on takeover defenses at national level. For example, the threshold above which control is deemed to be acquired is defined at national level.

The European Commission last year performed a study of the implementation of these rules by the national authorities in their legislation (European-Commission, 2007). The summary of the findings are included in Table in Exhibit 1 for the larger countries. Most countries have not transferred the obligation of the breakthrough rule into national law. The vast majority have also not applied the board neutrality rule. Only France, Spain and the United Kingdom have transferred this rule into their national laws. In contrast, all countries have plans to implement a squeeze-out threshold for minority shareholders above a threshold around the 90%-95% level. Most important, all countries have also included into their legislation the reciprocity rule, allowing their home companies to use it to build defenses against potential bids from other countries.

Additionally, the directive imposes a strange asymmetry. The Directive guidelines are still restricted to bidders from the EU. The same rules do not necessarily apply to outside-EU bidders for the same European target company (McCahery et al., 2003). This asymmetry may result in awkward situations if the same target faces competing bids from an EU and a non-EU based firm. Even worse, a regulatory arbitrage may arise by choosing instrumental corporations incorporated outside the EU.

3.2. The Preponderance of Takeover Differences Among Member States

Beyond the lack of convergence to a standardized legal framework within the European Union, it is important to also analyze the degree to which corporations are actually converging in their use of these takeover defense practices. Certain provisions may be available within the legal code of a country and companies in that country may choose not to actually take advantage of this possibility.

Listed companies in general have tended towards convergence in the application of their corporate governance practices. Part of this convergence has been due to increasing pressure on Corporate Governance guidelines that have been approved in most countries.[3] The increased internationalization of investors and the higher preponderance of institutional investors, jointly with the role played by investor protection and activist organizations, have also contributed to the convergence in practices.

One area of particular interest is the relationship between ownership and voting rights within corporations (i.e., the proportionality principle). Companies often limit the ability of certain investors to exercise political rights through the use of a number of mechanisms. They can establish mechanisms that allow blockholders to enhance control by leveraging voting power. Some of these mechanisms include: Multiple voting rights shares; Non-voting shares; Non-voting preference shares; or Pyramid structures. They can establish mechanisms that lock-in control such as Priority shares; Depository certificates; Voting right ceilings; Share transfer restrictions; or Supermajority provisions. They can also use other mechanisms such as limited partnerships; cross-shareholdings; or shareholder agreements among existing shareholders regulating concerted behavior.

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[3] See for instance the OECD guidelines on Principles of Corporate Governance.

The European Commission requested a study to identify the degree to which these diversions from the proportionality principle were prevalent across EU listed companies (Institutional-Shareholders-Services, 2007). The goal was to first analyze whether these measures were possible within the regulatory framework of each country, and then to evaluate the prevalence of their use by companies in those countries.

Most of these measures, if implemented, generally imply deviations from the proportionality principle of "one share, one vote", under the premise that, subject to certain precautionary measures, corporations should be left with the ability to organize themselves as they see fit. The resulting evidence on the prevalence of these measures across the different countries is summarized in the table in Exhibit 2. No country included in the sample has opted for a full blown application of the proportionality principle. On the contrary, all countries allow only some of these measures in their legal system.

Shareholder agreements, voting right ceilings, supermajority provisions, cross-share holdings, and pyramid structures are prevalent in most countries in the sample. In contrast, ownership ceilings and non-voting shares are not allowed in more than 60% of the countries.

The prevalence of the use of these measures by companies differs substantially. Of the 464 European companies considered in the study, 44% have one or more of these measures in place. Companies in France, Sweden, Spain, Hungary and Belgium are most likely to have at least one of these provisions.

The sample analyzed included the 20 largest companies in each country and a sample of recently listed companies (Institutional-Shareholders-Services, 2007). Important differences exist between these two groups. The majority of large caps (52% of the companies) have measures while only one quarter of recently listed companies do. The most common measures among large companies are pyramid structures (27% of occurrences), multiple voting rights shares (21% of occurrences), and shareholders agreements (14% of occurrences). These three measures are also the most common measures among recently listed firms, although their prevalence is much smaller. More importantly, a fifth of the companies used a number of these measures jointly to enhance their impact in corporate governance.

Differences also exist in other takeover regulations beyond the one vote one share principle. Countries also differ in the ability to include "poison pills", sell assets or to issue new equity with voting rights in response to an unwelcome bid (see Exhibit 3).

These differences in legal standards are one of the main shortcomings of the European Directive on takeover bids. However, these formal differences are not the only ones. Professional advisors highlight the predictability of the implementation of these regulations by countries as an additional important difference. Intense debate exists on the ways that provisions would be implemented both in British/American style economies, such as the United Kingdom, where shareholders rights are paramount, and more traditional Continental European countries (such as Spain or Germany), where corporate governance is dominated by stakeholders. The lack of precedents in many of these transactions by national authorities, the independence of the regulatory agencies, and the degree of explicit or implicit government involvement are clear barriers to a homogenous implementation of rules across countries.

These considerations raise doubts about the efficiency of the role of the European Commission on M&A activity. A recent study on the effects of European regulation shows that the more an M&A transaction threatens to harm rival European companies through increased competition, the greater the likelihood of European regulatory intervention, especially when the acquirer is foreign (Aktas et al., 2007). European and United States authorities have long claimed that regulation of M&A protects consumers by guarding against monopoly power, but research suggests that protectionism could be the main reason for the existence of M&A regulation in Europe (Aktas et al., 2007). Evidence shows that investors anticipate a far higher cost to the merging parties when the European Commission intervenes against foreign bidders as opposed to European bidders. Furthermore, the price reactions of rival companies immediately around the initial announcement of the M&A suggest that rival companies' share prices increase around the announcement date, if the deal results in increases in concentration among domestic producers and especially in regulated industries.

3.3. The European Rules on Competition from M&As

When an M&A transaction is evaluated, the parties involved should take into account the competition implications of the transaction. The regulation of Competition approval within the European Union is based on the principle of subsidiarity and "one shop" only. The transaction may have national or Community dimension in terms of its competition implications. The determination of the appropriate dimension also defines the competition authority in charge of evaluating the transaction.

A transaction that implies a concentration in an industry acquires a "Community dimension", according to EU rules when in principle the combined aggregate worldwide turnover of all the undertakings concerned is more than EUR 5 billion; and the aggregate turnover in the EU of each of at least two of the companies concerned is more than EUR 250 million (unless each of the companies concerned generates more than two thirds of its aggregate EU-wide turnover within a single EU country). A number of alternative ways of measuring these dimensions exist for the case of involvement in multiple EU member countries and/or multiple companies.

Once it has received a notification, the Commission has several powers of decision. First, it determines by decision whether: (i) the notified concentration comes under its supervision; (ii) the concentration is compatible with the common market, and (iii) the concentration raises serious doubts as to its compatibility.

In order to coordinate the activities of the National Competition authorities and the EU competition agency, these procedures state that when the parties concerned show the Commission a specific transaction, the Commission may ask the member states affected to express an opinion on the corresponding transaction and/or to refer the whole or part of the case to the corresponding national authorities.

The Commission has become more and more active on this front over time. It engages in different Phases of investigation on these transactions. Phase I is a quick overview of the essentials of the transaction to see if there are reasons that require a more detailed look. Phase II implies a detailed analysis of the transaction and the implications in terms of competition for the industry. The number of merger cases notified to the Commission in 2007 reached an all-time high of 402, a rise of more than 12% compared to the 356 transactions notified in 2006. In the last quarter of the year the number of notifications fell both in relation to the previous quarters and the last quarter of 2006 reflecting the overall decrease in M&A activity. In total the Commission adopted 396 final Decisions in 2007, of which 368 were cleared in the first phase without conditions. Of these unconditional first-phase clearances 238 (or 65%) were adopted under the simplified procedure. A further 18 transactions were cleared in Phase I subject to conditions. Ten Decisions were adopted after in-depth Phase II investigations. Five of these were cleared without conditions, while in four cases the clearances were subject to conditions. One transaction – a horizontal merger involving a proposed takeover of Aer Lingus by Ryanair – was prohibited (European-Commission, 2008).

National competition authorities differ substantially in their involvement, level of activity, regulatory implementation and degree of independence from national governments. The need for convergence in the application of competition principles and rules across national authorities is a pending subject in European integration. M&A professionals often cite these differences in regulatory functioning and, more often, the lack of predictability and consistency in the decisions made by these agencies as a major source of concern in large M&A transactions. For instance, Spain implemented a competition authority independent from the government only in 2007. Nevertheless, the likelihood of difficulties arising due to competition concerns is still relatively small. In Spain, there were 132 notifications of M&A transactions to the National Competition Authority. Of these, 123 were approved on Phase I (in a process similar to that of the EU described above) without further analysis, the decision taking on average 34 days. All remaining transactions were approved and only four of them were subject to some conditions for the transaction to go forward.

3.4. Additional Regulatory Requirements from M&As

In addition to regulatory takeover rules and competition concerns, a number of additional regulatory approvals may arise in an M&A transaction. Some of these requirements may have to deal with compliance with local or national regulations that determine issues as diverse as employment levels, restructuring plans, capital structure, ownership structure, leverage, or environmental concerns.

Regulated industries, or industries perceived to be of particular national interest due to the activity they perform, are often subject to additional regulatory approval. In regulated industries – in particular power and water supply, telecoms, broadcasting, and railways – the state has reserved for itself sufficient powers to interfere in pricing and quality standards, and to require minimum levels of capital investment. This happens most often in sectors related to energy, finance, basic transportation, defense and some other areas perceived to be strategic.

Most interesting are regulations that discriminate among transactions depending on the nominal ownership of the companies involved. In particular, a number of regulations exist in member countries that discriminate between foreign and domestic ownership in specific industries. As indicated before, a number of restrictions may be in place in these sectors such as golden shares or limits to foreign ownership (banks, or defense industries). There has long existed a struggle between national authorities and the European Union to decrease the number and importance of these regulations. For instance, the European Commission has declared the use of golden shares, a quite widespread practice in many countries (including the United Kingdom, Portugal and Spain) unlawful. Many of these industries already have requirements for regulatory approval by sector-specific regulators (energy or telecom) that makes it wholly un-necessary for the government to have a further say in the nationality of ownership as well.

The argument most often left is that of 'national security', mainly in the defense field but also argued in energy and agriculture or food-related concerns. In the end, the number of things that are so vital and sensitive to the national interest that they cannot be exposed to the free play of international capital and the possibility of foreign ownership, and are therefore in need of protection from foreign ownership, is very small indeed. Nevertheless, the perception of very similar approaches by national authorities on this front has raised the concern that some kind of "reciprocity" among member states should be in place.

4. A Flow Analysis of the M&A Process

4.1. Sample of M&A Transactions in the European Union

We examine the evolution of mergers and acquisitions in Europe between 2001 and 2007 by looking at a broad sample of transactions of publicly traded companies. We select transactions for which both the target company and the acquirer company are based in the Europe 15 area (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and United Kingdom). Our interest is in the evolution of transactions among the large, developed, EU economies accounting for most of the observed transactions. Therefore, we also focus our analysis on the country-specific detail for the six most active markets in M&A activity (referred from now on as "the six countries"): Benemark, France, Germany, Italy, Spain, and the United Kingdom. We include in the sample only transactions from publicly traded and private acquirers bidding publicly traded companies.

