Poison Pills:
A management-shareholder benefits comparison

Paper within Business Administration – Corporate Governance

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ABSTRACT

PROBLEM: The problem of this thesis involves the controversy that the implementation of poison pills generates. The conflict amongst various stakeholders that are affected directly or indirectly by the implementation of the poison pill also contributes significantly to the problem of this thesis.

PURPOSE: The purpose of this thesis is to investigate and compare the benefits of the poison pill adoption on shareholder and management interests. We also seek to evaluate arguments for and against pill adoption, and determine if these arguments are valid in view of facts established from our study.

CONCLUSIONS: Our study in this thesis has brought us to five conclusions about the poison pill policy in fulfillment of the purpose. We state in our conclusion that arguments for and against the poison pill can both be validated depending on the case, we also state that a general conclusion cannot be drawn as to the negative or positive effect of the poison pill on stakeholders. We proceed to argue that the pill is a very effective fighting toll in the current business world and state that more should be done to regulate pill implementation. We finish up our conclusion by identifying what appears to be an inverse relationship between management and shareholders benefits from the implementation of the pill.

ORIGINALITY: The uniqueness of our study resides in the theoretical framework that is developed from two prevailing hypotheses in the academic research of the poison pill. The previous studies either take on the management entrenchment hypothesis (MEH) or the shareholder interest hypothesis (SIH). However, we have combined the elements of both hypotheses and jointly revealed the advantages and disadvantages of the pill adoption for both management and shareholders via our original management shareholder benefits comparison matrix.
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1 Introduction

“Public companies refer to a poison pill as a "shareholder rights plan." Does anyone else find that amusing? If anything, it undermines shareholder rights rather than supporting them” – Carl Icahn (2008).

"With the scandals we’ve all read about in the papers, it’s important that you trust that we make these business decisions with the best interests of investors in mind,” – Doug Olberman (2002), <in defense of poison pill implementation >

From the United States to Canada, the implementation of poison pills has never failed to generate controversy and create dispute among parties representing various interests. However, what is in the interest of the company?

Poison pills where developed as an answer to the hostile takeover question. The adoption and implementation of poison pill tactics by target companies in hostile takeover bids have played a relatively significant role in the North American business sphere. The arguments in defense of a poison pill and in opposition to its implementation are extensively diverse and cover a wide range of issues (Len Costa, 2005).

1.1 Problem discussion

There is no single generally accepted definition of the poison pill tactic. We have however chosen to accept the definitions in the encyclopedia of management as it is arguably the most clear:

“Poison pill strategies are defensive tactics that allow companies to thwart hostile takeover bids from other companies. Many companies may find themselves unprepared when facing such bids. By adopting a poison pill strategy, a company can be somewhat reassured that acquiring companies will approach its board of directors, not the shareholders. Poison pill strategies are also known as shareholders' protection rights plans” (Gale, 2006).

This tactic has come a long way in polarizing the North American business world and we seek to examine both sides of the argument. Supporters of the pill formula have put forth a
significant amount of studies and perspectives as have the opponents. The conflict between both parties serves as the base of the problem of this thesis. We will be examining both of the opposing perspectives of the poison pill tactic and seeking to establish if one side can be validated above the other. The effect of poison pill implementation on the managerial board and shareholder interest will also be examined.

When facing a tender offer, a target firm can choose between several different defensive tactics to prevent an unwanted loss of corporate control. Malette and Fowler (1992) explain that a group, among these, is the poison pill defenses, which refer to loss of voting rights, equity dilutions or financial obligations borne by the potential acquirer. The implementation of these defenses is contingent on the advancement of the change in corporate control; they are only executed by a specific triggering factor (Malatesa and Walkling, 1988; Maletta and Fowler, 1992; Loh 1994; Ryngaert, 1988; Velasco, 2002). Normally they are initiated after the acquirer reaches an ownership of 10 to 20 percent of outstanding shares (Malatesa and Walkling, 1988; Velasco, 2002). Hence, poison pills have no immediate direct negative effect and are thus redeemable until the triggering point has executed the defensive action.

Poison pills assume five different forms; these are (1) preferred stock plan, (2) flipover plan, (3) back-end plan, (4) voting plan and (5) ownership flip-in plan (Malatesta and Walkling, 1988; Ryngaert, 1988). The preferred stock plan was the earliest kind of pills to be implemented, and it involves reducing the number of shares available to acquirers. The flip-over rights plans issues shareholders rights to purchase the common or preferred stocks at an exercise price significantly above the market value. In the back end plan, shareholders receive a redeemable right dividend which is triggered when a potential acquire exceeds a certain limit. Voting plans issue preferred stock with voting rights to shareholders, and owner flip-in plans enable the plan holder to purchase stock at a deep discount. Velasco (2002) announces the pill as the single most powerful defense; no known takeover tactic can elude it. The only possibility is to invalidate it. According to Velasco (2002), this can be done through friendly negotiations with the target’s board, by exchanging an adverse board
with another less so or to quash it by a court ruling, claiming that the directors have not
acted in accordance with their fiduciary duties. For these reasons the pill is the most pop-
ular defense used by the Standard & Poor 500 companies (Turk, Goh and Ybarra, 2007).

