EFFICIENCY OF TAKEOVER DEFENCE REGULATIONS
A Critical Analysis of the Takeover Defence Regimes in Delaware and the U.K.

ABSTRACT
Among the prevalent modes of corporate acquisitions, hostile takeovers is quite common. Although earlier such takeover attempts were seen mainly for small firms, it is now employed for large corporations as well, involving multi-billion dollar deals. Due to the fact that hostile bidders making tender offers seek to by-pass the friendly route of negotiations with the target company’s managers in order to seek control, it has the potential of upsetting the normal functioning of the target corporation at any time. This poses a threat not only to the shareholders of the target, but also the management, and thus the need to regulate market control in the field of takeover is quite high. However, various jurisdictions differ in the way they tend to control tender offers or hostile takeover bids. This paper attempts to understand the reasons for the divergence in the takeover regulations of the two jurisdictions, namely the state of Delaware, USA and the United Kingdom, and possibly examine the effectiveness of the Delaware & UK laws in regulating defensive tactics adopted by managers of a target firm. Case laws and empirical studies have been examined to study the effectiveness of various defensive tactics employed by managers against hostile takeover bids.
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I. INTRODUCTION

Corporate takeovers are a regular exercise among business enterprises. A ‘takeover’ is said to take place when an individual or a group acquires the whole or substantial equity share capital or assets of a publicly listed company.¹ Usually a company becomes a target of a takeover when it is inefficiently managed, or grossly undervalued. In either case, with a takeover bid there is a definite attempt at disciplining managers for optimum efficiency because the bidder might seek to replace the management to enhance the efficiency of operations, besides taking many other measures to exploit synergies between the two firms. Where a peaceful negotiation for a takeover fails, the acquirer makes a hostile takeover bid, by superseding the management and going to the shareholders directly.

Hostile takeovers have existed for decades; however, they gained prominence only recently when, instead of being the subject matter of small firms, they involved multi-billion dollar deals.² Due to the fact that hostile bidders making tender offers seek to by-pass the friendly route of negotiations with the target company’s managers in order to seek control, it has the potential of upsetting the normal functioning of a corporation at any time. This poses a threat not only to the shareholders of the target, but also the management, and thus the need to regulate market control in the field of takeover is quite high. However, various jurisdictions differ in the way they tend to control tender offers or hostile takeover bids.

The United Kingdom (UK) and the United States (US) represent the two most advanced judicial systems of the world and have enacted several legislations to regulate takeover activities. Among the various US federal units, the regulations of the state of Delaware are of particular attention since it contrasts significantly from that of UK and therefore has attracted enormous interest among professionals and academicians alike.

In their comparison of the regulation of takeover activities in the US and UK, particularly those related to the freedom of adopting defensive tactics against takeover bids, Armour and Skeel³ has extensively discussed the difference of regulations on the two sides of the Atlantic. The issue has been elaborated in the expanded version of the same topic by the

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² Id.
same authors. The authors argue that ‘the In the UK, defensive tactics by target managers are prohibited, whereas in the United States, Delaware law gives managers a good deal of room to manoeuvre.’ They further state that the UK and Delaware regulations differ startlingly in the mode as well as the substance in which they regulate unsolicited tender offers.

This paper attempts to understand the reasons for the divergence in the takeover regulations of the two jurisdictions, namely the state of Delaware and UK, as pointed out by Armour & Skeel and possibly examine the effectiveness of the Delaware & UK laws in regulating defensive tactics adopted by managers of a target firm. Case laws and empirical studies have been examined to study the effectiveness of various defensive tactics employed by managers against hostile takeover bids.

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5 Armour & Skeel, Id. 3, at 50.
II. TAKEOVER DEFENCE STRATEGIES

The need for growth and expansion always leaves scope for takeover attempts, and this necessitates managers to remain alert for threats of a hostile takeover. Companies therefore employ several safeguards to counter this threat. No defensive measure can be said to be full-proof, and some may be disadvantageous as well, depending on the particular situation of a corporation; however every tactic affords some negotiation leverage and time to formulate strategies for safeguard.\(^6\) Takeover defensive strategies may be adopted both at a pre-bid stage, or a post-bid stage. Described below are some of the commonly employed tactics to counter hostile takeover bids.