Our goal is to focus only on those transactions that imply a change in control of the acquired firm. It is difficult to determine a unique parameter that identifies a transaction as involving a change in control. The most commonly used parameter to identify a control change is the acquisition of a certain percentage of the target company, but effective control depends not only on the percentage of ownership sought or actually acquired but on other parameters such as the degree of concentration in the remaining ownership, board structure, regulatory regime and management structure of the acquired company. Nevertheless, the acquisition of a significant ownership stake can usually be viewed as a determinant of a change in control taking place.

We define a 20 percent ownership as the threshold for having a controlling stake in a corporation. We drop from the sample those transactions in which the ownership of the target company after the transaction controlled by the acquirer was still below 20 percent. We also exclude from the sample transactions that indicated that the acquirer already had control over the target firm prior to the announcement, such as internal reorganization, buybacks, exchanges, and acquisitions of remaining interests. For this reason, we drop from the sample those transactions in which the acquirer already held 50 percent of the shares of the target prior to the announcement, as this does not represent a change in control of the target company.

The final sample includes a total of 2,122 announced transactions, which account for a total deal value of $1,834.8 billion. Out of these announced deals, 1,340 transactions were finally completed, for a total value of $1,205.2 billion.[4] Out of this sample, the top 100 completed deals accounted for $982.9 billion in value, 82 percent of the overall value of completed deals.

[4] Source: Thomson One Banker's M&A module.

4.2. Prior to Announcement: Evaluating Sources of Value Creation

At the early stage of a transaction it is key to identify the underlying value drivers that determine the likelihood of value generation from an M&A deal. Three main value drivers are present in some form or another in all mergers: the existence of synergies, the role of identifying opportunities (value investing) and the key role of management involvement.

Synergies through either the development of economies of scale, cost reduction, or the elimination of duplicate activities are almost always mentioned as the justification for a merger. The degree of relatedness between the businesses of the buyer and seller is positively associated with returns.[5] Diversifying (unrelated) mergers tend to be more associated with poor performance than related mergers. Maquieira et al. (1998) found negative but insignificant returns to buyers in conglomerate deals, as opposed to positive and significant returns to buyers in non-conglomerate deals. Houston, James, and Ryngaert (2001) studied the association of forecast cost savings and revenue enhancements in bank mergers and found a significant relationship between the present value of these benefits and the announcement day returns.

Value investment is also likely to generate positive reactions and increases in value. Value investment occurs when buyers purchase apparently cheap companies (low book-to-market ratios). Rau and Vermaelen (1998) found that buyers of companies with high book-to-market value ratios obtain significantly negative cumulative abnormal returns in merger deals, while value-oriented buyers earn significantly positive cumulative abnormal returns.

Related to the value generated from the price paid in the transaction, the method of payment is also key. Cash is usually preferred to stocks by sellers in a merger. Cash is also favored as a form of payment in M&A deals in periods of easy financing conditions and in smaller acquisitions. Evidence suggests that stock deals are related to negative value creation while cash purchasers have zero or positive cumulative abnormal returns (Campa and Hernando, 2008). A related finding is that leveraged and management buyouts (LBOs and MBOs) create value for buyers. The sources of these returns are not only from tax savings due to debt and depreciation shields. Gains also accrue significantly from efficiencies and greater operational improvements implemented after the buyout by the new managers who tend to have a significant portion of their net worth committed to the success of the transaction (Healy et al., 1997; You et al., 1986). In fact, returns to buyer company shareholders are positively related to share ownership by managers and employees.

Survey information also provides detailed evidence about the distinctiveness of sources of value in European M&As. An analysis by KPMG International (2007) of 510 corporate deals announced during 2000-2004 found that the three most common reasons for companies to undertake an M&A are: to increase or protect their market share; to enter new or greater geographic markets; and to diversify. An online poll conducted by Interlink to a cross-section of M&A professionals focusing on Europe (including industrials, bankers, lawyers and advisors) with 348 respondents in 2007 and 427 in 2006, showed that the main triggers for recent M&As are somewhat distinct: strategic reasons for supporting global growth, cash surpluses, and cheap debt are the main drivers behind M&A activity. Specifically, strategic reasons are the main driver for M&As of industrial companies but less so among financial companies. Instead banks and professionals see cash surpluses and cheap debt as the most important factors, mainly in banking (IntraLinks, 2006, 2007). These results suggest a shift in the reasons for M&As. M&As have increasingly become

[5] Comment and Jarrell (1995), and Healy, Palepu, and Ruback (1992) (1992 and 1997), among others, provide evidence on the existence of value destruction from unrelated diversification.

strategic operations financed by cash surpluses and cheap debt, instead of protective operations aimed at increasing the acquirer's financial strength. The financial developments since the summer of 2007 have dealt an important blow to M&A activity. The decrease in the amount of financial liquidity and the increase in the price of money have lead to a decline in the volume of M&A activity in the world. Survey evidence from this spring (2008) indicates that market consolidation is again going to be the main driver of future M&A activity.

4.3. Prior to Announcement: Selecting Advisors

There are four areas of professional advice in M&A transactions: legal, financial, strategic, and auditing. The involvement of the first two types appears in virtually all M&A deals, especially those involving publicly traded companies. Their involvement takes place very early in the process and their individual areas of expertise are well delimited. The presence of strategic consultants varies depending on the deals. Their role is often to evaluate the business plan and the underlying synergies to be expected if the acquisition were to go through. Sometimes their involvement goes beyond the evaluation of the strategic plan and may also evaluate the likely competitive strategy arising from the deal and/or the design and implementation of the post-acquisition strategy to extract the expected synergies from the deal. Auditing companies are usually involved in the process of due diligence and their participation in the preparation of the deal structure is often limited, focusing most of their work on the due diligence process, quite often to be performed after the announcement of the deal.

The analysis of the advisors most frequently involved in European deals shows a large degree of concentration and persistence in the companies performing these roles in major transactions. Large international advisors take up most of the league tables in terms of involvement in deals.

Goldman Sachs and Linklaters are respectively the financial and legal advisors most frequently involved in the largest deals by value. Other top financial advisors in large European deals include Merrill Lynch, Citigroup, Morgan Stanley, ABN Amro, BNP Paribas, Rothschild, JP Morgan, Creditsuisse, Mediobanca, UBS Warburg, Unicredit, Lazard, Gruppo Banca Leonardo, and Deutsche Bank. This list can be broken down into two broad groups: leading, worldwide, specialized, investment banks and large European-based universal banks with an important advisory activity, primarily in deals involved companies in their home markets.

Among the top European legal advisors are Linklaters, Slaughter & May, Norton Rose, NautaDutilh, Elvinger, Hoss & Hogan & Hartson, Clifford Chance, Lovells, Ashrust Morris Crisp, Uría Menéndez, Davis Polk & Wardwell, Sullival & Cromwell, Hengeler Mueller, Skadden Harps Slate, Meagher & Flom, and Bledin Prat Saint Esteben & associés. The primacy here of large British or American based legal companies is quite strong.

4.4. Deal Attitude

The preponderance of hostile deals in European M&A transactions is very low. The vast majority of completed deals in Europe during the period 2001-2007 was either friendly or neutral (97 percent). Only 1 percent of the completed deals during this period can be formally classified as hostile. In contrast, hostile takeovers worldwide account for 12 percent of total deal volumes in 2007. This percentage is considerably higher than the ten-year average of about 3 percent and even larger than the proportion for the European Union. The proportion of hostile deals in Europe increased slightly in recent transactions. This pattern repeated the experience of the last peak in M&A activity in which hostile takeover activity also increased towards the end of the 1990s, climaxing with the hostile bid by Vodafone for Mannesmann.

Hostile bids tend to be slightly more likely in larger deals. Among the top 100 deals by value in Europe, 3 percent are formally hostile and another 17 percent are unsolicited deals, where the boards of the target companies do not formally take a stance on their view.

Hostile deals are also much less likely to be successful. Only 52 percent of announced hostile deals actually complete whereas, by contrast, 64 percent of announced deals that are considered friendly end up being completed.

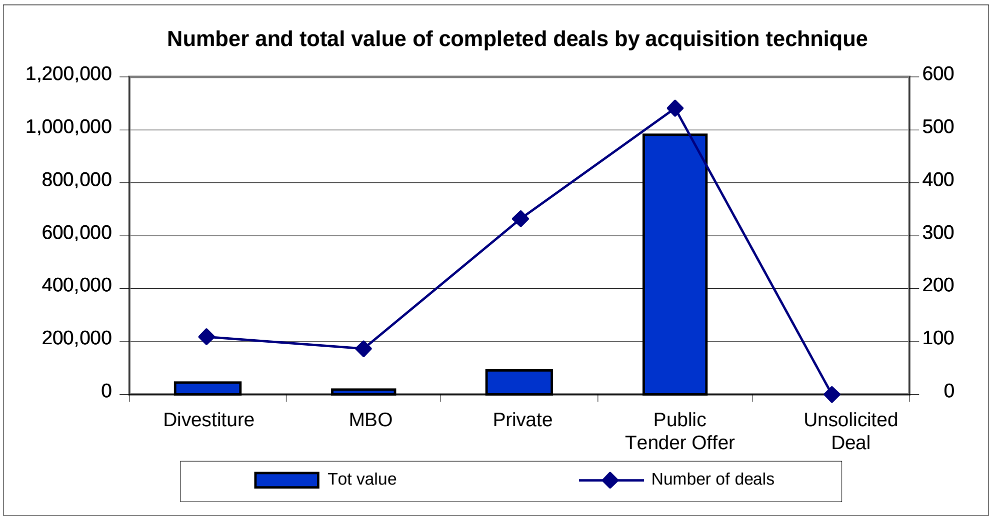
4.5. Acquisition Techniques

There are alternative methods to acquire control of a company: a public tender offer, the purchase of a significant package of shares that provides effective control of the target from a single or a well-identified group of investors, or the open market acquisition of a significant package. The preferred method on each transaction depends on the existing ownership structure of the firm, the liquidity of the shares of the target firm, as well as the specific takeover regulations of the country of the target.

Ownership structure of publicly traded companies differs substantially among European countries. In general, companies traded in Continental European countries tend to have a concentrated ownership structure, often with one or two shareholders that have effective control over the management of the firm. Barca and Becht (2001) estimated that more than half of the traded companies in Germany, Italy, Austria and Belgium are controlled by a majority shareholder. This percentage is also very high for France and Spain (over 30 percent). In contrast, only 2.4 percent of the traded companies in the United Kingdom are estimated to have a majority shareholder. Furthermore, as discussed previously, countries differ substantially in their corporate takeover regulations that establish the requirements for the launching of a public tender offer and/or the limits and size of such offers. As a result, the use of alternative acquisition techniques varies drastically by country.

Figure 4

Number and total value (million dollars) of completed M&As by acquisition techniques (public tender offer, private, divestiture, MBO, and unsolicited deals) in EU-15 (2001-2007)



Source: Own calculations; see Data Appendix for description of original source.

Figure 4 shows the number and total value of completed M&As by acquisition techniques[6] (public tender offer, private, open market purchase, mandatory offering, divestiture, MBO, unsolicited deals, white knight / squire) in EU-15 in 2001-2007. M&As in EU are mostly public tender offers; 53% of all completed deals. The second most common acquisition technique in the EU is private deals that represent 33 percent of all completed deals. M&As involving a public tender offer have on average the greatest value. This pattern holds across the different EU countries.