However, as this novel tactic has developed and more knowledge about it has been gained,
so have many discussions. Valesco (2002) brings up the problematic sides of the pill and
denounces it as illegitimate. There are those that have proven that poison pills are asso-
ciated with decline in stockholder wealth (Malatesta and Walkling, 1988; Ryngaert, 1988)
while others oppose this conclusion (Turk, Goh and Ybarra, 2007). While many describe
the poison pill as the optimal defense tactic (Valesco, 2002) others state that companies
that have adopted poison pills make for a greater risk of being the subject of a tender offer
while others go to the extent to show that poison pills are the results of temporarily bad

Defenders of the poison pill formula cite a wide range of studies and statistics to back their
claims. Caterpillar Inc, in a bid to convince its shareholders not to terminate the poison pill
it had in place, cited studies by Georgeson Shareholder Communications Inc. and JP Mor-
gan & Co that supported the notion that companies with poison pills have historically re-
ceived higher takeover premiums when acquired than companies without a poison pill in
place. However, a critical assessment of Georgeson`s proclamations sponsored by The
United Shareholders Association (USA) claimed that Georgeson`s study was fundamen-

tally flawed and lacking in many aspects. The USA argued that the study failed to address the
decline in share and stock value that is usually a direct result of the implementation of poi-
son pills.

What is more, Ryngaert (1988) stated in his work that only 31 percent of the companies
with poison pills successfully fended off a hostile tender offer. With a 31 percent success
rate of maintaining the corporate control, is this probability good enough to justify the use
of the poison pill? Further in Ryngaert`s work we see that on the other hand, in 55 percent
of the cases, the poison pill lead to an increased bid from the acquirer. Is the objective of a
poison pill to prevent a takeover or is it merely a strong card in negotiations?
The poison pill controversy appears to be championed by two main opposing parties: the board of the company on one side, which usually tends to support implementation (even though not always) and the shareholder activists and suitor company who usually appear to be in opposition (again not all the time). One can see the 2001 case of Navistar International whose board was embroiled in a prolonged battle with shareholders over its (the boards) refusal to rescind an already in place poison pill. Denton (2001), an active anti poison pill activist, has continually maintained that the implementation of poison pills are detrimental to the progress of companies and the policy in question is responsible for the creation of a management that acts with impunity. It is conflicts such as the above that have primarily informed the purpose of this Thesis.

The above shows that pill implementation appears to be significantly polarizing in the current business world. This gives rise to the problem of this thesis which is: Can pill implementation be justified as being in the interest of the company or not? Proponents and opponents of the tactic seem to be very passionate about their beliefs, and both seem to fiercely protect their stance. The polarizing nature of the poison pill and the fact that this tactic has become a point of major contention has served to increase our curiosity and lay the basis for the purpose of this Thesis.

1.2 Purpose

The purpose of this thesis is to investigate and compare the benefits of the poison pill adoption on shareholder and management interests. We also seek to evaluate arguments for and against pill implementation from its inception to date, and determine if these arguments are valid in view of facts established from our study. We will also do a cross case analysis of our empirical study to better illustrate our findings.

To be able to accomplish the purpose stated above, we have divided our study into the following questions.

- Can the arguments for the poison pill be validated? Or can the arguments against the poison pills be validated?
• Can pill adoption be held to be generally in favor of the company, management and shareholders interest or vice versa?

• How effective is pill adoption in prevention of hostile takeovers?

• What measures should be taken by regulatory organizations to improve pill implementation?

• What is the relationship between shareholder and management interests?

1.3 Delimitations

Because of the time restraint that we have for this thesis we will limit our study to only examining the advantages and disadvantages through the usage of poison pills in the following four cases; Barnes&Noble vs. Yucaima Cos., PeoplesSoft Inc. vs. Oracle Corp., and Yahoo! Inc. vs. Microsoft Corp. We will hence not conduct any study or comparison with any other available defense tactic. Neither will we try to find out what characteristics of a company or board that is more likely to adopt the pill than other or any personal motives of individual directors’ behind this decision. However we want to know for what reasons (i.e. advantageous impacts) the pill is adopted.

This thesis will not solely investigate the wealth effects of rights holders’ of the companies with poison pill provisions. Or solely compare returns of poison pill-companies facing tender offers with others in similar situation without this defense. Financial and non-financial benefits and disadvantages will be researched and analyzed accumulatively.

1.4 Disposition

The rest of the study is organized as such:

In chapter two, we discuss the theoretical framework of this paper. This chapter presents the theoretical foundation on which our analysis is built. In chapter two, we will first define the poison pill, explain five basic types and proceed to present two most commonly used hypotheses from the previous researches of the pill: management entrenchment hypothesis
and shareholder interest hypothesis. Finally, we will combine these two hypotheses and form the Management Shareholder Benefits Comparison (MS-BC) matrix to explicitly illustrate the consequences of the pill adoption.

