



Critical analysis of hostile takeovers in India

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Abstract

The central premise of this paper is to analyze the process of a hostile takeover of the target companies by the acquirer companies in India. This paper explores the distinct strategies used by the acquirer companies in order to make the acquisition easy and also tries to shed light on the different tactics that the target companies use to avoid a situation of hostile takeover. It tries to illustrate the usage of these strategies depending on various conditions as well. It further explores the different regulatory controls that are put in place to control hostile takeovers. The paper tries to discover whether or not the regulatory controls set up in India are sufficient to regulate hostile acquisitions. For this cause, the regulations by the SEBI, CCI, and the Companies Act have been analyzed. Further, to better understand a practical example of how a hostile acquisition works in the Indian context, the acquisition of the NDTV group by the Adani Group has been analyzed in this paper. The background, surrounding events, and the regulations during the takeover are studied in detail. Additionally, a few possible suggestions have been provided in this paper to better regulate hostile acquisitions in India.

Keywords: Hostile takeover, acquirer companies, target companies, strategies of acquisition, companies Act

Introduction

“The game of professional investment is intolerably boring and over exciting to anyone who is entirely exempt from the gambling instinct, whilst who has it must pay to this propensity the appropriate toll.” - John Maynard Keynes.

The activity of Mergers and Acquisitions forming an integral part of India’s company practices draws their roots from England and the USA, the birth nations of this concept. In India, the concept of takeovers remained averse till the late 20th century marking its entry into the Indian market and legal spectrum through the aggressive trading showcased by Swaraj Paul in an attempt to buy Escorts and DCM Ltd. Though unsuccessful his attempt showcased the necessity for Indian law to set out a regulated framework for legally governed practices of takeovers. This primarily marked the beginning of extended activity of acquisitions by companies in the Indian subcontinent which was earlier very marginally showcased. However, a new concept under the shadow of acquisitions seemed to be booming in the market entailing the takeover of small companies without approval. Established and well-known firms have resounded a principle of “Hostile takeover” deeming a takeover that is practiced without prior notice and by force. The concept of hostile takeovers emerging from the shadow of acquisitions follows a distinct path in its process by the acquirer taking over the target company without the approval of its board of directors. A hostile takeover takes place when the directors of the company that is being brought are against the arrangement displaying unwillingness while the acquirer nevertheless approaches the shareholders by bypassing the board.

With time, hostile takeovers have become a popular method for big companies to acquire smaller firms that seem to be a potential means to foster the growth of the acquiring company. This activity displays the desire of active investors to bring about an operational change in the target company to boost their own market share. A “target

company” is an attractive firm aiming to be acquired by the “acquirer” being the company eyeing its presence to grab control over the other firm. Adverse to a friendly takeover where both the firms come to a consensus for mutual benefit and growth upon presenting a successful bid, a hostile takeover showcases an attempt to gain control over a target company that may be undervalued or aid in bolstering valuation, acquire brand goodwill or aid production foothold to the acquirer firm. In India, the activity of hostile takeovers is becoming more prominent due to the nation’s growing economic trajectory and increasing market competition.

Hostile takeovers attacking a company drive its aim from the backseat by targeting a firm that it deems to be a good strategic fit to foster its personal growth in the market. The acquiring company then begins to build a sufficient stake in the target company either by buying out their shares in the open market or by directly approaching the shareholders luring them to sell their shares in the company at a premium price. This exercise would ultimately vest in the acquiring firm majority stake in the target company enabling it to choose members for the board of directors gripping the decision-making power of the company. Though considered a non-righteous way of acquiring a company, the presence of hostile takeover activities has spread its wings across multinational and established companies. Between 2015 and 2022, displaying a resilient bounce of merger and acquisition deals, a total of 21% fell under the veil of hostile takeovers in India. An analysis of these statistics reveals the mellowing of upcoming and innovative companies being purchased by big sharks in the market to obstruct the new innovations from obstructing their path of legacy and success. Other motives also encompass access or desire to own a company’s brand and novel technology. However, takeovers that are hostile in nature often are rendered challenging and complex in nature requiring extensive planning and execution. In India, SEBI (Substantial

Acquisition of Shares and Takeovers) Regulations, 2011 referred to as the Takeover Code governs the takeover process and compliance with laws relating to acquisition. But, noticeably it stands silent in addressing the fine line between a friendly and hostile takeover rendering widespread opportunities for acquirers to takeover firms ambiguously.