4.6. Announcement

Given the predominance of friendly transactions, exploratory contacts prior to the announcement of a tender offer are common. Ownership structure and regulatory differences across countries determine this initial approach. In case of dispersed ownership, these contacts normally take place among chief executives. In situations with concentrated ownership, i.e., Continental European firms, contacts among controlling shareholders and potential bidders are more common.

Regulatory differences among EU countries imply that the extent and content of these initial contacts differ substantially by country. The content of these initial contacts is often limited to a discussion of the strategic evolution of the joint entity, potential preliminary estimates of synergies, and broad guidelines in terms of the structure of the acquisition and the top-management and executives in a post-acquisition strategy. The United Kingdom has a tighter regulation limiting the extent of these contacts.

The discussions of the essentials of the transaction structure, the terms of the deal, and the validation of the business model are usually led by the chief executives, with the support of external consultants, and limited involvement of other top management in the companies. Informal involvement by some board members often takes place, depending on the degree of effective leadership that the key shareholders or the top executive enjoy.

Formal board involvement is often limited to final decision making once the specific terms of a bid are announced. Prior to the final decision making, boards are often involved in approving the disclosure of additional information to the potential bidder that will help specify the terms of the deal. The board may even allow the performance of preliminary due-diligence of the prior to an exploit offer.

The top six countries in terms of M&A activity (Benemark, France, Germany, Italy Spain, and the United Kingdom) accounted for 91 percent of the top 100 completed deals. Overall the United Kingdom showed the greatest number of announced and completed deals in the European Union (29 percent of all completed deals), while Spain and Germany had the smallest number in this decade. However large differences exist in the size of the transactions taking place. Transactions in the United Kingdom, although much more frequent, had on average the smallest value, while those taking place in Benemark the greatest (partly driven by

[6] We define an open market purchase as a deal where the stock is purchased in the open market rather than from a third party through a privately negotiated transaction or public securities offering. We define a private tender offer (aggregate category comprising acquisitions made by investor groups or financial acquirers, Dutch auction tender offers, institutional buyouts, leveraged buyouts, mergers of equals, reverse takeovers, schemes of arrangement, stock swaps, tender offers, tenders/mergers, three-way mergers, and two-tier offers) a formal offer of a fixed duration to acquire a private company's shares made to equity holders.

a few very large transactions). Spain was also a very active market for M&As in 2006 and 2007, becoming the second largest European country by volume of activity after the United Kingdom.

There is a similar likelihood of success across the 6 top EU nations. However, deals of targets based in the United Kingdom were the most likely to succeed (72 percent), while deals of targets based in Italy were the least likely to succeed (51 percent).

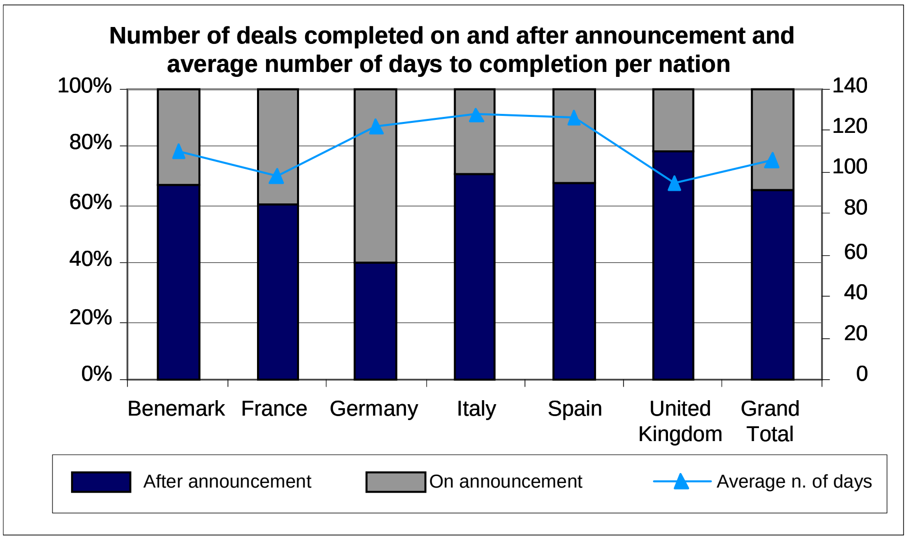
4.7. Time to Completion

On average 63 percent of announced M&A deals get completed. The majority of completed deals of the overall sample are effective after the day of announcement (60 percent). In contrast, only 40 percent of completed transactions are effective upon announcement. This happens mainly in smaller deals. The average size of deals completed on announcement is $130 million, a tenth of the size of the remaining deals. Completion on announcement is also much more likely in open market purchases (100 percent) and in private deals (49 percent) than in public offers (12 percent of deals). Only 3 percent of the top 100 deals, in the period 2001-2007, are effective on the announcement date. Larger deals take on average 156 days to complete from the announcement date, considerably more that the average for the whole sample of deals, 109 days.

Figure 5 shows the percentage of deals completed (effective) on the announcement day and after the announcement day. It also reports the average number of days from announcement day to completion (effectiveness) day for deals completed after the announcement day by country in the six major regions of the EU-15. Here the majority of completed deals are effective after the day of announcement (66 percent), while only a third of completed transactions are effective upon announcement. Across countries, most transactions are effective after announcement. This happens mostly in the United Kingdom (79 percent), Italy (71 percent), and Benemark (67 percent). Germany is the only country in which a higher percentage of deals are effective on the same date of the announcement (60 percent).

Figure 5

Percentage of deals completed (effective) on the announcement day and after the announcement day (left axis) and average number of days (right axis) from announcement day to completion (effectiveness) day for deals completed (effective) after the announcement day by country in EU-15 (2001-2007)

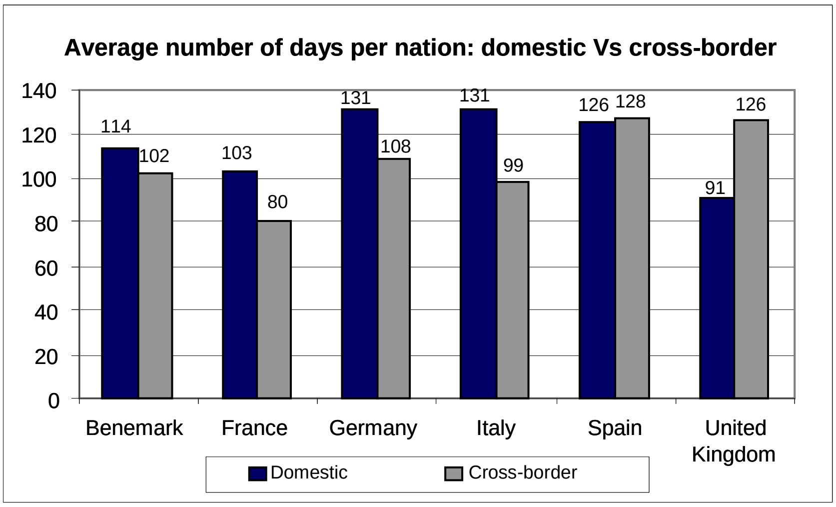


Source: Own calculations; see Data Appendix for description of original source.

Larger deals involving domestic companies in regulated industries are the deals that take longest to complete. This is mainly due to the fact that domestic deals tend to involve industry concentration and are more likely to be subject to regulatory approval by competition authorities and other specific regulatory agencies (especially in financial, energy and telecoms). Cash deals are completed faster, on average in 100 days, 34 days less than share deals. Differences among countries also exist. The United Kingdom is the “quickest” country, with only 95 days from announcement to completion. In contrast the large continental European countries like Germany, Italy, and Spain completion takes longer (122, 127, and 126 days respectively on average) (Figure 5). In all European countries but France and Italy, cross-border deals on average take longer to complete than domestic deals. Figure 6 reports the details of the analysis, such as the average number of days from announcement day to completion (effectiveness) day for deals completed (effective) after the announcement day, segmented for domestic and cross-border deals, by country.

Figure 6

Average number of days from announcement day to completion (effectiveness) day for deals completed (effective) after the announcement day, segmented for domestic and cross-border deals, by country in EU-15 (2001-2007)



Source: Own calculations; see Data Appendix for description of original source.

We also perform a regression analysis to determine the distinct effects that determine the duration for a transaction to be completed. We regress the number of days to completion on a number of determinants such as the size of the deal, percentage of shares acquired, form of payment, whether it is a domestic or a cross-border transaction, and industry and country dummies. Domestic, large transactions take longer to complete while transactions paid in cash-only are completed faster. The fact that the target’s industry is regulated appears to have no effect on the time to completion. Deals in Germany, Italy, and Spain take longer to complete than deals in France, Benemark, and the United Kingdom.

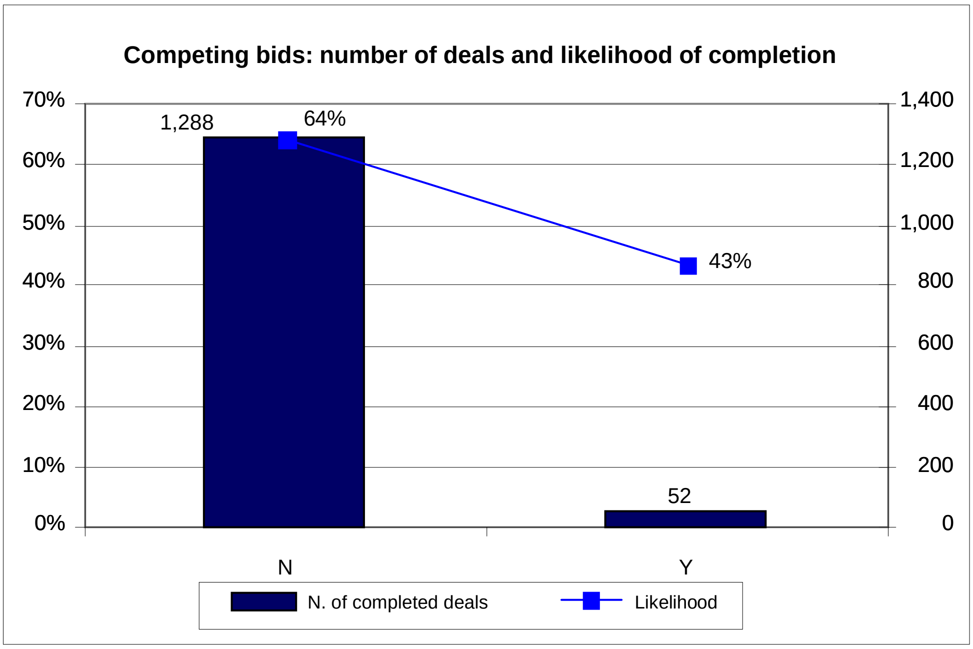
4.8. Competing Bids

It is rare to observe competing bids in Europe. On average only 3 percent of announced transactions in the sample received competing bids. The small prevalence of competing bids happens across the range of transactions but is significantly larger for the sample of the top 100 completed deals. Fourteen of the top 100 deals experience competing bids.

Figure 7 reports the number of completed deals and likelihood of completion of deals with competing bids in EU-15 (2001-2007). Competing bids are not only rare but also much less likely to succeed than non-competing bids. The likelihood of completion of a deal facing a competing bid is only 43%, a third lower than for the transactions without a competing bid (64%).