In chapter three, we describe the method applied in the study. We decided to choose a qualitative case study to investigate the pill adoption from four real world examples. Chapter four deals with the empirical findings, which include the background and basic information of each company. In chapter five, we conduct detailed analysis of our empirical study based on the theoretical framework developed in chapter two. Finally, we draw five conclusions from the analysis and propose suggestions for future study on the matter of the poison pill.
2 Theoretical frame of Reference

This chapter provides the theoretical support for our study on the poison pill. The chapter can be divided into three parts. In the first part, we will explain the definition, five most common variations and other fundamentals of the poison pill. The second part can be split further into two small sections: Management Entrenchment Hypothesis (MEH) and Shareholder Interest Hypothesis (SIH). Both sections are widely recognized propositions for academic researches on the poison pill, however they investigate the consequences of the poison pill adoption from two opposing positions: managers and shareholders. Finally, we will combine the components of the MEH and SIH to form a matrix that we have called the Management Shareholder Benefits Comparison (MSBC). This matrix is the major theoretical framework for our empirical study and analysis in the following chapters.

Before discussing the corporate values of the poison pill from either managerial or shareholder’s perspective, it is necessary to explain such fundamentals as the definition and most common types of this business tactic.

2.1 Poison Pill Defined

The term “shareholder rights plans”, or more famously known as “poison pill”, refers to a family of contingent securities that impose financial and operational burdens on suitors when a takeover or a corporate merger is triggered (Davis, 1991). Although there is no unified definition for the poison pill, we choose the entry from the Encyclopedia of Management as the definition of the poison pill.

“Poison pill strategies are defensive tactics that allow companies to thwart hostile takeover bids from other companies.”

Generally speaking, the adoption of the poison pill is not very popular among the shareholders, because the effects after the pill adoption will usually result in the unwanted financial obligations imposed upon shareholders, such as dilutions of a shareholder’s equity holdings, or loss of the shareholder’s voting rights (Malatesta and Walkling, 1988).
On the other hand, the implementation of poison pills will help managers secure their jobs, increase manager’s compensation and impunity (Jensen and Meckling, 1976), therefore managers usually find the poison pill more favorable and regard it as the last resort while facing an unwanted takeover bid. Our study will examine the advantages (benefits) and disadvantages of the poison pill adoption from both managerial and shareholder’s perspectives. At the end of this chapter, we will combine those two perspectives together to form a matrix which will jointly present the consequences of the pill adoption for both parties.

After examining the definition of the poison pill, we find that there are some other characteristics worth mentioning. According to Ryngaert (1988), poison pills have three notable features. First, pill defenses can be adopted without shareholders’ approval. This feature reflects the management impunity, i.e. the adoption of the poison pill is free from the restrictions from shareholders. Secondly, if the pill is successfully implemented, it will considerably increase the costs for suitors to carry out the takeover. This feature mirrors the most important strategic value of the poison pill: to fend off the takeovers. Finally, the board of directors who decides to adopt the pill has the option to redeem poison pills at a trivial cost after an acquirer actually purchases or offers to purchase a large proportion of equity in the target company. That means if the takeover eventually happens, the board members have no difficulties to cash the pill or convert it to other types of securities.

2.2 Five Variations

As Higgins (1994) proposes, there are five most common varieties of poison pills:

2.2.1 Preferred Stock Plans

Preferred stock plans were the earliest type of poison pill. The idea of this type of pill is to reduce the number of shares available for the suitor to acquire. The target company usually issues the convertible preferred stock to the shareholders. If an outside party acquires or tends to acquire a significant level of the firm’s common stock, the preferred shareholders receive two kinds of special offers. Firstly, they can redeem the preferred stock for cash at the highest price that the acquirer paid for the firm’s common stocks during the past. Se-
condly, if the merger or takeover actually occurs in the end, those previously issued pre-
ferred stocks can be readily converted into voting securities for those stockholders to re-
duce the voting power of the acquirer.

2.2.2 Flip-over Plans
Flip-over plans issue shareholders rights to purchase the common or preferred stocks at an 
exercise price significantly above the market value. Rights are legalized by firm’s stock cer-
tificates and can be redeemed at a small expense. In the event of a merger, these rights can 
be automatically exercised. Hence, common stocks to be acquired by the suitors will be 
listed at a price which significantly higher than the actual price. The results of these highly 
overpriced stocks will make mergers extremely expensive for the suitor companies.

2.2.3 Ownership Flip-in Plans
Ownership flip-in plans enable the plan holders to purchase stocks at a deep discount, if an 
acquirer’s proportion of the stock exceeds a holding limit. The implementation of such 
provision will impose a disadvantaged position for the acquirers and heavily dilute the ac-
quirer’s equity position and raises the cost of the acquisition.