Takeover Tactics and Defences

Takeover Tactics

A hostile takeover differs from a friendly takeover in that the transaction is approved by the board of directors of the target firm in the latter case. A hostile takeover occurs when a company (acquirer) purchases a target company by going directly to the shareholders of the target company. The hostile takeover of a company happens mostly because of the target company management's absolute disinterest in the efforts of the acquirer company. In this situation, the acquirer company usually has to deal with either of the two most important pillars of the target company – the management and the shareholders. In an agreed-upon or negotiated takeover, the acquirer company deals with the management of the company whereas, in a hostile takeover situation, the acquirer company is generally forced to deal with the shareholders of the company due to the disinterest shown by the management of the company. (Rastogi, 2022) The acquirer company thus uses a number of strategies to take control of the target company by dealing with the shareholders of the company. Listed below are two of the most important techniques used by the acquiring companies in an attempt to hostile takeover of a target company:

Tender Offer

A tender is an official offer, such as a takeover bid or an invitation to submit bids for a project. In this particular context, an attempt to buy all or a portion of a company's shares from its shareholders is known as a tender offer. An investor offers to purchase all of the current shares of a publicly listed company for a specific price at a specific time. Usually issued in public, tender offers invite owners to sell their shares for a predetermined amount of money within a predetermined window of time. A tender offer is sometimes referred to as a takeover bid in corporate finance since the investor wants to acquire full control of the company.

The price that is offered is typically higher than the going rate and is frequently subject to a minimum or maximum number of shares being sold. In order to encourage owners to sell their shares, the investor often uses a price per share that is substantially higher than the stock price of the company as an incentive for the shareholders to convince them to sell their shares. The majority of tender bids are made at a price that is considerably higher than the share price at the moment. (Chattopadhyay, 2010)

In the event of a takeover attempt, the tender might be subject to the potential buyer's ability to acquire a specific number of shares, say enough shares to represent a controlling stake in the business. A hostile takeover may occur when a privately held or publicly listed company makes a tender offer to its shareholders directly without getting approval from the board of directors (BOD).

For instance, the current stock price of a target company is 100 rupees per share. In an attempt to take over the company, an acquirer company offers 130 rupees per share

as a tender offer, provided they get to purchase at least 51% of the shares. If the shareholders agree to sell their shares, the acquirer company comes into control of the target company, leading to a hostile takeover of the target company.

Proxy Voting: Proxy vote, also commonly known as proxy fight, is another common strategy used by the acquiring company to takeover the target company. In this technique, the acquiring company tries to influence the votes of the shareholders of the target company in order to take control of the same. Using the votes of the shareholders, the acquiring company attempts to vote out the Board of Directors of the target company to make it easier for them to take control of the company.

Takeover Defences

In a situation where there is a possibility for a hostile takeover, the management or the board of the company tends to take several steps in order to ensure the protection of the company from the acquirer. These plans or steps taken by the board of the company are commonly known as takeover defences. The most significant challenge in front of the board is to how and who to save first. There can be many strategies taken up by the target company, out of which some of the most significant tactics are listed below:

Poison Pill Defence: The name for this strategy comes from the age-old practice of carrying poison pills by spies which they had to use upon themselves in case they were caught by the enemies. They would swallow the pills on getting caught to prevent themselves from interrogation and torture.

Using the poison pill defence has a similar effect in the corporate world. The right to acquire shares of the target firm at a reduced price has already been divided among the shareholders of the target company. These rights are transferred to the other shareholders whenever the acquirer's ownership of the target company reaches a particular threshold.

The acquirer's stake in the business is significantly reduced by using this defensive tactic. Because of this, the acquirer is not in an advantageous position after the takeover. Additionally, this tactic guarantees that the company protects the minority shareholders and that the management of the target company maintains control. (Gupta, 2017)

Crown Jewel Defence: The crown jewel defence is one of the most widespread strategies used to avoid hostile takeovers.