- ‘Poison Pills’ – Also referred to as a shareholder rights plan, poison pills are triggered when a hostile bidder acquires a certain percentage of the target’s voting stock, upon which the target shareholder becomes entitled to new shares of the target at a heavy discount, making the target company’s shares expensive and the deal becomes unattractive for the bidder. This does not require a shareholder vote to promulgate, since the board has the absolute discretion of issuing shares as dividends.\(^7\) However, one of the disadvantages of poison pills is that it helps in entrenching the board by giving an opportunity to raise the offer price, thereby discouraging a genuine takeover bid, which could be beneficial for the shareholders.

- ‘Shark Repellents’ – A specific type of defence strategy which can be adopted simply by amending the corporate charter or by-laws.\(^8\) These are put in place largely to reinforce the ability of a firm’s board of directors to remain in control.\(^9\) Mechanisms such as Staggered or Classified Board structure may be adopted whereby only a specified number of directors are re-elected to the board while others have a fixed tenure, thereby forcing a hostile bidder to wait for the entire circle until he gets full control of the board. Shark repellents which limit shareholder actions, such as calling of special meetings, advance notice periods, super majority voting provisions, etc. are other variants of this strategy.

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\(^6\) Dennis J. Block, *Public Company M&A: Recent Developments in Corporate Control, Protective Mechanisms and Other Dual Protection Techniques*, Outline of a paper submitted in connection with the program titled “Contests for Corporate Control 2006”, held on January 24, 2006 in New York City by the Practising Law Institute.


\(^8\) DePamphilis, *Id.* at 110

\(^9\) *Id.*
The disadvantages of shark repellents are that although they afford a strong protection, but they can be circumvented by altering the size of the board, or acquiring a super-majority shareholding in the company. Besides, it also provides enormous opportunity to provide safety-net for the management so that it is more comfortable if the bid fails, or even if it succeeds, he is let-off with a huge compensation.

- ‘Dual-class stock’ – Also known as ‘super-voting’ or ‘dispute-class’ stock, these shares are issued to existing shareholders as dividend or as a part of an exchange offer. These stocks have disproportionately high voting rights, but low liquidity or dividend rights.

- Sale of Assets – The target company may sell off the entire company or some of its ‘crown jewel’ assets which may be of particular interest to the acquirer, thus making the target less attractive to the acquirer.

- Friendly Hands – Where a hostile takeover seems imminent, the target may seek out other investor(s) which are perceived to be friendly to the target, and sell the company or substantial stocks of the company to the friendly investor. Such friendly investor is called a ‘white knight’.

- Post-bid strategies – Apart from the pre-bid strategies discussed above, various tactics are employed after a bid is made, for instance Greenmail, Pacman Defence, White Knights and White Squires, Employee Stock Ownership plans, Leveraged Capitalization or share buy-back plans.

DePamphilis argues that tactics such as poison pills, staggered board, sale of assets, Golden Parachutes support the ‘management entrenchment hypothesis’ whereas tactics such as improvement of profitability, share repurchase, auction to highest bidder and litigation, etc. are more favourable to ‘shareholders interest hypothesis’. A combination of poison pills and staggered board structure is considered to be the most powerful combination of defence tactics, because it provides enormous discretion to the management to manoeuvre a tender offer.

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10 Block, Id. 6, at 86.
11 See DePamphilis Id. 7 for details.
12 See Table 3-7 Alternative Target Defensive Strategies, DePamphilis, Id. at 119.
III. HOSTILE TAKEOVER DYNAMICS

A. Tender Offers

Although tender offer has not been defined in the statutes or regulations in the US, the courts have attempted to define tests to ascertain if certain activities amounted to a tender offer. In one such case, a US Circuit court held that a ‘tender offer would be deemed to exist any time that investors need the protection of the SECs tender offer rules’. Nevertheless, commentators have found even this definition to be inconclusive. “A hostile takeover usually involves a public tender offer – a public offer of a specific price, usually at a substantial premium over the prevailing market price, good for a limited period, for a substantial percentage of the target firm’s stock.” The bidder offers the shareholders of the target to ‘tender’ their shares to the bidder at the offered price within a certain period. Where a prescribed percentage of shareholders accept the offer, the takeover is said to have been completed. A shareholder acting with an economic calculation would seek to maximize his returns on his investment either by agreeing to the offer and sell his shares at a premium or retain his shares if he considers the offer is undervalued. However, the management’s incentives may not be aligned with that of the shareholder, insofar as if the takeover was to go through, there is a high possibility that it will be ousted from the control of the company. Thus, it has strong reasons to defend the bid.