Figure 7

Number of completed deals (right axis) and likelihood of completion (left axis) of deals with and without competing bids in EU-15 (2001-2007). N indicates deals with no competing bids, and Y indicates deals with competing bids. Likelihood of completion is calculated as number of completed deals over number of total deals



Source: Own calculations; see Data Appendix for description of original source.

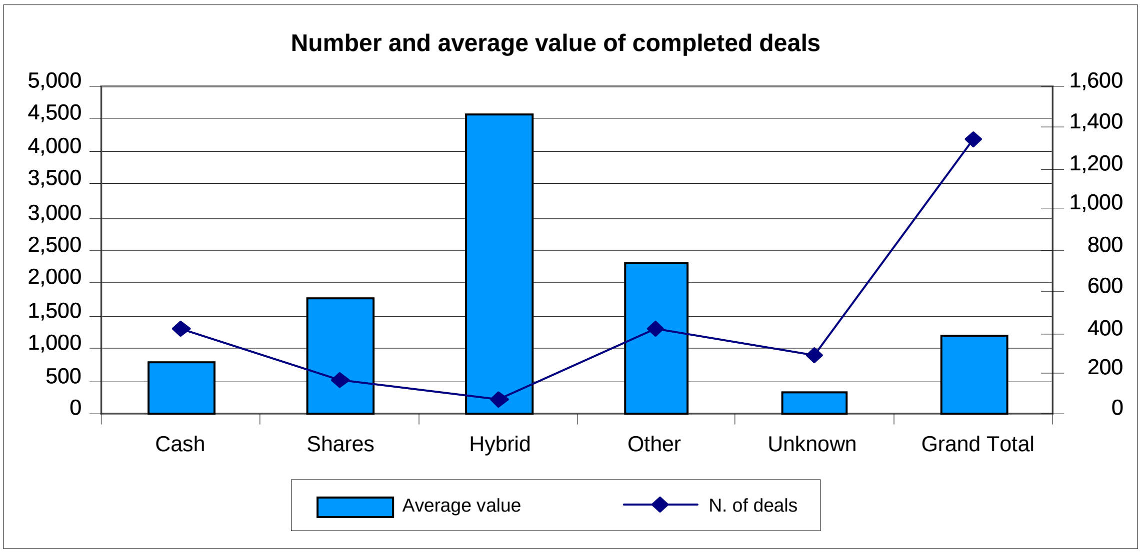
Different factors can explain the lack of competing bids in Europe. The single most important one is the lack of hostile transactions indicated above. There are very few hostile deals announced in Europe and competing bids are typically present in hostile deals, where arbitrageurs are the significant decision makers (Bruner, 2004). Additional factors include the large presence of domestic transactions that result in consolidation in the industry, the relatively smaller role performed by financial investors (such as private equity and restructuring funds), and the predominance of financial and industrial conglomerates in continental Europe.

4.9. Payment Method

As reported in Figure 8, the majority of completed deals in EU were paid exclusively with cash (31 percent). However, although these deals represent the greatest absolute value of transactions ($313 billion), the deals paid in cash tend to be relatively smaller. The average value of a cash deal was $770 million. In contrast, the average size of a deal paid with shares was $1,750 million. Very large deals tended to be paid with a hybrid of both cash and shares, and the average size of these deals was over $4,500 million. Figure 8 reports the number and average value of completed deals in EU-15 by payment method.

Figure 8

Number (right axis) and average value (mil dollars, left axis) of completed deals in EU-15 (2001-2007) by payment method (cash only, CASH, shares only, SHARES, hybrid, i.e. cash plus shares, and other, i.e. a mix of payment methods, including assets only)



Source: Own calculations; see Data Appendix for description of original source.

Of the top 100 deals 29 percent were paid with a hybrid of cash and payments. Cash only was used in 32% of these deals and only accounts for 22% of the value of these 100 transactions. Payment with shares occured in 26% of the deals, accounting for 24% of the value of the top 100 deals.

Overall the difference in likelihood of completion across different payment methods is minimal. Deals paid in cash only or shares only are very likely to be completed (70 percent) while hybrid deals are slightly less likely to be completed. Nevertheless, this difference is more likely due to the larger complexity of the larger deals than to the form of payment. There is a significant difference in terms of attitude of the deal. European hostile deals are predominantly cash deals. This pattern is similar to that in the United States and reflects the aggressiveness of hostile deals while removing any contingency about the assessment of the value of the bid. Nevertheless the preponderance of cash deals among non hostile bids is also high.

4.10. Deal Value

The average value of M&As deals decreased from $2,135 million in 1999 (Martynova and Renneboog, 2006) to $1,200 million in 2001-2007. As stated above, larger deals tend to be paid in shares or a hybrid of shares and cash. As a result, the deal value of transactions is more likely to increase when stock market valuations are at historically high values. Also, paying a high price for a target firm is more likely to occur when takeover activity is peaking, because the bids become more aggressive and more frequently trigger opposition by the target firm (Martynova and Renneboog, 2006).

In 2001-2007, four industries hosted the majority of M&A deals: energy and power, financial services, high-technology, and industrials. The financial services industry accounts for the total greatest value of completed M&As (33 percent of total M&A value). Energy and power was the second industry per value of M&A (16 percent). In terms of number of deals, financial services came second, together with high-technology (both 14 percent), while industrials, which alone accounts for 16 percent of all completed M&As, had the highest number.

There has been a shift in the relative importance of different industries in M&A activity. The financial industry accounts for by far the largest value of transactions in the period 2001-2007. However, earlier in the period, the number of deals in real estate, financials and media and entertainment was relatively larger and decreased after 2005. In contrast, more recent large transactions took place in the power and energy industry, in materials, and in industrials.

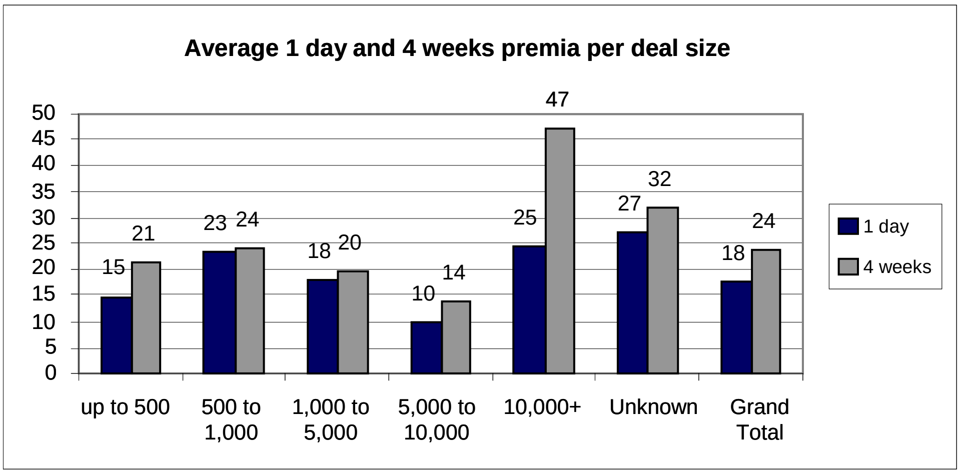
Of the Top 100 deals, the sectors that experienced the greatest activity in M&A, as average deal value, were: Consumer Staples in Benemark; Energy and Power in United Kingdom; Financials in Benemark and United Kingdom; Healthcare in France; Materials in Benemark; Telecoms in United Kingdom.

4.11. Premia

The average one-day premium (i.e., the difference between the offer price and the target price the day prior to announcement) is 18 percent for the overall sample of completed transactions in the period 2001-2007 (see Figure 9). This premium is very similar to the 24 percent reported average premium relative to the target price four weeks prior to announcement. This small difference suggests that on average there is no anticipated information on the deal reflected in the share price of target companies. One third of completed deals have a premium larger than 20 percent.

Figure 9

Average one day and four week premia of completed M&As in EU-15 (2001-2007) by deal size. The total refers to the average premia for the whole sample of completed deals

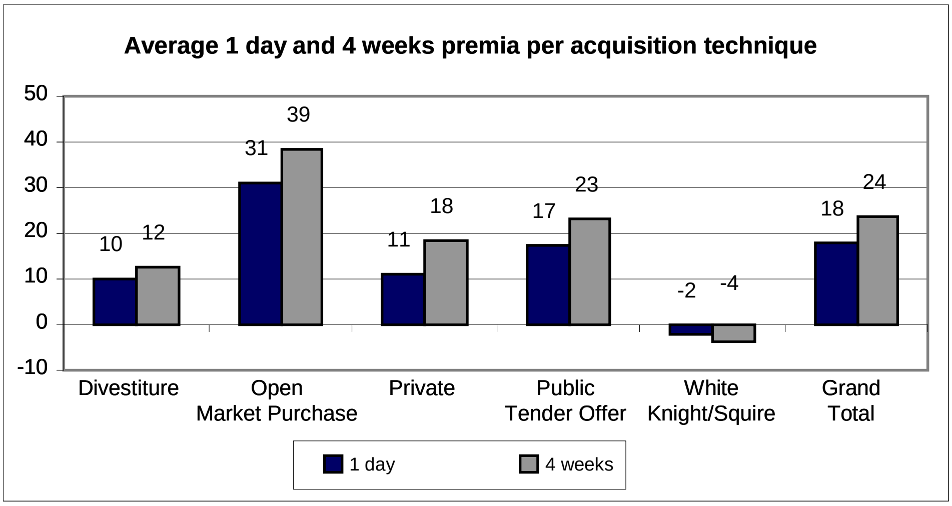


Source: Own calculations; see Data Appendix for description of original source.

As shown in Figure 9, there is a slight negative correlation between the size of the premium and the value of the transaction. With the exception of very large transactions ($10,000+ million) that show a very high large premium driven by a few individual transactions, average premium is smaller for larger transactions. Transactions with values lower than $1,000 million have average premia in the range of 15 (one day) percent to 23 percent (four weeks). The average premium for transactions between $1,000 and $5,000 million in value is slightly lower than 20 percent, while for those with values between $5,000 million and $10,000 million it is around 10 percent. The top 100 deals by value show an average one-day (four week) premium of 15 percent (25 percent).

Figure 10

Average one day and four week premia of completed M&A EU-15 (2001-2007) by acquisition techniques



Source: Own calculations; see Data Appendix for description of original source.

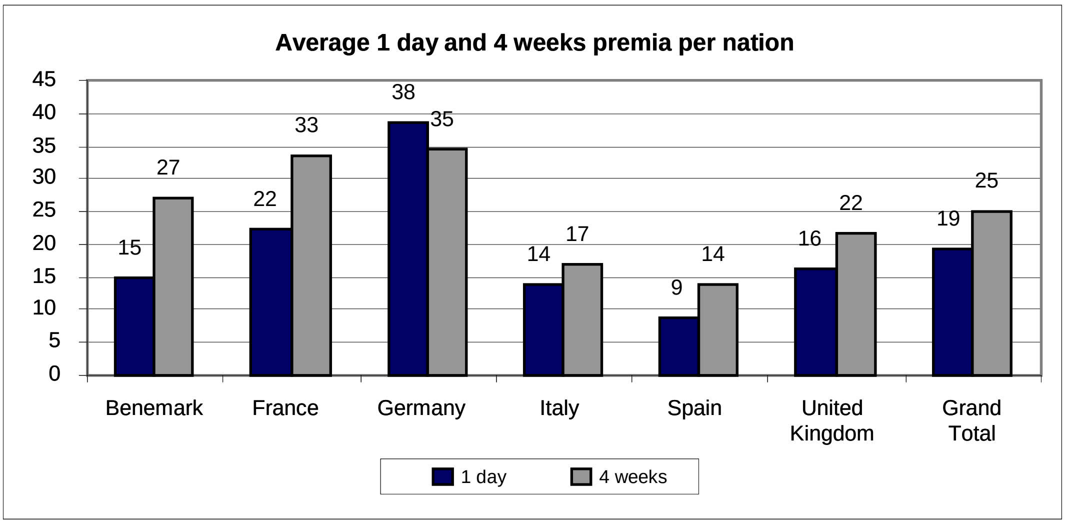
The size of premium also differs substantially by type of deals. Figure 10 reports the average one day and four week premia of completed M&As in EU-15 by acquisition techniques. Privately completed deals are less likely to provide large premia than public tender offers. Private deals yield an average one-day premium slightly above 10 percent (and an 18 percent four week premia). In contrast, the premium of public tender offers is almost 50 percent more than that for private deals. Public tender offers have a one-day average premium of 17 percent, and a 23 percent four week premium. Furthermore, the premia offered by White Knights is slightly negative, suggesting that these latter investors are most likely to appear after the initial existence of a bid (or the threat of one) that may have already increased the target share price.