The best performing or the most valuable assets of a company are generally referred to as the crown jewels of that company. These assets majorly contribute to the profits of the company and generally have the brightest prospects. The crown jewels can be distinct for separate companies or industries. For example, factories or the manufacturing process can be called the crown jewels in the manufacturing industry.

This strategy is generally used as a last resort by the target companies to save themselves from a hostile takeover. The aim of this strategy is to reduce the attractiveness of a target company. This is done by intentionally sabotaging the company's own business to avoid further unfavorable circumstances. Thus, the target company attempts to sell its crown jewels (most valuable assets) to some other company

to reduce its attractiveness to the acquirer company. In most cases, the assets are sold to a friendly third company which is often commonly referred to as the white knight. Once the possibility of a hostile takeover is finished, the target company repurchases the assets from the third company at a price that was predecided. This strategy presents the target company as destroyed until the crown jewels are bought back and hence restricts the acquirer company from being interested in a takeover. This strategy is often called the White Knight strategy.

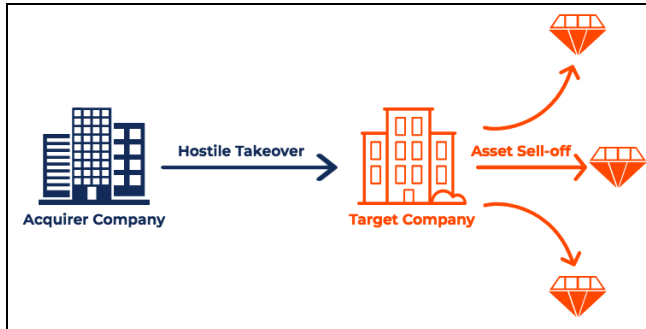


Fig 1: The Crown Jewel or The White Knight Defence

The Pac-Man Defence: This defence is a really unusual strategy that can be used by a target company to try and take over the acquiring company rather than being acquired by the acquiring company. However, to apply this strategy, the target company must have what is generally known as a war chest, i.e., a large amount of cash and other valuable assets. The war chest refers to the large amount of cash reserves and other valuable assets that are preserved to deal with unfavorable situations like a hostile takeover. These assets, even though not idle and present in cash, are assets with high liquidity and are considered to be cash equivalents that can be turned into cash on demand.

When an acquiring company attempts a hostile takeover of a target company, it tries to buy a large number of shares of the target company. The target company deploys the pac-man strategy and instead buys a more significant number of shares of the acquiring company with the money from its war chest. The acquiring company, seeing the dilution of its own company, generally abandons the hostile takeover of the target company.

This strategy is like a tit-for-tat solution, but at the same time it requires a massive amount of money to implement this strategy. However, companies might also get outside funding to implement it successfully.

The Greenmail Defence: The Greenmail strategy is a commonly used strategy by the target companies to avoid a hostile takeover by the acquiring company. It is pretty similar to paying ransom in response to blackmail. Once an acquiring company purchases a large number of shares in the target company, it threatens a hostile takeover of the target company. However it gives an option to the target company to repurchase its own shares at a much higher price than the market price. Thus, that target company is forced to buy back its own shares at a much higher price to save itself from a hostile takeover.

The extra money that is paid by the target company to avoid the aggressive behavior of the acquiring company is called the greenmail. Once the target company has paid the greenmail or the ransom amount, the acquirer company

stops the takeover, thus giving back control to the target company. However, this is not a beneficial strategy for the target company as they have to pay large sums of money to get control of their own company. (Rastogi, 2022)

The antitakeover defences list above is not the complete list. It essentially consists of the standard hostile takeover defences derived from different landmark legal decisions. The range of defences demonstrates the nearly limitless options available to directors and, in turn, their ability to counter hostile takeovers. Certain defences work better than others in certain situations. However, there is no guarantee that a particular strategy is going to be helpful in a particular situation. Each takeover attempt is different and must be carefully analyzed before deploying any defences against it.