B. Regulations

Takeover Regulations in Delaware –

A variety of state and federal laws regulate takeovers in the US. States are independent to enact laws to regulate takeover, consequently Delaware has a set of laws for the same.

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14 Mayer, Brown, Rowe & Maw, United States - Acquiring Businesses in Negotiated and Hostile Transactions, Corporate Acquisitions & Mergers, at 37.
15 The ‘Wellman Test’. Test to determine whether a series of actions constitutes a tender offer subject to the U.S. Securities Exchange Act of 1934 (as amended). Developed by the US District Court in Wellman v. Dickinson [475, F.Supp 783 (S.D.N.Y. 1979)]: (a) the extent of solicitation of public shareholders; (b) solicitation of a substantial percentage of shares; (c) offer of a premium over market price; (d) a non-negotiable offer; (e) offer contingent on the tender of a fixed number of shares; (f) offer only open for a limited time; (g) offeree pressured to sell; (h) public announcements. (c.f. – Mayer et al, Id. 14, at 37).
16 Hanson Trust PLC v. SCM Corp., 774 F.2d. 47 (2d cir. 1985).
17 Mayer et al, Id. 14, at 38.
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Federal tender offers are regulated by the Williams Act\(^\text{20}\), and most state regulations are derived from it. The main purpose of the Act is to facilitate material information dissemination to the target stakeholders, managers and employees and ensure fair-play in the entire offer by imposing various substantive and procedural measures on the bidder.\(^\text{21}\) The Securities Act of 1933, the Securities Act of 1934 (as amended) and Anti-trust laws also apply to tender offers of public companies. \textit{Inter alia} a takeover may also be subject to national security laws if it threatens to impair national security\(^\text{22}\); if the subject industry is regulated then higher levels of disclosures, special approvals and formalities need to be completed; and case laws. Besides state statutes which impose compliance mechanisms on the bidder, the law also regulates the behaviour and response of the target firm and its managers and shareholders. Delaware law on takeover defence tactics is quite shareholder friendly, but tends to set high responsibility standards on the target firm during a hostile bid.\(^\text{23}\) In the absence of explicit statutes regulating defensive tactics by management to defeat unwarranted takeover bid, most of the laws regulating defensive tactics in Delaware are judge made.\(^\text{24}\)

It has been argued that hostile takeovers are easier in Delaware because of a ‘network effect’.\(^\text{25}\) Due to a large number of incorporations in Delaware, Hannes argues that it is easier to ‘anticipate the types of hurdles and judicial treatment that takeovers are likely to experience in Delaware’.

Takeover Regulations in UK –

Besides the general Companies Act of 1985 (amended in 2006), the takeover activity in UK is chiefly regulated by the City Code on Takeovers & Mergers (the ‘Code’). Apart from the Code, a number of other authorities also exercise their powers in different situations. For listed companies, the United Kingdom Listing Authority (UKLA) rules apply, which are set out in the ‘Listing Rules’. The Code is overseen by a Takeover Panel who has set out its rule under the ‘Substantial Acquisition Rules (‘SARs’). Other acts which may touch upon this area are the


\(^\text{21}\) Mayer et al, \textit{Id.} 14, at 37.

\(^\text{22}\) Exon-Florio Foreign Investment Law. c.f. Mayer et al, \textit{Id.} 14, at 36.

\(^\text{23}\) Armour & Skeel, Id. at 1734.


Financial Services and Markets Act, 2000 (FSA) which administers the financial services regulation, the rules of the Office of the Fair Trade (OFT) and the Competition Commission for anti-trust matters and in some cases, the Criminal Justice Act, 1993.\textsuperscript{26}

The Takeover Panel is an independent body consisting of regulatory officials and members of professional bodies involved in takeover activities, like the Bank of England, the London Stock Exchange, members of leading M&A law firms and other major financial institutions. Although the provisions of the Code are not enforceable in the courts, it functions as a soft-law, serving to guide and control the takeover activities of the country.\textsuperscript{27}

\textbf{C. The Divergence: Delaware and UK Law}

To a large extent, takeover regulations are framed on the basis of government policies and market maturity. Some jurisdictions elect to support the \textit{laissez-faire} theory providing minimal control and allowing the market forces to determine the regulation, whereas others may be inclined to be more protective for the benefit of the stakeholders and society in general. The UK policy seems to be dominated by an industrial strategy and encourages competition and fair play, thereby protecting the interests of the shareholders to the maximum. However, Delaware law provides enormous flexibility to the different entities involved in transacting the takeover activity.