2.2.4 Back-end Plans
Under back-end plans, shareholders receive a redeemable right dividend, which is triggered 
when a potential acquirers exceeds a shareholding limit. The right holders have the option 
to exchange the right and a share of stock for cash and securities worth much more than 
the current stock price. These rights are only valid to the shareholders, but not to the ac-
quirer. Once the right is exchanged, the acquirers will be usually discouraged from purchas-
ing the firm. Higgins (1994) finds this provision serves as a minimum price for a takeover.

2.2.5 Voting Plans
Voting plans issue preferred stock with voting rights to shareholders. If a shareholder ex-
ceeds a specified ownership level, the number of votes associated with that shareholder’s 
stock holdings will fall. Given that votes are required while evaluating the takeover propos-
al, voting plans can also effectively deter the acquisition.
After examining the structures of the poison pill, we present why this tactic is controversial within the corporate world. There are two perspectives to consider: managerial perspectives and shareholder’s interest.

2.3 Two Hypothesis

Within the research of the poison pill, there are two major hypotheses to consider:

2.3.1 Managerial Entrenchment

The Managerial Entrenchment Hypothesis (MEH) originated from the prevailing agency theory while analyzing the corporate governance issues within an organization. Eisenhardt (1989) points out that the disputes between managers, the agent, and shareholders, the principals, are derived from the separation of ownership from management. Managers will be most likely to make decisions and take actions at the cost of the shareholder’s interests. Jensen and Meckling (1976) explained the genesis of this agency problem has two reasons: First, the dispersion of ownership results in the problems to supervise and control the behavior of managers. Second, the low managerial equity holdings indicate that managers can enjoy individual benefits without bearing equivalent amount of responsibility.

When a takeover occurs, the managers will probably lose the current compensations, personal developments or even the jobs. In those circumstances, managers may find the poison pill as an effective tactic to defeat potential threats caused by the control transaction regardless of the attributes of the acquisitions, either friendly or hostile. Consequently, traditional MEH theorists usually believe that the adoption of poison pills reduce shareholder wealth. Malatesta and Walkling (1988) find negative stock returns around the announcement date. They also find that firms adopting poison pill defenses were less profitable than other firms in the same industry in the year prior to adoption. Higgins and Nelling (2002) suggest that the adoption of poison pill prevents the replacement of incompetent management.

However, there are also a number of scholars against these ostensible correlations between managerial entrenchment and the adoption of such takeover defense as poison pills. Kap-
Ian and Stein (1991) as well as Morck, Shleifer and Vishny (1990) refute that the targeted firm with poison pill options were actually able to acquire a much higher premium for the shareholders than those without implementing such policies. Hirshleifer and Titman (1990) suggests that these increased premiums were caused by the active implementation of such takeover defense provisions as poison pills. Thence ethical managers may adopt poison pills to maximize shareholder wealth.

Dowen, Johnson and Jensen (1994) reveal that there are three major factors for managers to consider before deciding adopt the poison pill in the event of a takeover. First is the saleability of the firm’s assets. If the assets can be readily liquidated or highly valuable, management will probably protect these assets from outside infringement. The second reason is the firm’s capital structure. A highly leveraged capital structure, meaning the assets of the company are mostly financed through bonds or short term debts, is a takeover defense by itself and management will not probably adopt other types of defenses. The third factor is innovative activity. This factor is especially obvious for the managers from the small companies. For those small enterprises, research and development (R&D) takes the majority part of the firm’s asset, hence managers will most likely want to protect this intangible asset.

As discussed before, the conflicting interests between managers and shareholders reside in the diminished equity holdings of the management caused by the separation of administration from the ownership. However, in today’s business world, most executives are offered stock options in their compensation packages, which in turn increase the managements’ stake in the ownership. Ryngaert (1988) finds out that the greater the management’s proportion of ownership, the less need for managers to attempt to entrench themselves with takeover defense.

Williamson (1988) indicates that the bargaining position of management with respect to shareholders may motivate poison pill. When management has less bargaining power over the shareholders regarding compensation, voting power, job security etc. management may
use the poison pill to increase its bargaining position. The bargaining position is a relative concept.

The above section is about the strategic values of the poison pill from the management’s stand; it is now necessary to look at the other side of the issue: shareholders.

### 2.3.2 Shareholder Interests

The Shareholder Interest Hypothesis is an important component of Shareholder Activism. The European Corporate Governance Institute defines Shareholder Activism as “the way in which shareholder can assert their power as owners of the company to influence its behavior.” (ECGI, 2003) Shareholder Interests Hypothesis (SIH) holds that takeover defense provisions should benefit shareholders and create positive effects in the stock performance of the company. Those objectives can be achieved by ensuring that the highest paying, and most qualified suitor acquires the company.

According to Ryngaert (1987), the SIH predicts that poison pills should be adopted with the sole purpose to maximize the price shareholders receive in control transactions. In particular, such defense provisions can deter takeovers that induce shareholders to sell shares at a lower price than could be obtained otherwise. If management acts as an ethical and responsible agent, the pill defense can be used as an effective tool to negotiate better deals for shareholders.