Regulatory Controls

There is no specific/direct law that directly regulates the Hostile takeovers in the country. SEBI's Takeover Guidelines (Securities and Exchange Board of India) and CCI's (Competition Commission of India) regulations significantly affect Hostile Takeovers in India. Obtaining regulatory approvals from CCI, obtaining disclosure requirements, and ensuring regulatory scrutiny are essential challenges in hostile takeovers. "Shareholder activism is another key legal and regulatory challenge that companies may face during hostile takeovers. Minority shareholders may resist the takeover, leading to prolonged litigation and regulatory intervention." (George, 2023) The challenges to Hostile Takeovers could be categorized under 3 heads, namely:

- SEBI Regulations
- CCI Regulations
- Company Act Regulations

SEBI Regulations

SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 are significant guidelines regulating Hostile takeovers. Some important regulations from the SEBI Regulations are:

- "No acquirer shall acquire shares or voting rights in a target company which, taken together with shares or voting rights, if any, held by him and by persons acting in concert with him in such target company, entitling them to exercise twenty-five percent or more of the voting rights in such target company unless the acquirer makes a public announcement of an open offer for acquiring shares of such a target company in accordance with these regulations." (SEBI (Substantial Acquisitions of Shares and Takeovers) Regulations, 2011, 2011)
- The acquiring company cannot control the target company except by making an open offer to acquire the shares of the Target Company. The Regulation strictly defines and prescribes the Market Capitalization, and Enterprise value of the target company in order to ensure that Acquiring company does not dominate the target company unreasonably. The regulation also defines 'offer period' and requires a 'public announcement' to be made on such offers.
- This act further defines and specifies 'persons acting in concert' and regulates the Hostile Takeovers through 'persons acting in concert'. It includes any person with a motive to acquire shares / control in target company, subsidiary company, holding company, director that intends to acquire shares/ control in the target company.

The regulation strictly refers on acquisitions through ‘persons acting in concert’ in order to prevent Hostile Takeovers in secrecy.

- In hostile takeovers, direct and indirect acquisitions refer to the methods through which the acquiring company gains control of the target company's shares or assets. Both these methods are regulated sufficiently by the SEBI regulations.

Table 1

Direct acquisitions	Indirect acquisitions
The acquiring company purchases a controlling interest in the target company's shares directly from its shareholders without the approval or cooperation of the target company's management or board of directors.	Common indirect acquisition methods are 1) Proxy fight , where the acquiring company seeks to gain control of the target company's board of directors by persuading shareholders to vote for its proposed board members. 2) Hostile takeover through a subsidiary or third party, where the acquiring company uses a separate entity to acquire shares of the target company or its assets, bypassing the target company's management and board.

- The Regulation requires that the direct or indirect acquisitions must take place over “highest negotiated price per share of the target company for any acquisition under the agreement attracting the obligation to make a public announcement of an open offer” (SEBI (Substantial Acquisitions of shares and Takeovers) Regulations, 2011, 2011)

CCI Regulations

There is an interplay between the Competition Act of 2002 and Hostile Takeovers, as many Hostile Takeovers result in monopolies and affect the competitiveness of business markets. The Competition Commission can take steps to prevent monopolies that could be created by Hostile takeovers. “According to the Competition Act 2002, any potential merger or acquisition that falls within the criteria under *Section 5* must be compulsorily notified to the CCI. *Section 6* prohibits any person from engaging in a combination that is likely to have an adverse effect on competition in the relevant market in India, and such a combination shall be void. If the CCI determines that the acquisition will hinder competition, it can order the acquiring company to sell off some of its assets or terminate the acquisition. The CCI has the authority to impose penalties on businesses that violate competition laws.

The regulations related to hostile takeover can be found in the CCI (Procedure in regard to the Transaction of Business relating to Combinations) Regulations 2011. Regulation 9 of these regulations states that it is the responsibility of the acquirer to notify of an acquisition or a hostile takeover. Regulation 5(8) alters the 'other document' requirement under Section 6(2)(b) of the Competition Act 2002 for a hostile acquirer to notify the CCI of its intent to acquire an enterprise without the assent. In addition, Regulation 9(2) implicitly acknowledges that an acquirer may not be able to obtain all of the information required by the CCI to render a decision under Section 6 and therefore permits the acquirer to provide the available information.” (Neema, 2023)

Acquiring Companies are sometimes required to submit applications to the CCI and receive its permission to make the acquisitions. The CCI looks into the effect of such

acquisitions on the market conditions of a particular market. The CCI approves the acquisitions only if does not result in a monopoly.