Delaware laws provide enormous flexibility for individuals and groups to make a takeover bid, and there are no limitations on the number of percentage of shares for which they must bid.\textsuperscript{28} Unlike the UK, there are no ‘mandatory bid rules’ under which an acquirer must offer to buy the shares of all the shareholders if it has acquired a certain percentage of shares of the target firm.\textsuperscript{29} However, acquirers are required to make public offers whenever they intend to make a substantial acquisition, at the same time offer the same price, and same window of notice to all shareholders alike. Although the regulations in Delaware are quite friendly to the shareholders of the bidding firm, the shareholders in the target do not enjoy the same status by way of statute. The level of responsibility required of the management in wake of a tender offer is much higher in the UK than in the Delaware. The Delaware laws are applicable to firms incorporated in the state of Delaware. Managers of Delaware firms are free to employ

\begin{footnotesize}
\textsuperscript{28} Armour & Skeel, \textit{Id.} 4, at 1734.
\textsuperscript{29} \textit{Id.}
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defensive tactics like the ones discussed above against unfriendly takeover advances made against their firm. The enormous discretion provided to managers of a target firm in Delaware is the chief reason why Delaware has become one of the favourite destinations for incorporating a company. This provides the management with the crucial negotiating leverage thereby defending hostile bids to a maximum level. There is also sufficient discretion to refuse a transaction by the “just say no” defence, if the management is of the opinion that the acquirer’s offer is not in the best interest of the company or the shareholders.

Armour & Skeel explain, however, that this discretion granted to Delaware managers is not absolute. Sometimes, use of defensive strategies may require the approval of the shareholders, in which case shareholders take it into their hands to call the shots. Delaware state legislations seem to favour the ‘management entrenchment hypothesis’

In certain situations, the managers are required to display a level of responsibility, business judgement and good faith towards the shareholders, as we shall see in the forthcoming discussions in this paper. Despite the freedom granted by the statutes, it is now the courts which seem to be coming to the rescue of the shareholders in the form of case law to discipline the managers. The scope of fiduciary duties of management towards shareholders is being redefined in Delaware in the wake of increased takeover cases.

On the contrary, however, in the UK shareholders enjoy enormous protection by way of statutes. Takeover defences are strictly prohibited and any such measure must be approved by the shareholders themselves. The board are prohibited from taking steps to frustrate a takeover bid and they are not allowed to employ defence strategies like poison pills or shark repellents. The shareholders are afforded maximum opportunity to take a decision whether to accept or reject any takeover bid, as well as decide how to deal with their shares when a takeover bid is made. Under the English company law, the board is required to seek the approval of the shareholders in a general meeting before issuing new shares, as also to create dual or multiple classes of shares. There may be a possibility to presume that since defensive tactics are difficult to employ at the time of a bid, managers may seek to entrench themselves by adopting such measures well before a bid may have surfaced, thus bringing it into action just at the time it is required. However, the authors argue that such ‘embedded defences’ are not common among

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30 Id.
31 Armour & Skeel, Id. 4, at 1735.
32 DePamphilis, Id.7
33 Armour & Skeel, Id. 4.
managers in the UK.\textsuperscript{34} Even though similar to Delaware, the UK also exercises the equal treatment rule to all shareholders of the target company, it further imposes the ‘mandatory bid’ rule whereby any person who acquires more than 30\% of the voting stock of the target must make an offer to purchase the entire shares of the target.\textsuperscript{35} Due to this rule, all bidders are forced to have sufficient funds to finance such a deal where they have to purchase all the shares, instead of just a chunk of controlling interest.

\textsuperscript{34} Armour & Skeel, \textit{Id. 4}, at 1736.