Contrary to traditional managerial entrenchment theorists’ finds, Comment and Schwert (1995) conclude that only the earliest poison pills were associated with stock price declines at adoption. After that period of up to six month, target firms protected by poison pills tended to receive higher takeover premiums. Thus, poison pills are an effective tactic to force potential suitors to negotiate with management, resulting in a higher takeover premium to justify the possible loss from the shrinking stock price. This fact implies that pill adoption has an aggregately positive effect on maximizing shareholders’ wealth.

The research of Brickley, Coles and Terry (1994) considers the effects of board composition as another consideration for the poison pill adoption. They find out that announce-
ment returns tended to be positive when the board had a majority of outside directors and negative when it did not. (ECGI, 2003) Higgins and Nelling (2001) suggest that companies recently adopting pills tend to be larger, experience faster sales growth and have higher price earnings ratios. The probability of pill adoption is higher for larger, more profitable companies.

2.4 Matrix of Theoretical Framework

Is the SIH necessarily conflicting with the MEH? Can the implementation be justified in the event of a takeover or merger? Previous findings indicate that the shareholder interests are contradictory with the traditional managerial entrenchment theory because managers use the poison pill as a tool to secure their job and gain individual benefits arbitrarily. Yet, the most recent works find out that the ethical adoption of the poison pill is in line with maximizing shareholders’ wealth. In order to have a thorough understanding on this unsettled argument, we propose to create a matrix model to explicitly express the bargaining positions of management and shareholders while facing a takeover.

After developing the essence of both hypotheses of MEH and SIH, we present the Management Shareholder Benefits Comparison (MS-BC) Matrix to illustrate the advantages and disadvantages of the poison pill from those two opposing perspectives.

2.4.1 MS-BC Matrix

<table>
<thead>
<tr>
<th></th>
<th>Advantages</th>
<th>Disadvantages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management</td>
<td>1. Job security,</td>
<td>1. High cost for implementation</td>
</tr>
<tr>
<td></td>
<td>2. Compensation</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. management impunity</td>
<td></td>
</tr>
<tr>
<td></td>
<td>4. Post-acquisition non-financial benefits</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(prestige, social status, etc)</td>
<td></td>
</tr>
<tr>
<td>Shareholder</td>
<td>1. Higher stock premiums</td>
<td>1. Management impunity</td>
</tr>
<tr>
<td></td>
<td>2. Higher voting power</td>
<td>2. Negatively affect the stock price</td>
</tr>
<tr>
<td></td>
<td>3. Bargaining power for a better bidder</td>
<td></td>
</tr>
</tbody>
</table>
The above table is the MS-BC (Management Shareholder Benefits Comparison) matrix that we developed based on the previous theoretical findings. There are two spectrums in this matrix:

Horizontally, we have divided the consequences after the pill adoption into advantages (benefits) and disadvantages; vertically, the matrix represents two perspectives: management and shareholder.

Hence there are four quadrants in this matrix:

1. Advantages for management: These include job security (Higgins and Nelling, 2002), increased compensation, management impunity (Jensen and Meckling, 1976) and non-financial benefits such as prestige, social status (Ryngaert, 1988).

2. Disadvantage for management: The high cost (both monetary and non-monetary) for pill implementation (Malastesta and Walking, 1988).

3. Advantages for shareholders: These include higher stock premiums (Kaplan and Stein, 1991), higher voting power (Morck, Shleifer and Vishny, 1990).

4. Disadvantages for shareholders: These include the negative stock returns after the pill adoption (Malastesta and Walking, 1988) and increased management impunity restricting shareholder’s power (Higgins and Nelling, 2002).

The above MS-BC matrix is both a summary of the MEH and SIH and a theoretical foundation for our analysis in the following chapters.

Originally, poison pills were issued by the company to preclude a hostile bidder, but our study based on the literature review reveals that the purpose of poison pill has digressed from its original objective. It is worth mentioning that management may adopt poison pills not only before but also after the emergence of a hostile bid. For this reason, Coates (2000) argues that companies without a poison pill in place can still be viewed as having a “shadow pill” that could be implemented in the event of a hostile bid.
Having a poison pill in place is not free of cost for the board because institutional investors look unfavorably on poison pills and a firm could look more attractive with such investors by not having a pill. Thus, boards and their advisers maintaining a pill were presumably led to do so by a belief that it would provide them with some advantages. To begin, having a pill in place provides an absolute barrier to any attempts by outsiders to obtain through hostile tendencies controlling shares in the company. In addition, having the pill will help to negotiate a better bid from the suitor. Furthermore, there was a widespread perception that maintaining a pill signals to hostile bidders that the board will “not go easy” if an unsolicited offer is made and that, conversely, not adopting a pill or (even worse) dropping an existing pill could be interpreted as a message that management are “soft” and “lack resolve.”
3 Method

This chapter explains the method adopted to conduct our study. We decided to choose a qualitative case study for the analysis of the poison pill. This chapter starts with explaining the basics of the case study to clear out some confusions and misunderstandings associated with the case study. Then we proceed to the case design and present the criteria to select and screen the examples for our analysis. A trustworthiness section is placed at the end of this chapter, explaining the validity and reliability of our study.