Case Study: Adani Ports and Special Economic Zone (APSEZ) acquisition of Krishnappattanam Port Company

CCI had scrutinised many proposed acquisitions. In 2020, “APSEZ acquired Krishnappattanam Port Company, a leading port operator in India. The acquisition was worth INR 13,500 crore and was the largest-ever acquisition in the **port sector** in India. The legal and regulatory challenges faced by the acquirer and target, in this case, were related to compliance with CCI regulations. The CCI had to scrutinize the acquisition to determine whether it would lead to a monopoly or substantially reduce competition in the market. The outcome of the transaction was positive, as the CCI approved the acquisition. The acquisition has significant implications for the Indian takeover landscape, particularly with respect to consolidation in the port sector.” (George, Hostile Takeovers in India: Legal and Regulatory Challenges, 2023)

Company Act Regulations

The Companies Act, 2013 also has basic provisions that regulate acquisitions and takeover, however these are not specific ones. “*Section 186 of The CA 2013* sets limits on loans and investments between corporations in Section 186. An Indian company that wishes to acquire securities from another body corporate may do so by subscription, purchase, or other means up to (i) 60% of the acquirer's paid-up share capital, free reserves, and securities premium, or (ii) 100% of its free reserves plus the securities premium account, the greater of the two. But the acquirer is allowed to purchase more shares than these, provided its shareholders approve it through a special resolution adopted during a general assembly. These restrictions do not apply when making a purchase of a fully owned subsidiary's securities.” (Santhameena)

S.235 of The Company's Act, 2013, requires the consent of majority shareholders to approve the transfer of shares. “This section pertains to businesses that wish to purchase another business's shares. It is important to note that members who hold ninety percent of the target company's shares are required to vote in favour of the resolution approving the scheme of arrangement, even though the section does not specify a specific share threshold restriction.” (Santhameena, Corporate Conquest) The protection of minority shareholders' rights may come under consideration in the event of hostile takeovers. Minority shareholders must be given fair treatment and a chance to sell at a fair price, according to the acquirer.

In instances the permission of NCLT could be required for performing takeovers, Leading Indian steel producer Bhushan Steel was purchased by Tata Steel in 2018 for a sum of INR 35,200 crore. Tata Steel was the highest bidder in the bankruptcy process that was used to conclude the transaction. This acquisition was approved by both NCLT (National Company Law Tribunal Tribunal) and CCI (Competition Commission of India).

Analysis of the existing regulations:

It is to be observed that a hostile takeover is a matter of imminent importance, and there is no single statute to regulate Hostile takeovers. Competition Law, Company

Law, and SEBI guidelines govern Hostile takeovers multi-dimensionally. The challenge that statutes should aim to address is finding the right balance between shareholder power, market efficiency, and protection for target companies. There is a need for a single statute that explicitly governs hostile takeovers. A Single statute can form a framework to protect the target company, avoid monopolies through Hostile Takeovers and promote a positive angle for Hostile Takeovers. It could be concluded that there is a need for a single statute that regulates Hostile Takeovers.