There is a slight positive correlation between premium size on announcement and likelihood of completion. Deals with a negative one day (/four week) premium have 63 percent (/60 percent) probability of completion while for those deals with premia over 20 percent the probability of completion rises to 65 percent (/67 percent).

Average premium differs by country. One day premium is slightly lower than the four week premium in almost all countries (Figure 11). Germany represents an exception with 38 percent one day premium and 35 percent four week premium. Germany is also the country with the highest observed average premium. Average one day premium in Spain is below 10 percent, the lowest in the sample. For the other group of countries average one day premium fluctuates between 15 and 20 percent.

Figure 11

Average one day and four week premia of completed M&As in EU-15 (2001-2007) by target country. The total refers to the average premia for the six countries (Benemark, France, Germany, Italy, Spain, and United Kingdom)

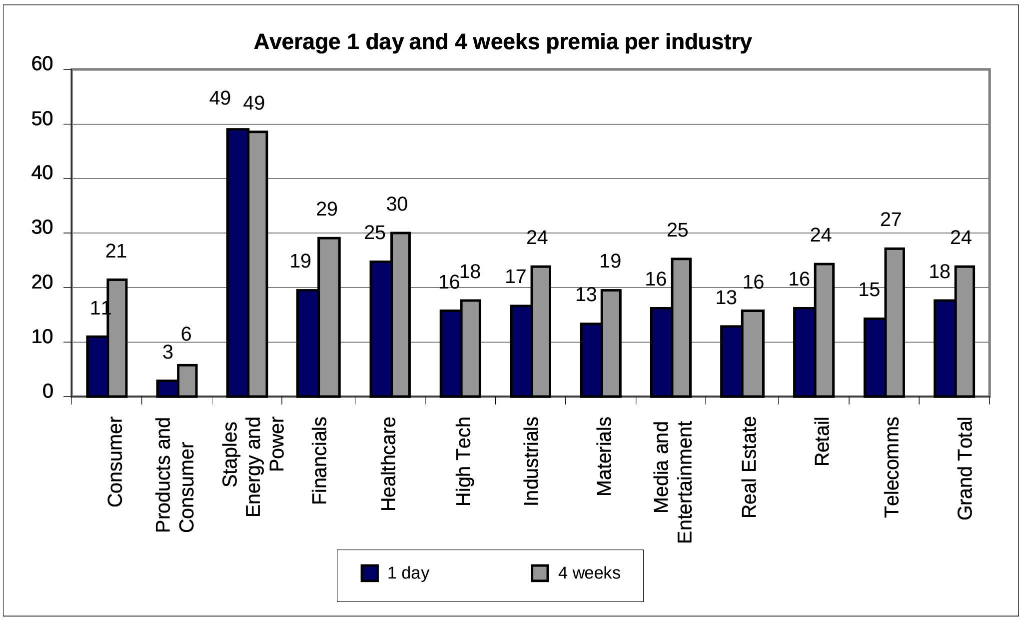


Source: Own calculations; see Data Appendix for description of original source.

As reported in Figure 12, there are no substantial differences in average premia across industries, with the exception of Healthcare, Energy and Power, and Industrials, which show very large average one-day premia (as high as 49 percent for industrials). Average one-day premia from the rest of the industries fluctuate around 10 and 15 percent, with Consumer Staples yielding the lowest average premia (below 5 percent). However, diversifying M&As tend to yield lower premia (17 percent one day and 22 percent four weeks) than intra-industry bids (18 percent one day and 24 percent four weeks).

Figure 12

Average one day and four week premia of completed M&As in EU-15 (2001-2007) by target industry



Source: Own calculations; see Data Appendix for description of original source.

4.12. Industry Analysis

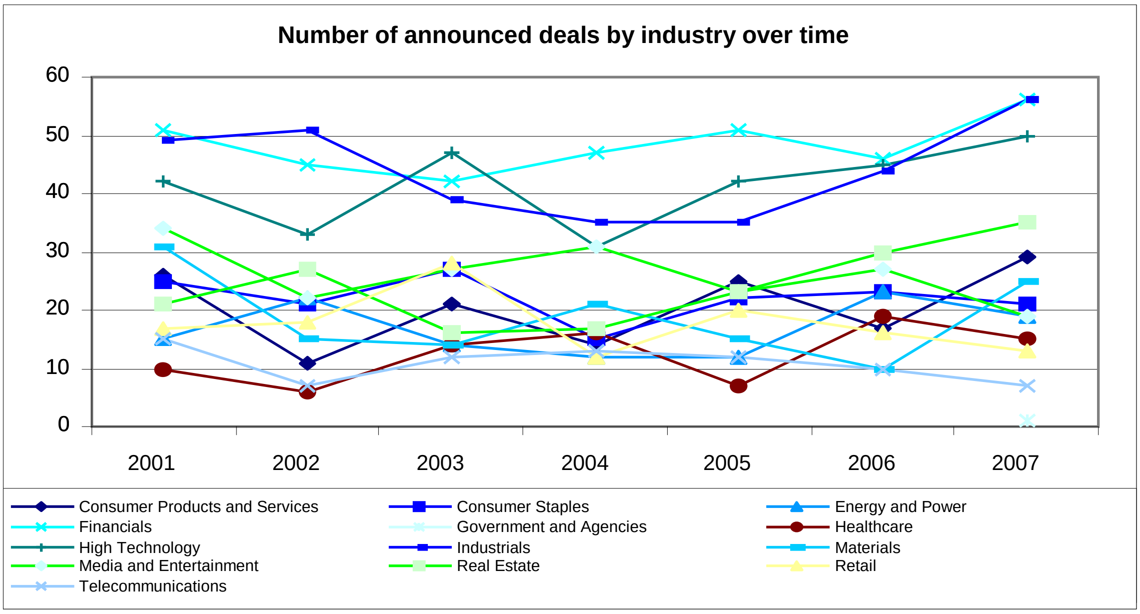
The vast majority of M&As in the European Union are domestic (81%). The trend shows that the number of domestic M&As slightly decreased until 2004, and then it increased again. However the industry composition of transactions is widely dispersed.

More interestingly, despite the emphasis in industry consolidation in the European Union, about half of the transactions taking place occurred within the same industry and, in the other half of these transactions, the target and the acquirer were in different industries. Both types of deals were almost equally likely to be completed (cross-industry deals 65% and same industry deals 62%).

Figure 13 shows that in 2001-2007 in Europe, Industrials accounted for the largest number of deals (16 percent of completed M&A) followed closely by the financials and high-tech industries (14 percent each). However by size, deals in Financials accounted for the greatest total value (33 percent of completed M&A value) (Figure 14). While the number of deals in financials decreased after 2005, the number of deals in industrials and, especially, in energy and power has increased. In the first quarter of 2008, Industrial and Chemical were the most active industries by deal volume. Energy, mining, and utilities were the most active industries by deal value. This shows a change with respect to previous years. Figure 13 shows the trend in the number of announced M&As in EU-15 by target industry.

Figure 13

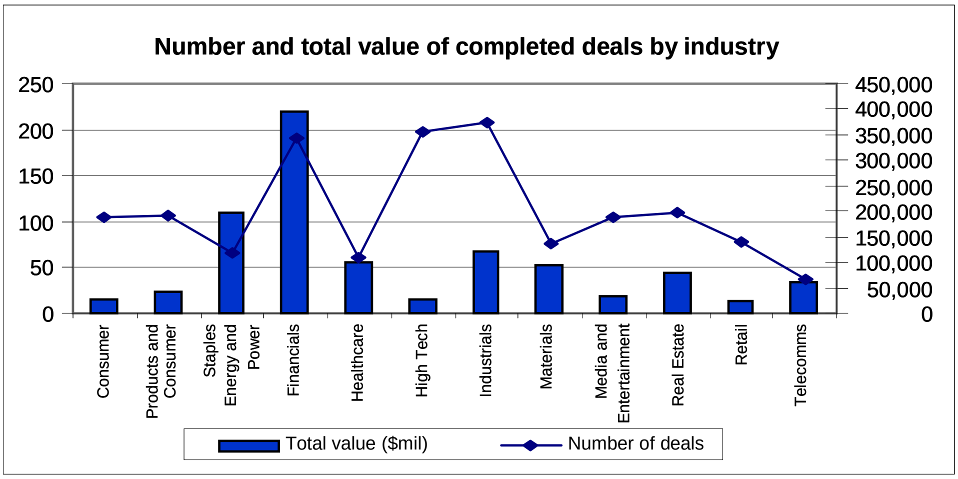
Trend of number of announced M&As in EU-15 by target industry (Thomson Financial industrial classification) (2001-2007)



Source: Own calculations; see Data Appendix for description of original source.

Figure 14

Number and total value ($ billion) of completed M&As in EU-15 by target industry (Thomson Financial industrial classification) (2001-2007)



Source: Own calculations; see Data Appendix for description of original source.

An analysis of these industrial sectors across European countries shows that there are great differences in the number and value of deals across the sample. Countries differ in the proportion of M&A per industry. Overall M&A in Financials represent a large portion of the total value of M&A. In relative terms, deals in consumer products and services, energy and power, retail, and telecommunications were most likely in the United Kingdom, consumer staples, and materials in Benemark, and healthcare in France, both as number of deals and as total value of deals.

The differences in cross-border M&A patterns across the European countries partly result from restructuring needs in the major national industries. Processes like deregulation and privatization have led to cross-border consolidations in, amongst others, the financial sector and utilities, allowing former state-owned companies to acquire companies abroad and to have foreign investors participate in their equity capital (Martynova and Renneboog, 2006). Many cross-border M&As made in the 1990s were between companies from the same or related industries. This trend continued after 2000, when in the EU, M&A deals predominantly occurred within the same industry, with a higher proportion for larger cross-border deals than before. This confirms that international business expansion was one of the goals inciting companies to participate in European cross-border M&As in the 1990s (Martynova and Renneboog, 2006).

Specifically, completed deals are equally distributed within and across industries. The fact that most of the European deals (both horizontal and vertical ones) involve companies in related industries consolidates the trend to focus on core business.

Below we provide a brief summary of the main drivers for industry activity in the major industry groups:

Industrial - Despite accounting for a large number of deals, they represent only a limited fraction of total deal value. Most deals in this industry group are relatively small private deals in search of consolidation.