3.1 Case Study

The worthiness of the poison pill adoption is contingent on many factors. In order to illustrate the application of the poison pill under different corporate circumstances, we choose a case study to demonstrate the implementation of the poison pill. Four mini-cases are chosen and applied in this study.

3.1.1 Definition

According to Gerring (2001), “case connotes a spatially delimited phenomenon (a unit) observed at a single point in time or over some period of time. It comprises the type of phenomenon that an inference attempts to explain.” As the case may entail multiple aspects and abundant contents of a phenomenon, we find it impractical to develop a full-fledged case in this study. Instead, four examples are chosen to sustain the analysis of the paper.

For our study on the adoption of the poison pill, each example is an anti-takeover deal triggered by a potential takeover in the history. Every deal includes two companies: one target firm which is implementing the pill and the suitor company with the purpose to acquire the target company.

Despite endless disputes over the definition of the case study, we accept Yin (1992, p.13)’s definition:

“*A case study is an empirical inquiry that investigates a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident.*"
This definition suggests that in order to have an effective case study, the phenomenon should be clearly distinguished from its context. As for this study, we seek to deliberately separate the phenomenon of the poison pill adoption from the merger and acquisition (M&A) dominated corporate culture, with a focus on the North America.

### 3.1.2 Variations

According to Yin (2003), there are six different types of case studies based on the attributes and number of cases, and they can be clearly illustrated in a matrix, as shown in table 3.1

<table>
<thead>
<tr>
<th>Attributes</th>
<th>Exploratory</th>
<th>Descriptive</th>
<th>Explanatory</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number Of Cases</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Single Case</td>
<td>Exploratory Single</td>
<td>Descriptive Single</td>
<td>Explanatory Single</td>
</tr>
<tr>
<td>Multiple Case</td>
<td>Exploratory Multiple</td>
<td>Descriptive Multiple</td>
<td>Explanatory Multiple</td>
</tr>
</tbody>
</table>

Table 3.1

First of all, case studies can be distinguished based on the number of cases: either single case or multiple cases. A single case study focuses on one phenomenon only; a multiple-case study includes two or more cases within the study. As for this study on the adoption of poison pill, we have chosen four different examples, so it is a multiple-case study.

In terms of the attributes of the case study, there are three kinds: exploratory, descriptive and explanatory. Yin (2003) explains that an exploratory study is aimed to define the questions and hypotheses of a subsequent study; a descriptive case study presents a complete description of a phenomenon within its context; an explanatory case study presents data to show a cause-effect relationship to explain how and why events happen.

For this study on the poison pill, there is not a determinant cause-effect relationship between the adoption of the pill and the merits of such strategy. In other words, the relationship between the pill adoption and the consequences is greatly contingent with specific circumstances, so the explanatory case study is not appropriate.
Although we have established our purpose in the introductory chapter, the hypotheses and the expected results of this study are not established beforehand, so this study is not necessarily exploratory. Because we have decided to put the firm’s pill adoption within the context of the merger and acquisition wave of the late 1990s and we will provide a detailed illustration of the pill adoption process of each company, this thesis thus adopts a descriptive fashion. However, each example will not present all the facets of the company and situation, we can only label this study as a mini multiple (four) descriptive case study.

3.1.3 Qualitative v. Quantitative

There has always been a misconception between the qualitative study and a case study. Researchers such as Eckstein (1975), Orum, Feagin and Sjoberg (1991) all think the method of a case study should be qualitative rather than quantitative. They also believe that unlike the data-driven and hard-nosed quantitative study, a case study is not truly scientific.

However, there are two mistakes in the above arguments. First, the case study is not a substitute of the qualitative study. This thesis assumes that a case study can be either qualitative or quantitative. Secondly, qualitative research can also be data-driven, hard-nosed and most importantly, truly scientific.

According to Van Maanen (1983), the qualitative data selection should focus on the meaning rather than the frequency of the data. As ascertained by Collis and Hussey (2003), if the authors adopt a method to collect data based on the frequency of occurrence of a phenomenon, they should obtain quantitative data. If the authors collect data based on the meaning of a phenomenon, they should acquire qualitative data.

For the study on the poison pill, we seek to look into the implementation of this anti-takeover strategy to dig out the deeper meaning and values of this tactic behind the corporate phenomena. As such, we have decided to adopt a more qualitative analysis because our analysis is mainly based on the perceptual and attitudinal observations of the real-life events. This type of perception can not be readily transformed to numerical values. So, the case study in this paper is dominated by qualitative data.
3.2 Case Design

After explaining the definition and fundamental facts of the case study, we will present the design and structure of our case.