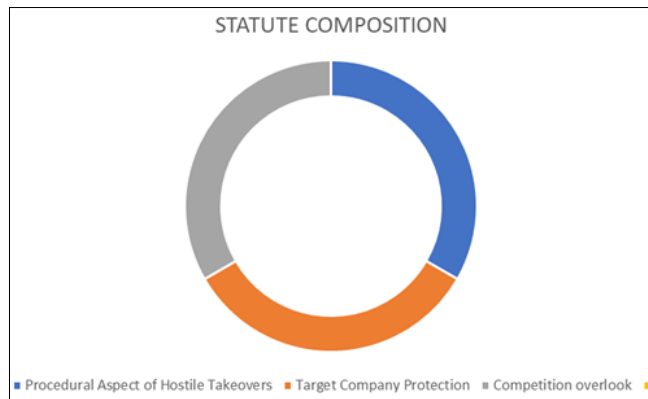


Fig 2

Analysis of Adani Group's Takeover of NDTV

Though India has showcased numerous instances of hostile takeover attempts by established companies in its corporate history, only quite a few successfully resulted in a change of ownership. The two most prominent cases encompassed in that sphere include the takeover of Raasi Cements by Indian Cements: In 1998, BV Raju holding a stake of 32% in Raasi Cements sold his share to Indian Cements setting up one of the most famous instances of a hostile takeover of a target company in Indian business history. Similarly, the L&T and Mindtree acquisition in 2019 wherein Larsen and Toubro Ltd (L&T) increased its ownership of Mindtree Ltd to 60% after gaining a controlling interest in the Bangalore-based company. Large investors hurried to sell their interests because of L&T concluding its open offer to purchase the 31% extra stake in Mindtree that it had targeted for ₹4,988.82 crore (Business Line, 2022). In recent times once such a successful hostile takeover was exhibited by the Adani group taking over NDTV on 30th December, 2022 drawing a lot of speculations and backlash. The researchers shall duly analyze all the dynamic aspects concerning the nature, challenges, and progression method involved in the present takeover.

Mr. Gautam Adani, a name that's quite familiar in the business spectrum is the chairperson of the billion-dollar Adani Group and also the 3rd richest man in the world. Adani Enterprise Ltd. is a publicly listed holding company of Adani Group headquartered in Gujarat. In recent years, the Adani Group has been observed to acquire vivid companies entailing industrial presence in the cement industry, thermal power plants, airlines, etc. On the other hand, the target company in the present case is a television production house by the name NDTV (New Delhi Television Ltd.) established in 1989 and was later transformed into an independent news network headquartered in Delhi. It was established by the well-known couple Radhika Roy and Prannoy Roy known for their transformation of election campaign coverage in India.

However, a due analysis of the dividend payouts of the news network points towards a negative revenue with no nonpayment of dividends for a decade.

The Backstory and Ensuing Events

The recent takeover of New Delhi Television Ltd. by the Adani Group has raised multiple speculations over hostile takeover practice. At the heart of this strategic takeover stands a lesser-known company by the name of Vishvapradhan Commercial Private Limited (VCPL). In the year 2009, VCPL had advanced an amount of Rs 403.85 crore as a debt to Radhika Roy and Prannoy Roy who had taken it on behalf of their company named RRPR granting VCPL about 99.99% shares in their company. The single-largest stakeholder in NDTV was RRPR, with 29.18% of the total shares. Furthermore, each of Prannoy Roy and Radhika Roy owns 15.94% and 16.32% of NDTV, respectively rendering a total of 32% of the voting power (Business Standard, 2024).

The pivotal aspect for classifying an acquisition as hostile turnover vests in the details encapsulated in the loan agreement in the present case. As per the advanced loan agreement, VCPL was given the option to exercise convertible warrants at any point during or after the loan period by the terms of the loan arrangement. Nevertheless, the Roys were able to hold onto power because this option was not utilized before Adani Enterprise's involvement. Additionally, another clause of the agreement prohibited VCPL from acquiring NDTV shares over 26% ownership without the promoters' express approval. As an unexpected entry, in 2022, Adani's Enterprise through AMG Media Network Ltd. its wholly owned subsidiary acquired VCPL in turn obtaining a stake of 29.18% in NDTV. By executing the takeover of VCPL and the subsequent conversion of warrants, Adani Enterprise obtained a 29.18 percent ownership in NDTV that violated the conditions of the financing arrangement. Due to such a violation, Adani's stake was increased by more than 8% and the open offer threshold was triggered. The jerk of indirect acquisition of shares was unwelcomed by the Board of Directors and majority shareholders. Afterward, the shareholders had with them two options to either sell their shares or challenge the conversion by the Takeover Regulations to nullify the offer. However, the unseen acceptance of open offer by the shareholders within a short span posed unexpected circumstantial challenges to the founders. Also, the conflicting terms of the loan agreement rendering the VCPL conversion option posed difficulty.