\textsuperscript{35} Armour & Skeel, \textit{Id. 4}, at 1736.
IV. EFFECTS OF REGULATIONS: CASE LAW ANALYSIS

One could argue that there may be no need to regulate takeover activities since the bidder often pays for the stocks of the target at a price higher than existing market price, and target shareholders stand to benefit from the premium and the bidder gains from the value of the target thus acquired; on the other hand, the bidder might incur debt to make their bid, so it must balance its pay-off. In either case both parties stand to gain. However, this theory fails when either the acquirer makes a bid with the mal-intention of liquidising the assets of an undervalued firm, or when the management of the target, in order to entrench itself, foils a takeover bid which genuinely seeks to enhance the value of the firm, eventually profiting the target shareholders and itself. For such reasons, both Delaware and UK courts have been active in interpreting the respective statutes to establish fair play and maintain the corporate spirit in takeover activities. Analysed below are some landmark case laws of Delaware and UK to emphasize that despite the presence (or the lack of it, in case of Delaware) regulations, court intervention has been necessary to this effect.

Delaware/US Case Laws –

- In Unocal Corp v. Mesa Petroleum Co.\[36\] the court adopted the ‘enhanced scrutiny’ standard where it was apparent that the management of the target acted in its own interest as against those of the shareholders.

- In Unitrin, Inc. v. American general Corp.\[37\] the court expanded upon Unocal and adopted a two-step approach: to test whether (i) the defensive measure adopted was ‘coercive or preclusive’, and (ii) the measures, if not coercive or preclusive, fell within a ‘range of reasonableness’.\[38\]

- The judgement in Moore Corp. v. Wallace Computer services, Inc.\[39\] case involves the use of poison pills by the target board which refused to redeem the pills even after a majority of shareholders tendered their shares. The federal court interpreted Delaware law and upheld the defensive tactics since it satisfied both the tests of Unocal and observed that the offer was both inadequate and not in the interest of the target. This judgement emphasised that the board is usually better informed and can use superior judgement than the shareholders.

\[36\] 493 A.2d 946 (Del.1985)
\[37\] 651 A.2d 1361 (Del.1995)
\[38\] Id. at 1387, 1388.
The Delaware courts have also supported the defensive initiative of target board citing that ‘the essence of business was risk’, and as long as reasonable business judgement has been applied, the actions of the management should not be termed as malafide.\textsuperscript{40}

A landmark judgement of the Delaware court was in \textit{Revlon Inc. v. MacAndrews & Forbes Holdings, Inc.}\textsuperscript{41}. The \textit{Revlon} judgement continues to be cited in various cases even today, and the rules framed by the court came to be known as the \textit{Revlon Rules}. Where sale of control is in question in Delaware, the \textit{Revlon Rules} apply, whereby the fiduciary duties of the management towards the shareholders become strictly applicable.

Court rulings in Delaware has tried to bridge the gap by providing shareholder friendly judgements and framing rules to reinforce shareholder interest, thus filling the gap created by lack of regulation.

**UK Case Laws –**

- In \textit{Criterion Properties Plc v Stratford UK Properties LLC}\textsuperscript{42} the court held that a poison pill employed by the management of a company to thwart a bid was invalid insofar as it was at the detriment of the shareholders.
- In \textit{Hogg v. Cramphorn, Inc.}\textsuperscript{43} the management’s defensive strategy of creating a trust for the benefit of the employees, and transferring substantial number of shares to the trust, were held to be voidable\textsuperscript{44}.
- The management’s attempts at thwarting a takeover bid by issuing treasury shares to a favoured bidder was rejected by the court in \textit{Howard Smith v. Ampol Petroleum Ltd.}\textsuperscript{45} when the majority of the target shareholders were in favour of the deal.

UK case laws emphasize that the ultimate decisions on takeovers rests with the shareholders and not the management, and any action by the management which has not been approved by the shareholders would fall outside the scope of the delegated authority of the management.\textsuperscript{46}

\textsuperscript{40} \textit{In re Walt Disney Co. Derivative Litigation} Del. LEXIS 307 (Del. 2006); 2005 Del. Ch. LEXIS 113 (Del. Ch. 2005)
\textsuperscript{41} 506 A.2d 173 (Del. 1986)
\textsuperscript{42} [2004] UKHL 28
\textsuperscript{43} [1967] Ch. 254, 3 All ER 420.
\textsuperscript{44} Bebchuck et al, \textit{Id.} 13 at 537.
\textsuperscript{46} Bebchuck et al, \textit{Id.}
V. EMPIRICAL ANALYSIS

Several empirical studies have been carried out to understand the dynamics of takeover defence tactics and their implication on the value of the firm. Takeover bids have been known to affect the value of the target even before the bid was made, as also after the bid was completed, whether successfully or not. A few such empirical researches have been analysed in this paper to understand if it can explain the reasons for the divergence discussed by Armour & Skeel.