3.2.1 The Study Issues

Before presenting the case, we have encountered three major issues that make the study hard. Firstly, there is no established theory to sufficiently support our thesis. Secondly, the poison pill is predominantly applied in North America and is prohibited by the European countries, so our unfavorable physical location creates the difficulty to gain the first hand information via personal interviews and onsite visits. Lastly, the information of the takeover and pill adoption is controlled by a selected group of top executives from the companies, so we have very limited access to those information holders.

Those initial difficulties were overcome while conducting the study. In order to fill the theoretical gap between the existing research and our study on the poison pill, we have developed a specially tailored matrix of the theoretical framework, which is fully explained in the previous chapter.

As for the location problem, we have proposed a series of questions and contacted all the selected companies via emails and Skype calls. At the same time, we have called the branches of those companies in Sweden and Denmark. Even though, none of those feedbacks actually contribute to this study, we find a significant information asymmetry between the firms’ regular employees and the “core” players, such as shareholders, board of directors and top management.

Concerning the difficulty to gain access to those top executives, we have also made an effort. Most of those executives have stellar educations from the top schools in the U.S., for example, the former CEO of PeopleSoft, Craig Conway, is a graduate from Cornell University. We have utilized our networks in the U.S., asking friends and relatives from Cornell University, Yale University and Princeton University to reach those executives via alumni network. Although these efforts eventually led to some direct contacts, the busy of those executives’ schedule leaves no alternative for us to conduct further study at this point.
However, this attempt to gain the access to those first hand data is not in vain at all. First of all, given the fact that none of the regular employees is aware of such tactic, it further emphasizes the importance of the education on such strategy among business people. Secondly, this process also proves that the secondary data from literature review is more reliable and more appropriate than the primary data. The reason is threefold:

First, as explained before, the observations of our study can not be readily transformed into numerical data, and our analysis will be mainly based on the qualitative perception, so the feedbacks from survey questions will not be easily and reliably transformed into numbers. Secondly, considering that none of the regular employees is familiar with their own company’s poison pill adoption, the primary data from those employees is neither available nor dependable. Finally, comparing with the highly individual and biased primary data from the top executives, the secondary data from a third party will generate less biased position associated with their employment. Hence, for this study, the secondary data based on the careful reviews of major academic publication, scholarly journal and mainstream business media are the most appropriate sources for our analysis.

### 3.2.2 Unit of Analysis

The purpose of our study is to investigate and compare the benefits of the poison pill adoption on shareholder and management interests. Consequently, the units of our analysis are two simple parties: shareholder and management.

Based on the explanation of the MS-BC matrix in chapter two, the analysis for each example is designed and illustrated as in table 3-2.

<table>
<thead>
<tr>
<th>Consequences</th>
<th>Shareholders</th>
<th>Management</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advantages</td>
<td>Advantages for Shareholders</td>
<td>Advantages for Management</td>
</tr>
<tr>
<td>Disadvantages</td>
<td>Disadvantages for Shareholders</td>
<td>Disadvantages for Management</td>
</tr>
</tbody>
</table>
Table 3-2

We separate the benefits and detriments of the pill adoption for shareholder and management separately. Then, we will sort out those results and input them into the quadrant of the matrix accordingly.

After evaluating the consequences of the pill adoption, we also include a cross case comparison among all those examples to further exemplify our empirical findings and analysis, as illustrated in table 3-3.

<table>
<thead>
<tr>
<th>Pairs of Companies</th>
<th>PeopleSoft Vs. Oracle</th>
<th>Yucaipa Vs. Barnes &amp; Noble</th>
<th>News Corp Vs. Liberty Media</th>
<th>Yahoo Inc. Vs. Microsoft</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advantages for Shareholders</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Disadvantages for Shareholders</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Advantages for Management</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Disadvantages for Management</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Table 3-3

3.3 Case Selection

To have an extensive analysis of the phenomenon, only a small number of cases could be the subject of study (Yin, 2003). Our study on the poison pill depends on different corporate settings, and the results of this study will not be able to provide a generalized answer to all the situations. For a detailed study on this phenomenon, we have limited the number of the study objects to four examples.
3.3.1 Criteria for Selecting Cases

According to Yin (2003), one of the most important principles for the multiple case studies is the logic of replication. Harsen and Barlow (1976) first suggest that the purpose of this logic is to complement the results of the study by analyzing different cases.

As Yin (2003) defines, the logic of replication either tries to duplicate the exact conditions, expecting the same results or tries to alter some conditions, predicting different results based on the related variations of the external conditions. Yin (2003) further states that the findings of a case study would be robust and worth of further investigation only with the aid of logic of replications.

As for our study, we don’t expect to get the same results from different cases, but the differences of those results are predictable based on the variations of circumstances, for example, the suitor company with higher credibility will make the poison pill less favorable, or if the management can expect a stock price dump after the adoption of the poison pill, the company will probably adopt the pill to scare away the suitor company… All those different results are situated in different contexts, but however as Yin (2003) suggests, if the results cannot be duplicated but those changes are predictable based on the variations of the environment. Consequently, our examples for case study must meet the requirements of the replication logic.