Energy, Mining, and Utilities - This sector saw very large transactions mainly due to the high level of concentration already existing in the industry. However, according to many analysts, it still did not live up to its full M&A potential, both in terms of number and value of deals (MergerMarket, 2004, 2007, and 2008). The large degree of government and regulatory intervention in this sector makes cross-border transactions difficult. Private equity houses are playing an increasing role in the sector. Furthermore, in the current financial turmoil, investors will increasingly seek stable investments over a longer-term which the regulated environment of the energy and utilities sector provides.

Pharma, Medical, and Biotech – Deal flow is very high in this industry. The increasing amounts of R&D expenditures needed and the need for consolidation in these markets gave another boost to international M&As mostly in biochemistry and pharmaceuticals (Martynova and Renneboog, 2006). Also, big pharma has traditionally favored forging alliances and in-licensing compounds from biotechs or other research organizations, rather than acquisitions or mergers, so as to avoid the complications of integration and the typically dilutive effects of a long, drawn-out, anti-trust review. European companies believe that more interest will be shown in the medical technology sector, while EU hospital and healthcare services sector start consolidating (MergerMarket, 2004, 2007 and 2008).

Financial services - For banks, deal drivers include the desire to take advantage of strengthened capital positions, to create operating platform efficiencies and to enter new markets. Acquirers want to be able to access contiguous markets and thus a broader customer base. After a period of very large domestic industry consolidation in the large European markets, and international expansion into the New Member States, large international cross-border transactions have started to take place among western European banks. In this sector there is the potential for large-scale cross-border transactions leading to the creation of pan-European retail banks. The recent transactions of Abbey National, ABN Amro, and BNL point in this direction.

Technology, Media, and Telecommunications (TMT) - In the period 1993-2001, it accounted for one third of the total value of cross-border acquisitions. Telecom companies mainly engaged in vertical integration with high-tech companies. In 2001-2007 this sector continued to pursue M&As although at a relatively slower pace accounting for only 14 percent of all transactions. This high level of M&A activity is a consequence of both the fast convergence of TMT industries and a growing appetite for telecoms' horizontal consolidation. This is probably due to convergence of voice and data services, the rising penetration of broadband and new consumer behavior.

Leisure - This sector is consolidating, with deals happening mostly in the hotel and restaurant sub-sectors.

Business services – This industry is highly fragmented. M&A activity in this industry primarily consists of small to mid-sized transactions. Industry consolidation has increased the activity in M&A.

4.14. Preponderance of Private Equity Investors (PE)

The United States market is more mature and developed and in the last 20 years it accounted for the majority of Private Equity funds raised. However, European private equity and venture capital companies (PE) funds increased their size and, in from 2001 to 2005, accounted for 55 percent of the global total value of PE investments (Thomson One Banker analysis).

The number of deals involving PEs in 2001-2007 slightly increased until the end of 2007. PE activity showed a peak in value of M&A in 2006 and 2007. The United Kingdom is where the large majority of deals with PE, both by value and by number of deals, took place. However in the second half of 2007, the value of M&A transactions participated by PE started to decline. This is partly due to the effects of the financial crisis: PE companies are more likely to be involved in leveraged deals, and therefore changes in financial conditions affect them more directly. However, given the large amount of capital in PE Funds, their role as active M&A participants is likely to continue.

In Europe the likelihood of success of a deal in which a PE is involved is 63 percent.

This trend continued in the first quarter of 2008, when PE activity was two-thirds below its second quarter 2007 peak value. The value of PE activity fell by three-quarters from its peak value of $230bn in the second quarter 2007 to $55bn in the first quarter 2008 (HSBC, 2008). In the second quarter of 2007, PE activity represented 34 percent of the total M&A value. However, in the first quarter 2008 PE activity as percentage of value of M&A fell to 29 percent (HSBC, 2008). In mid-2007 to mid-2008 3i was the leading PE firm per number of deals and value of deals (Thomson One Banker analysis). The analysis by industry and country shows that deals with PE involvement were successful mostly in Financial services, Industrials, and Materials sectors. It also shows that 75 percent of completed deals occurred in Benemark, France, Germany, Italy, Spain, or the UK. Companies based in UK and France experienced the majority of M&A with PE involvement.

5. Final Discussion and Further Work

This paper provides a comprehensive overview of the European takeover market in the current century. We examine the main features of the M&As undertaken among European companies in 2001-2007. This period is characterized by an increase in worldwide M&A activity that peaked during the summer of 2007. This rapid period of global M&A activity was driven by some specific factors such as the fast expansion of the world economy, the increasing role of emerging markets in the world economy, and financial innovation that increased the availability of credit in the world. Like previous M&A waves this one occurred in a period of positive economic outlook with a rapid credit expansion and stock market boom.

M&A deals in Europe within this period have some distinctive features. Most importantly, despite European market integration the vast majority of deals continue to be domestic. Domestic M&As are smaller in value and lead to industry consolidation within national borders. However, as industry consolidation reduces the number of viable M&A opportunities at home, larger cross-border transactions are taking place. There is an increase in cross-border corporate activity in the New Member States by EU-15 companies, but most cross-border deals still involve companies in neighboring countries.

Public tender offers represent 53 percent of all completed deals, and 86 percent of the value of M&A transactions. These offers have been increasing over time, and are prevalent in the United Kingdom. There is a trend towards discouraging transactions that imply control transfers without involving all shareholders. Nevertheless, private deals, i.e., the transfer of a control package between a buying group and a single shareholder, represent 33 percent of all completed deals. In Germany, however, private deals account for a greater proportion of completed deals (24 percent, versus 19 percent public tender offers).

The majority of deals in Europe are friendly and paid in cash. Although the proportion of hostile deals is slightly larger in big and recent transactions, hostile deals remain extremely rare in Europe and are less likely to be completed. Only 1 percent of the completed deals are hostile and more than half of the announced hostile deals end up withdrawn or discontinued. In contrast, non-hostile announced deals have a more than 60 percent chance of being completed. Cash is the most common form of payment. Less than 12 percent of all deals were paid with shares only. Stock is more often used in large deals.

The premium paid for the target, relative to the share value the day prior to announcement, is 18 percent on average. The dispersion around this premium is quite high. One third of all completed deals have a premium higher than 20 percent, while only 5 percent of completed M&As yield a negative premium. Premia are smaller in larger deals, and substantially smaller when the acquirer is a White Knight.

Financial services account for the largest number of deals and for an even greater share of deal value during this period. However, the predominance of the financial industry has declined since 2004. In contrast, the number of deals in Energy, Mining, and Utilities is increasing and these industries have been the most active in the last year by deal value due to some very large transactions. The number of deals involving PEs shows a peak in activity (by value of M&A) in 2006 but declines afterwards.

Large transactions take longer to complete. This is not surprising given the higher complexity of these deals. Large transactions are more likely to be paid in shares requiring often shareholder approvals of both target and acquirer. They are also more likely to involve clearance from competition agencies and other regulatory approvals. Furthermore, the determinants of the length of time for completion are essentially country-specific. The fact that the target's industry is regulated appears to have no effect on the time to completion. Instead, we find evidence that differences across EU countries have a large impact on time to completion. Specifically, while on average across the EU one third of transactions are effective on the announcement date, the great majority of M&As in Germany tend to be effective on the same date of the announcement while the great majority of M&As in Italy and the United Kingdom are completed after the announcement date. These differences are not driven by discrimination against foreign companies. We observe that cross-border and domestic deals take a similar period to complete after controlling for other factors. Rather, this pattern is likely driven by differences in the institutional setting that determines the M&A process.

Despite an effort to coordinate takeover regulation at the European level, large differences exist among member states. Countries have implemented the European takeover directive in a seemingly protectionist manner, so that the presence of takeover defenses and substantial regulatory discretion remains. Ownership structure is also substantially different across member countries. Dispersed institutional ownership is prevalent in the Amercian/British style markets while concentrated ownership by controlling groups occurs in most continental European firms, even among the largest companies. These institutional differences have a distinct impact on the M&A process.

Formal institutional differences and a sense of leeway in the application of country specific regulations to the M&A process by the corresponding agencies are viewed by all market participants as key components in understanding the evolution of corporate integration within Europe. Given the role played by these differences, a better understanding of which ones are really key, their factual implication, and a quantification of the impact that they are having on European M&A activity is essential for the development of an integrated market for M&As.

References

Aktas, N., Bodt Ed, and Roll R. (2007), "Is European M&A Regulation Protectionist?," *Economic Journal,* 117 (522), pp. 1096-1121.

Barca, F. and Becht, M. (2001), "The Control of Corporate Europe," Oxford University Press: New York.

Bruner, R.F. (2004), "Applied mergers and acquisitions," John Wiley & Sons: Hoboken, New Jersey.

Campa, J. and Hernando, I. (2008), "The Reaction by Industry Insiders to M&As in the European Financial Industry," *Journal of Financial Services Research,* 33 (2), pp.127-146.

Campa, J.M. and Hernando, I. (2006), "M&A performance in the European financial industry," *Journal of Banking & Finance,* 30, pp. 3367-3392.

Capaldo, A., Dobbs, R., and Suonio, H. (2008), "Deal making in 2007: Is the M&A boom over?," *McKinsey Quarterly,* 1.

European-Commission (2005), "Cross-border consolidation in the EU financial sector," *Commission Staff Working Document, SEC.*

European-Commission (2007), "Report on the implementation of the Directive on Takeover Bids," COMMISSION STAFF WORKING DOCUMENT.

European-Commission (2008), "Report from the Commission: Report on competition policy 2007."

European-Monitoring-Center-on-Change (2007), "Managing change in EU cross-border mergers and acquisitions."

European Foundation for the Improvement of Living and Working Conditions.

Faccio, M. and Lang, L. (2002), "The Ultimate Ownership of Western European Corporations," *Journal of Financial Economics,* 65, pp. 365-395.

Healy, P.M., Palepu, K.G., and Ruback, R.S. (1997), "Which Takeovers Are Profitable? Strategic or Financial?," *Sloan Management Review,* 38 (4), pp. 45-57.

Healy, P.M., Palepu, K.U., and Ruback, R.S. (1992), "Does corporate performance improve after mergers?," *Journal of Financial Economics,* 31, (2), pp. 135-175.

Houston, J.F., James, C.M., and Ryngaert, M.D. (2001), "Where do merger gains come from? Bank mergers from the perspective of insiders and outsiders?," *Journal of Financial Economics,* 60 (2/3), pp. 285-331.

HSBC (2008), "Global M&A: Down but not out?," in HaGE Strategy (Ed.).

Institutional-Shareholders-Services (2007), "Proportionality between ownership and control in EU listed companies," in European-Commission (Ed.), *ECGI.*

IntraLinks (2006), "The European M&A Monitor."

IntraLinks (2007), "The European M&A Monitor."

KPMG (2007), "The determinants of M&A success."

Maquieria, C., Megginson, W., and Nail, L. (1998), "Wealth creation versus wealth redistributions in pure stock-for-stock mergers," *Journal of Financial Economics,* 48, pp. 3-33.

Martynova, M. and Renneboog, L. (2006), "Mergers and acquisitions in Europe," *Tilburg U. Working Paper.*

McCahery, J., Renneboog, L., Ritter, P., and Haller, S. (2003), "The economics of the proposed European takeover directive," *CEPS Research Report in Finance and Banking*, 32.