Additionally, the reluctance of the founders to lose their establishment to Adani Enterprise can be viewed through the statement given by the Roys asserting that it was a baseless rumor that they were selling their part of shares to the RRPR owners. However, contrastingly, upon Adani's disclosure over a broadcast addressing the acquisition of a 29.2% stake followed by an offer to acquire an additional 26% from the open market, the founders stated that neither did they have any knowledge about the same nor they had given any accord for this stark sale. The filing from NDTV marked the twist in the takeover battle as the founders looked to standstill the deal with them yet ultimately gave up their share to the Adani group in a short period putting everyone in an awe.

Unraveling the Takeover Regulations During the Takeover

Following the announcement that the Adani Group had acquired an interest, NDTV stated that the Adani Groups would require clearance from SEBI, India's market regulator for its hostile takeover offer. This was done in light of wider worries that the acquisition could hinder the nation's independent press. The researcher analyses a few relevant provisions relating to aspects involved in the present hostile takeover practice. The acquisition was primarily feasible since VCPL had the right to exercise warrants to take control over RRPR Holdings Private Limited with the Roys holding a 29.18 percent interest in NDTV through RRPR Holdings. As per Regulations of takeovers consisting of provisions, 3(1), 4, 5(1), 14, 15, and 5 an acquirer is required to make an open offer for an additional 26 percent in the same target firm if, either through direct or indirect means, their ownership exceeds a threshold of 25% threshold (Alan J. Auerbach, 1988). In the present case, AMG Media Networks holding around 29.18% interest carried out an open bid for further ownership of 8.27%. (Alan J. Auerbach, 1988)

Additionally, the promoters of NDTV sold Adani Enterprise 27.2% part of their remaining 32.2% percent stock. Concerning the open offer price set by the acquirer, the shares were sold for a premium of 17%. Regulation 10(1)(a) of the Takeover Regulations exempts provisions of Regulations 3 as well as 4 in the event of an 'inter se transfer' (Gupta, 2020). If such transfers meet the conditions specified in Regulation 10, there is no need for an open offer. The purchase of VCPL was the main component of Adani Enterprise's NDTV shareholding acquisition. An important factor in Adani Enterprise's ability to influence NDTV's voting rights share was VCPL's loan of more than INR 400 crores to RRPR, the holding company of NDTV. Referred to as an indirect purchase, it complies with Takeover Regulation 5(1) by acquiring control through an intermediary that already holds a controlling interest.

Disclosure requirements for both the target firm and the acquirer are necessary due to the current regulatory environment. Any person holding more than 25% of the shares or voting rights must disclose their holdings within seven working days, according to Regulation 30(1) of the Takeover Regulations. Adani Enterprise in a similar manner was also to disclose information after acquiring VCPL, which held convertible warrants of RRPR Holdings. These disclosure standards acknowledge that shareholders might not be involved in day-to-day business operations and seek to protect shareholder interests in uncertain times. Furthermore, when the acquirer's acquisition surpasses the 25% barrier, an offer for a minimum of an additional 26% ownership is required, meaning that open offers become mandatory. This action makes it easier for unhappy shareholders to leave the company.

Typically, acquirers aim to gain more control by setting offer prices higher than market values. With NDTV shares trading above the offer price, Adani Enterprise's open offer created an intriguing scenario. The minimum open offer price is set by Regulation 8 of the Takeover Regulations, which takes into account the volume-weighted average market price for the sixty trading days prior to the public announcement. A two-year ban on the Roys' access to the securities market by a SEBI order impeded the takeover. Despite what the Roys primarily claimed, the order still did

not affect the takeover because it was a pre-existing agreement and a simple conversion of warrants.

Additionally, Adani Enterprise followed the exclusions specified in Regulation 10 of the Takeover Regulations when while completing its 18-day period following the open offer to acquire promoter stakes through inter se transfer (Sharma, 2023). Exiting shareholders were entitled to the same price within 26 weeks of the public offer announcement as per Regulation 8 defining offer pricing under specific conditions. However, the governing body has not examined the disparity in the deal's completion schedule following the open offer, notwithstanding these complexities. This calls into question as to how premium pricing would be influenced by the Takeover Regulations.