Jiraporn:

In a study to understand the impact of takeover defences adopted in hostile bids, Jiraporn\textsuperscript{47} examined four specific defence tactics – blank check preferred stock, poison pills, classified board structures and dual class stock. He found that:

“…in spite of their similarity as takeover defences, the empirical evidence indicates that they do not influence the degree of earnings management in the same way. Specifically, blank check preferred stock does not have a significant impact on earnings management. Poison pills and classified boards are found to reduce earnings management, on average, by 1.9\% and 1.5\% respectively. On the contrary, dual class stock exacerbates earnings management by increasing the degree of abnormal accruals by 2.6\% on average. The results are robust even after controlling for firm size, profitability, financial distress, growth opportunities and information asymmetry.”\textsuperscript{48}

Nuttall:

Nuttall\textsuperscript{49} examined 643 non-financial UK listed companies to study the effects of takeover threats on the performance of the company, and concluded that takeover risks increase subsequent productivity and dividend payouts, whereas it decreases investments. Also, a probability of a hostile takeover has positive impact on dividend and negative impact on

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\textsuperscript{48} \textit{Id.} at 293.

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investments; conversely.\(^{50}\) This indicates that managers are more disciplined, spend less on themselves, and pay more dividends when there is a threat of a hostile takeover.

**Romano:**

Roberta Romano\(^ {51}\) conducted her research on the popularity of Delaware law and the over-enthusiasm for incorporation in the state of Delaware. She made significant contributions to the literature in “race to the top” literature with her survey of the reasons given by corporate officials for reincorporating in Delaware.\(^ {52}\) She found that the reason why executives were inclined to incorporate in Delaware was because they presumed that Delaware law reduced the anticipated costs of transactions. She identified takeover defences as one of the most frequent causes of reincorporation.

**Black & Kraakman:**

Black & Kraakman\(^ {53}\) argue in favour of the Delaware takeover regulations on the basis of a hidden value model, in which the firms ‘hidden value’ or true worth was visible only to the directors of firms, since they were involved in the operation of the day to day affairs of the firm, as well as informed of all intrinsic transactions of the firm.\(^ {54}\) He even cites various Delaware court rulings which, he claims, support his theory.\(^ {55}\) His arguments draw strength from the fact that markets are imperfect and shareholders are mired with their cognitive bias, therefore unable to make a judicious decision. Thus the judgement should be left with the managers, who have been appointed for their expertise in running the business of the firm and making such corporate decisions.

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\(^{50}\) Nuttall, *Id.* at 30


\(^{52}\) *Id.*


\(^{54}\) *Id.* at 522.

V. CONCLUSION

Takeover defence mechanisms can have both positive and negative impact for the target shareholders, as have been shown by case laws and empirical research. However, in order to understand the regulations adopted by a State to regulate such defensive measures, it is important to understand the various underlying factors which come into play during a takeover transaction, besides taking into consideration the economical, social and sometimes political environment of the jurisdiction.

Whereas higher level of shielding by defensive tactics increases the market value of the firm, at the same time having the same effect on the costs of such measures; conversely, the market will be willing to pay a lower price for unshielded firms.\(^56\) This way shielding also creates a diversion of takeover attention to unshielded firms, and attach a premium on the diverting firm’s value. It is debatable whether this is a beneficial phenomenon for the society in general, but they do not necessarily influence the probability of a bid or the premium of the target firm.\(^57\) Investor behaviour also plays an important role in determining the level of protection that needs to be afforded to them. Since corporate ownership is highly dispersed, and investors have varied time horizons, objectives, and expectations, efficient participatory decision making is far from practical.\(^58\)

Delaware antitakeover regulations are not necessarily harmful to shareholders; instead it has been argued that in fact they increase shareholder wealth.\(^59\) Although Delaware law is considered to be softer, this does not go to suggest that the stringency adopted by UK regulations have opposite effect to that of Delaware laws. The balance may have been created by substituting self-regulation by statutes. On a larger perspective, a convergence could be noticed in some plane between Delaware and UK laws, insofar as the primary objectives of both the jurisdictions remain the same – an equitable corporate governance system – even though they are sought to be achieved in different ways. However, some commentators have

\(^{57}\) Hannes, *Id.*, at 25, at 1964.
indicated that the shareholder-centred view of corporate governance is receiving widespread recognition.\textsuperscript{60}

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