MergerMarket (2004), "Deal Drivers: The comprehensive review of European Mergers and Acquisitions," in MergerMarket (Ed.).

MergerMarket (2007), "Deal Drivers: The comprehensive review of European Mergers and Acquisitions," in MergerMarket (Ed.).

MergerMarket (2008), "Deal Drivers: The comprehensive review of European Mergers and Acquisitions," in MergerMarket (Ed.).

Rau, P.R. and Vermaelen, T. (1998), "Glamour, value and the post-acquisition performance of acquiring firms," *Journal of Financial Economics,* 49 (2), pp. 223-253.

You, V., Caves, R.E., Smith, M., and Henry, J. (1986), "Mergers and bidders' wealth: Managerial and strategic factors," in L Glenn (Ed.), *"The Economics of Strategic Planning: Essays in Honor of Joel Dean*," pp- 201-221, Lexington Books: Lexington.

Data Appendix

We examine the evolution of mergers and acquisitions in Europe between 2001 and 2007. First of all, we select M&As announced from 1st January 2001 to 31st December 2007 from Thomson One Banker M&A module (Deal Analysis tool). For the announcement, we use Thomson's definition of date announced, as the date one or more parties involved in the transaction makes the first public disclosure of common or unilateral intent to pursue the transaction. (No formal agreement is required; the announcement can be a disclosure of discussions between parties, of a unilateral approach made by a potential bidder, or of a signed Memorandum of Understanding or other agreement).

We then select transactions for which both the target company and the acquirer company are based in the Europe 15 area (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden, and United Kingdom). This gives us a sample of 56,230 European transactions.

From this sample, we select only those bids originated by publicly traded and private acquirers bidding publicly traded companies (4,160 transactions).

Our goal is to focus only on those transactions that imply a change in control of the acquired company. We use the acquisition of a significant ownership stake as a determinant of a change in control taking place. We define a 20 percent ownership as the threshold for having a controlling stake in a corporation. We drop from the sample those transactions in which the ownership of the target company after the transaction controlled by the acquirer was still below 20 percent. For percentage of shares acquired, we use Thomson's calculation of the number of common shares acquired in the transaction divided by the total number of shares outstanding.

We also drop from the sample those transactions where the acquirer already had control over the target firm prior to the announcement, such as internal buybacks (deals in which the company buys back its equity securities or securities convertible into equity), exchanges (deals in which a company offers to exchange new securities for its equity securities outstanding or its securities convertible into equity), splitoffs (redemption of shares in an existing company, in exchange for shares in a newly created one), and bankruptcy acquisitions (deals in which the target is bankrupt or goes bankrupt during the transaction). For the same reason, we also drop from the sample those transactions in which the acquirer already held 50 percent of the shares of the target company prior to the announcement, as this does not represent a change in control of the target company. For the percentage of shares owned after transaction, we use Thomson's calculation of the number of common shares acquired in the transaction plus any shares previously owned by the acquirer divided by the total number of shares outstanding.

We also drop from the sample those transactions that were rumored.

Specifically, we include in our sample:

- public tender offers (formal offers of determined duration to acquire a public company's shares made to equity holders). We aggregate in this category also leveraged buyouts, Dutch auction tender offers, stock swaps, three way mergers, and schemes of arrangements (a reorganization of a company's capital structure that will be binding on shareholders),

Data Appendix (continued)

- open market purchases (stock is purchased in the open market rather than from a third party through a privately negotiated transaction or public securities offering).
- mandatory offers (an acquirer reaches a certain ownership level in the target and by law is required to make an offer to acquire the remaining interest in the target),
- acquisitions with White Knights or White Squires (with a White Knight, an acquirer makes a friendly offer or reaches an agreement to acquire a target that is currently the subject of a hostile or unsolicited offer by another company. A 'Squire' is very similar to a 'White Knight', the only difference being that the 'Squire' only acquires a blocking minority stake and not a majority. The result is the same however; the hostile bid is thwarted),
- divestitures (the parent company loses a majority interest in the target or the target disposes of assets),
- unsolicited deals (acquirer makes an offer for another company without prior negotiations),
- private deals (transactions including an acquisition of shares that was privately negotiated).

The final sample includes a total of 2,122 announced transactions, which account for a total deal value of $1,834.8 billion. Out of these announced deals, 1,340 transactions were finally completed, for a total value of $1,205.2 billion. Out of this sample, the top 100 completed deals account for $982.9 billion in value, 82 percent of the overall value of completed deals.

For each deal, we collect data for the announcement and effectiveness date, a history and synopsis of the deal process, information about the target and the acquirer company (such as name, nation, industry, SIC codes), information about the deal itself (such as percentage of shares owned before the deal, percentage of shares acquired, percentage of shares sought, value of transaction, attitude, one day and four week premia, payment methods, and acquisition techniques), and information about competing bids. From this data, we calculate other information, such as the number of days from announcement to completion, and the geographic (domestic versus cross-border) and industry (across versus within) focus of the deal.

Exhibit 1

Differences in M&A Regulation in EU Countries. Transposition of Key Provisions from EU Directive

	Transpo-sition of the Directive	Apply the board neutrality rule?	Apply the breakthrough rule?	Reciprocity	Number of listed companies	Capitalization in € million	Requirements for triggering mandatory bid	Squeeze-out, sell-out threshold following a takeover bid
Belgium	no	no	no	yes	136	266,302	Acquisition of 30% of voting rights Indirect acquisition of control of target under certain circumstances.	95% of voting capital and voting rights
Denmark	yes	no	no	yes	180	approx. 156,000	Acquisition of shares if acquirer: (i) holds majority of voting rights; (ii) becomes entitled to appoint/dismiss a majority of the board members; (iii) obtains right to exercise a controlling influence over company, (iv) controls majority of voting rights via an agreement with other shareholders, and (v) or is able to exercise a controlling influence over the company and holds more than one third of voting rights.	90% of shares and voting rights
France	yes	yes	no	Yes (only for board neutrality rule)	647	1,676,585	Acquisition of > 33,33% of voting capital or voting rights and Acquisition greater than 2% more of voting capital or voting rights within less than one year by persons holding between 33% and 50% of the voting capital or voting rights.	95% of the capital carrying voting rights
Germany	yes	no	no	yes	650	1,097,336	Indirect or direct acquisition of control, defined as 30% of the voting rights of target. This obligation is triggered if the threshold is overstepped by shareholders involved in a concert party arrangement even if such an arrangement is not linked to the acquisition of shares in target.	95% of capital or voting rights
Italy	no	no	no	yes	284	732,654	Acquisition of more than 30% of voting capital or voting rights; and acquisition greater than 3% more of voting capital or voting rights within less than one year by persons holding more than 30% of the voting capital or voting rights.	The draft implementing rules provide for 95% of the voting capital and voting rights
Luxembourg	yes	no	no	yes	37	54,941	Direct or indirect acquisition of 33,33% of voting rights.	Squeeze-out: 95% of voting capital and voting rights, sell-out: 90% of voting rights
Netherlands	no	no	no	yes	223	587,758	Acquisition of 30% of voting rights.	95% of voting capital and voting rights
Spain	yes	yes	no	yes	*175*	*1,354.8 (may 08)*	Acquisition of more than 30% of voting capital or voting rights and any acquisition of voting capital or voting rights by persons holding between 30% and 50% of the voting capital or voting rights.	90% of the voting capital and of the voting rights subject to the bid
United Kingdom	yes	yes	no	no	2,876	2,703,364	Acquisition of an interest in shares with more than 30% voting rights. A person has an interest in shares carrying 30-50% of voting rights of a company and acquires an interest in other shares, increasing the percentage of voting rights owned.	Squeeze-out: 90% of shares to which the offer relates and of voting rights Sell-out: 90% of the voting shares in the company and of the voting rights
%Companies Subject to rule	100	75	1	47				
Value Companies subject to rule (%)		68	0	62				

Source: Our own calculations and Commission of the EU: "Report on the implementation of the Directive on Takeover Bids," 2007.

Exhibit 2

The Prevalence of Defense Mechanisms in EU Countries

The structure of share ownership may have an important impact on a company's behavior and performance, and also on investors. The evidence in this exhibit corresponds to a sample of 464 profiled companies, of which 311 belong to the top 20 by market capitalization and 153 are small and recently listed companies (Institutional-Shareholders-Services, 2007). These companies correspond to less than 5% of the number of European listed companies, and represent up to 58% of the European market in terms of market capitalization.

This study analyses a list of Control Enhancing Mechanisms (CEMs) which do not follow the proportionality principle. These CEMs are: multiple voting rights shares, non-voting shares, non-voting preference shares, pyramid structures, priority shares, depository certificates, voting right ceilings, share transfer restrictions, supermajority provisions, partnerships limited by shares, golden shares, cross-shareholdings, and shareholders agreements.

Mechanisms allowing blockholders to enhance control by leveraging voting power

1. *Multiple voting rights shares*: shares issued by a company giving different voting rights based on an investment of equal value. Many European companies (particularly in Sweden and the Netherlands) issue voting stock with different voting power. For example, one type of stock gives one vote per unit of par value, a second type of stock gives ten votes per unit of par value. In some countries, the stock can be of the same type, but some shares have double voting rights (France).

2. *Non-voting shares (without preference*): shares with no voting rights and which carry no special cash-flow rights (such as a preferential dividend) to compensate for the absence of voting rights (found in Switzerland, the United Kingdom, France and other smaller EU15 countries).

3. *Non-voting preference shares*: non-voting stock issued with special cash-flow rights (prevalent in Italy, Germany and the United Kingdom) to compensate for the absence of voting rights. For example, shares that have no voting rights but have a preferential (higher or guaranteed) dividend.

4. *Pyramid structures*: when an entity (such as a family or a company) controls a corporation that in turn holds a controlling stake in another corporation, which process can be repeated a number of times. This device is based on the idea that the separation of ownership and control can be obtained by chaining several companies. The higher the number of companies involved in the pyramid, the higher the degree of deviation from the proportionality between ownership and control6.

Mechanisms used to lock-in control

5. *Priority shares*: these shares grant their holders specific powers of decision or veto rights in a company, irrespective of the proportion of their equity stake (found in the Netherlands, the United Kingdom and France). The rights attributed to the holders of priority shares vary from company to company and can range from the entitlement to propose specific candidates to the board of directors, to the right to directly appoint board members or to veto a decision taken at the general meeting.

Exhibit 2 (continued)

6. *Depository certificates*: financial instruments representing the underlying shares in a company which are held by a foundation that administers the voting rights. In this case the holder of the depository certificates does not hold voting rights but only the financial rights of the underlying share. The depository certificates are the financial instruments issued on the market and representing the shares held by the foundation, which executes the votes. This instrument is used in particular in the Netherlands.

7. *Voting right ceilings*: a restriction prohibiting shareholders from voting above a certain threshold irrespective of the number of voting shares they hold. Voting right ceilings can be expressed as a percentage of all outstanding voting rights (for example, when no shareholder may vote for more than three percent of the company's registered share capital) or as a percentage of all votes cast at a general meeting (very common in many European countries).

   Related to voting rights ceilings is the 'one head – one vote' rule found in the co-operative where each shareholder-member is entitled to a single vote, regardless of the number of shares held.

8. *Share transfer restrictions*: an example of share transfer restrictions is ownership ceilings, where potential investors are prohibited from taking a participation in a company above a certain threshold.