Vivid Aspects Surrounding the Hostile Acquisition by Adani

The Adani group in recent times has been proactive in practicing acquisitions in dynamic arenas extending to the acquisition of thermal plants, airlines, coal mines, and digital brands. As per analysis, in furtherance of a similar aim to foster a diversification strategy besides reducing market competition, Adani Group through its multimedia subsidiary had acquired NDTV in a hostile manner by closing all its routes to come out of the shackled trap. Ever since the last few decades, the Adani group has been in neck-to-neck competition with Reliance across a portfolio of vivid businesses. To compete with Ambani in the sphere of media, NDTV can potentially compete with the Reliance-owned Network18 channel.

It is also politically evident that Adani and Indian Prime Minister Narendra Modi's relationship has been a focus ever since. PM Modi was the target of only one media source, NDTV. Prime Minister Modi stands to gain from the channel's likelihood of being compromised once Adani acquires it. Additionally, with an average annual growth rate of 11% consistently the last 10 years, the news network's profit growth has been striking despite a lack of sales growth outperforming its competitors in terms of return on capital employed. However, ever since the takeover, the share value of NDTV under the Adani brand has improved tremendously by 250%. Yet, the Adani group had to face challenges and backlash from the board of directors leading to the quitting of age-old chief strategic officers and members after the Roys left their position on the board in December. Within the Indian takeover framework, this acquisition is recognized as one of the most assertive hostile takeovers. There are a few gaps that need to be addressed duly by regulatory authorities. However, the acquisition was carried out in a strategic manner aiming to capitalize on the greatest advantages offered by the Takeover Regulations. Adani now owns more than 64% majority of the company holding decision-making power vested in him.

Suggestions

- There is a need for a separate statute that governs Hostile Takeovers. A single statute may reduce the need for various entities to involve in regulation of Hostile Takeover.
- In theory, it seems like a good idea to prevent hostile takeovers through open offers. But obtaining authorization for the same through the articles of organization or a special resolution supported by seventy-five percent of the shareholders becomes

laborious. Thus, it becomes nearly hard for the target corporations to restore control in companies where more than 50% of the shares have been acquired. The new statute must regulate the Hostile Takeover beyond 'open offer' concept.

- To prevent Unreasonable Hostile takeovers, SEBI needs to tighten up its compliance and penalty guidelines. Businesses and investors need to be transparent with all parties involved, including shareholders, customers, and employees, in order to prevent hostile takeovers.

Conclusion

The researchers understanding the interplay between hostile takeover strategies and defenses with real time cases assert that there exists an invisible link which plays a crucial role in the legal landscape dealing with the concept of hostile takeover attempts. The evident lack of a robust system of regulations in the present statutes providing for merely a foundation yet lacking potentially in laying a clear distinction between the procedures involved in a friendly and hostile takeover without consent seems bleak. No direct or strong legal regulations addressing the effect and righteous manner of hostile takeover practices in India not only create takeover problem to the target company but also loss of time, money and effort for the acquirer in dealing with defences relating to regulatory hurdles, ambiguous means of strategies displayed as well fiduciary duty binding the directors of target company imposes challenges. Additionally, in most cases of takeover attempts in India, it is observed that the minority shareholders reject or resist to the takeover resulting in decades long litigation and regulatory interventions. With increasing number of hostile takeover attempt cases in the nation, it is crucial to bring in relevant regulations to bridge the existing gap thereby protecting the interest of smaller companies and shareholders in the corporate world. A case analysis of Adani Group's hostile acquisition of NDTV presents the grey area unaddressed by the present statutory laws empowering big companies to swallow the smaller ones by coercion or without consent. This is displayed through the uncertain events taking part during the takeover encompassing a chain of disapproval statements by the founders. This act of Adani symbolizes potential impact on the nation's news network besides strongly displaying as to how the loopholes present in the legal system were tactically utilized by the billionaire with brilliant strategy and planning reflecting upon the urgency to cover up the missing bricks in the regulations act. This process can only strengthen the legal check system promoting healthy competition thereby eliminating such wrongdoings from the society. Changes in aspects including clarity on persons acting in concert and more premise on minority shareholders rights seem lacking on an essential note.

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