9. *Supermajority provisions*: where company bylaws or national law require a majority of shareholders larger than 50% + 1 vote to approve certain important corporate changes.

Other mechanisms

10. *Partnerships limited by shares*: a particular legal corporate structure authorized by some European countries. These companies have two different categories of partners (without having two types of shares): the general partners (unlimited liability partners or "associés commandités") who run the company and the limited sleeping partners (limited liability partners or "associés commanditaires") who contribute equity capital but whose rights are limited to monitoring rights.

11. *Golden shares*: priority shares issued for the benefit of governmental authorities. Golden shares confer special rights used by national or local governments or government controlled vehicles to maintain control in privatized companies by granting them rights that go beyond those associated with normal shareholding. They enable governments to, for example, block takeovers, limit voting rights and/or veto management decisions.

12. *Cross-shareholdings*: a situation where company X holds a stake in company Y which, in turn, holds a stake in company X. Circular holdings, e.g. where A has shares in B, B in C and C in A are a special case of cross-shareholdings.

13. *Shareholders agreements*: formal and/or informal shareholders alliances.

Exhibit 2 (continued)

Prevalence of Control Enhancing Mechanisms (ECMs) among European Corporations

This table illustrates the availability of Control Enhancing Mechanisms (CEMs) in relation to its availability under the law in the European countries, United States, Japan, and Australia. The availability of a CEM provided for in a country's legislation does not necessarily translate into the actual utilization of such a CEM by companies. In the table, "No" means that the specified CEM is not available; "Unclear" means that it is not clear whether the specified CEM is available; "yes" means that the specified CEM is available, but none of the companies examined introduced it; and the percentages indicate the frequency of occurrence of this CEM in relation to its availability under the law of each country. Data were collected and updated up to the end of 2006 (September to December). Source: Own calculation from Institutional Shareholders Services' report from European Commission (2007).

Country	Mult. Voting right shares	Non voting shares	Non voting pref. shares	Pyramid structure	Priority shares	Dep. Certif.	Voting right ceilings	Ownership ceilings	Super majority provisions	Golden shares	Partnerships ltd by shares	Cross-shares holdings	Shareholders agreements
BE	No	No	0%	40%	0%	0%	0%	0%	Yes	0%	Yes	0%	25%
DK	25%	5%	No	0%	0%	0%	10%	5%	Yes	0%	No	0%	0%
DE	No	No	20%	15%	0%	No	5%	No	Yes	No	Yes	10%	0%
SP	No	No	0%	20%	No	No	35%	5%	Yes	15%	Yes	0%	5%
FR	55%	0%	0%	25%	0%	No	20%	10%	Uncl.	Yes	Yes	20%	15%
EI	0%	5%	30%	0%	0%	Uncl.	5%	5%	Uncl.	No	Yes	0%	5%
IT	No	0%	30%	45%	Yes	No	10%	30%	Yes	20%	Yes	5%	40%
LU	Yes	No	5%	26%	5%	0%	Uncl.	Uncl.	Yes	Uncl.	Yes	0%	0%
NL	42%	No	Yes	11%	11%	21%	0%	0%	Yes	0%	No	11%	5%
FI	40%	0%	0%	0%	No	No	10%	No	Yes	No	No	0%	5%
SW	80%	No	No	65%	0%	Uncl.	5%	No	Yes	No	No	25%	5%
UK	5%	0%	50%	0%	Yes	No	10%	10%	Yes	No	No	0%	5%
US	Yes	Yes	Yes	Yes	Yes	No	No	Yes	Yes	No	Yes	Yes	Yes
JP	Yes	Yes	Yes	Yes	Yes	No	Uncl.	Yes	Yes	Yes	No	Yes	Yes
AU	Yes	Yes	Yes	Yes	Yes	Uncl.	No	Yes	Yes	No	Uncl.	Yes	Yes

Source: Own calculations from EU report (Institutional-Shareholders-Services, 2007).

Exhibit 3

European Defense Measures that Can Be Implemented Prior to a Takeover

Defense	Description	United Kingdom	Germany	France	Italy	Spain	Netherland	Denmark
Voting restrictions	Insert limits on maximum voting	No	No	Yes	No	Yes	Yes	Yes
Ownership restrictions	Insert limits on maximum number of shares any shareholder can own without the consent of the board	No	No	No	No	No	No	Yes
Poison pill	The poison pill gives the stockholders the right to purchase common shares at some fraction of the current market price	No	Yes	Yes	No	Yes	Yes	Yes
Blank check issue	A "Blank Check" allows a company to issue to current or new shareholders a new equity security with significant voting rights	No	No	No	No	Yes	Yes	Yes
Sale of crown jewels	Sell the most attractive business(es) to a friendly party	No	No	No	No	No	No	No

Source: Our own calculations and HSBC report (2008).

Exhibit 4

The M&A Process in the European Union: Interview Flow Analysis

This table reports the main points from interviews with a number of professionals involved in M&A transactions in the European Union. The interviews were oriented towards gathering common practices, rising trends, and areas of concern in the process of bidding for publicly traded companies in the European Union. The interviews were performed in the spring of 2008.

TOPIC	QUESTIONS	FINANCIAL ADVISOR	LEGAL ADVISOR
Approaches prior to Announcement:	Whom and when to approach?	• Whom to approach: either top executive (in British/American ownership types) or key shareholder (in Cont. European types). • When: the window of opportunity varies: o CEO that retires o Shareholders' activism o Company is undervalued o Underlying strategic trends/fashions: o Trends of public to private (Telepizza, Cortefiel) o Spin-offs	• Philosophy of takeover rules: Change of control without actual OPA should be getting harder. • Formal objective to communicate. • In principle, there is no private information, and if there is it should not be discussed. • The provision of confidential information may be subject to board approval depending on bylaws. • Concerted Actions by multiple shareholders not allowed. Nor is the joint decision making through management.
	Who makes the first contact?	• Contacts are at CEO level. • Content of discussions include: value proposition, top management, headquarters, key directors and corporate governance structure. • 25% of success of first approaches.	• Approach to board members could take place, especially if key shareholders. • Conflicts of interest arise for board members who are shareholders.
Parties Involved	What level of external advisors?	• Legal and IB advice is always present. • Business plan is done together with consultants	• More often early involvement, although still not common. • Limited exclusively to legal aspects.
	Executives & Directors	• Very few top executives actively involved. Sometimes an ad-hoc group created. • Key directors are informed in a relatively informal manner.	• Director or board member has no power to share confidential information. • Director has no individual decision power.
	Board involvement	• Formal board involvement limited to evaluation of concrete alternatives. • Sometimes approval of preliminary due diligence and/or disclosure of information or exclusivity agreement.	• During early approach: board members cannot disclose info gathered in the board.
Announcement to markets	Acquisition of toe hold stakes	• Conditions differ on the attractiveness of building a stake. • Price reference for future takeover bids (12 months reference in Spain). • Liquidity is a concern in buying a stake.	• 3% and 5% of voting rights have communication obligation, so there are often packages of 2.99%. • The acquisition of a stake may require a "declaration of intentions". In United States and United Kingdom this is required; in Spain it is not.

Exhibit 4 (continued)

TOPIC	QUESTIONS	FINANCIAL ADVISOR	LEGAL ADVISOR
		• Reporting requirements (3% of voting rights regardless of form of control of rights). • Determinants of controlling stakes depend on capital structure. Big push to make changes in control subject to takeover bids.	• Public communication not until OPA is launched or formal agreement reached. • If questioned by regulator, need to inform. In some countries it also binds decision for a certain period (3 months in United Kingdom). • There is no possibility to announce the "promise of a bid", especially when a competing bid process is open. • CNMV approval is subject to competition and other regulatory approvals. • Details can take a long time to be approved by CNMV (formally it should be 20 days; typical practice is 1-2 months.) • Details are published with an individual opinion from all board members. • 90% of capital and shareholders.
	Hostile vs. Friendly deals (Neutral deals?)	• Hostile approaches have traditionally been taboo, although hard to evaluate the "hostility" of an unexpected bid. • Shareholder activism and financial investors have slightly increased unwelcome approaches.	• System to evaluate intentions → Share packages // Control of the board. • OPAs: agreed // not solicited are often hostile → bear hug. • Board neutrality rule applies in less than half of EU countries (it does in Spain).
	Boards' role in decision making and other relevant advisors (internal and external)	• Board members and directors always receive formal or informal incentives (job is maintained and share options plans are offered). • Business plan is done together with consultants.	• Duty of confidentiality, in principle board has confidential information (not private information). • Duty to write report also on what they will do as shareholders. • Early board decision about how to apply reciprocity rules in case of cross-border bid.
	Conditional offers	• Most frequent conditions: o Minimum percentage of shares tender o Changes in by-laws to eliminate takeover defenses o Regulatory & Competition approval o Board approval/recommendation (friendly offer) • Agreement on break-up fees is common.	• Break up fees in Spain are legal but limited to 1% of the effective amount of bid, it can only be agreed with the first bidder, and requires the approval by the board of target.
	Price and premia	• Premia derive more from the value of the deal than from price opportunity, liquidity or control issues. • Likely revision of premia in open bids. • 6 months to 3 months to mark the price. Less if there are competing bids.	• Fairness opinions are requested → Fairness should reflect opinion on price/value.
	Evolution of competing bids	• Competing bids are infrequent. • Most likely arise as a result of not-so-friendly offers (White Knights and similar).	• Requirements to provide the same info when there is a competing offer • Evaluation of alternative bids on similar grounds: fairness opinion on price and evaluation of business plan.
Capital Markets regulations	Evaluation in the application of the EU takeover directive		• EU Directive on Takeovers borrowed ideas from American/British style (board neutrality, squeeze out). • EU directive is objective in terms of determinants: with ex-post regime.

Exhibit 4 (continued)

TOPIC	QUESTIONS	FINANCIAL ADVISOR	LEGAL ADVISOR
			In previous Spanish regulation there was a "judgment on intentions" which led to arbitrariness. • Reciprocity rule: to protect original market. • The passivity or board neutrality rule: no longer there. In Spain board cannot be neutral if there is shareholder approval. • No rules about required info. • Spanish Regulatory organism (CNMV): no established policies, case-based, and influenced by politics. Results in legal arbitrariness. Tends to make oral communications and avoids taking clear-cut positions.
	Takeover defenses	• Evaluation of existing takeover defenses prior to bid is essential. • Defenses differ substantially by country. • Most common defenses include: o Voting restrictions o Ownership restrictions o Poison pills: right to purchase shares at fraction of price (Neth, Denmark) o Asset sales or capital increases • Application of reciprocity rule within member countries	• Convergence in takeover defense practices. • Application of the board neutrality and reciprocity rules provide a large degree to existing boards. • Reciprocity condition on approval by shareholders. • Voting limits are the most common defenses in Spain.
Industrial & Competition Authorities Political barriers/ involvement		• Competition authorities: the interplay between local regulation + EU regulation appears to work. • Regulatory barriers and implicit limitations in cross-border deals is increasing. Deals are more challenging over time. • Political involvement and informal lobbying is high in Spain and it is getting worse.	• Competition requirements are more important and in the future environmental laws. • In Spain there is a law to protect strategic sectors, presence in multiple other countries -- based on national security arguments. • CNMV • Legal limit. • Uncertainty about legal arbitrariness and discretion.
	Are Private Equity companies involved?		• PEs business related vs no-industry. • PE activity in EU will increase soon.