In addition of the logic of replication, there are several other criteria for us to select examples. First, our research investigates the post adoption phase of the company, so the adoption of the poison pill must have taken place. Secondly, considering the inaccessibility to the primary data of a certain company, we opt for a second-best solution: the chosen cases should be widely covered by market reviews and trade reports so that we have gained abundant empirical data for analysis.

3.3.2 Screening Process

Since poison pills are mainly adopted in the companies in the U.S. and Canada, all of our cases are from the North American market. We started the data collection from those companies having gone through mergers and acquisitions in the past 10 years.
There is no available database reporting poison pill policies at the company level. Plus, according to the feature of the poison pill, a company with no poison pill policy has the option to form and adopt one in the face of a takeover, it was thus impossible to get all the information about the companies with this type of anti-takeover provision. Yet, based on the reports of well-known media, we have initially chosen nine pairs of companies that have adopted poison pills in the past five years and contacted each of them. In the end, only two of them provided feedbacks based on our inquiries. But, as we stated before, those regular employees did not hold the in-depth information about the company’s poison pill adoption we found those feedbacks less relevant to the study.

Finally, we chose four pairs of those companies based on the level of media exposure and the brand recognition of the firm. They are: Barnes&Noble vs. Yucaima Cos., PeopleSoft vs. Oracle Corp., News Corp. vs. Liberty Media Corp. and Yahoo! vs. Microsoft Corp. The screening process is shown in the figure 3-1.

<table>
<thead>
<tr>
<th>All Companies</th>
<th>All Companies in North America</th>
<th>All Companies Going Through Merger and Acquisition</th>
<th>All Companies Adopting Poison Pills</th>
<th>All Companies Adopting Poison Pills with Media Exposure</th>
<th>Selected Company Pairs</th>
</tr>
</thead>
</table>

Figure 3-1

### 3.3.3 Cross Case Comparison

After analyzing each example of the study, we propose to have a cross case comparison at the end of the analysis part. The purpose of this section is to compare the consequences of
the poison pill among all of our examples, which will present a more comprehensive explanation of the pill adoption and provide suggestions for the future research. The cross case comparison is illustrated in table 3-4.

<table>
<thead>
<tr>
<th>Pairs of Companies</th>
<th>PeopleSoft vs. Oracle</th>
<th>Yucaipa vs. Barnes &amp; Noble</th>
<th>News Corp. vs. Liberty Media</th>
<th>Yahoo vs. Microsoft</th>
</tr>
</thead>
<tbody>
<tr>
<td>Results</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Job Security</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increased Compensation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increased Executive Power</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increased Shareholder Rights</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Management Impunity</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increased Stock Premium</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Increased Cost of Implementation</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Figure 3-4

3.4 Trustworthiness

We demonstrate the trustworthiness of this study from two perspectives: reliability and validity. As suggested by Collis and Hussey (2003), in order to test the reliability of the study, the authors should ask “will the evidence and conclusions stand up to the closest scrutiny?”
(Raimond, 1993, p.55), i.e. if someone else is going to repeat the process of the study, he or she should be able to reach the same conclusion.

As for our study on the poison pill, in section 3.3.1, we have stated that the very fundamental criteria for us to choose the data is the logic of replication. So if anyone else is going to conduct our study again, he or she should either expect the same results, given the exact conditions or predict different results based on the related variations of external conditions. Because our selection of case strictly followed the logic of replication, the reliability of this study is strong.

The other aspects of the trustworthiness is the validity. “A study is valid if it demonstrates or measures what the researchers thinks or claims it does” (Coolican, 1992, p.35). Collis and Hussey (2003) also suggest that research errors, such as poor samples, misleading measurements or misinterpretation of the data can devalue the validity of a study.

In our paper on the poison pill, we have made it clear that the secondary data is the most appropriate choice for this study. However, if we had stuck to the few replies from normal employees with limited understanding on the issue, or if we had been obsessed with acquiring the primary data from biased executives, the validity of this study is questionable. However, it does not mean the validity of this paper is completely solid. Where there is interpretation, there is some level of invalidity, because the process of interpretation is highly subjective.

Generally speaking, the trustworthiness of our study is both reliable and valid, because the paper strictly follows the logic of replication and tries to get the most appropriate data for the study, however there is still, to some extent, lack of objectivity while translating the data. So the trustworthiness of this study is strong, yet not perfect.
4 Empirical Findings

This section begins by introducing the empirical material and the companies that we have chosen to analyze. We then proceed to introduce each mini case by providing a short history about the companies and explain the implementation of the poison pills and subsequent events. The first example that we show is the case of PeopleSoft, then Barnes and Nobles, Then News Corp and finally Yahoo.

After selecting the cases, as described in the previous method chapter, these are presented one at a time below. All mini cases start with short company backgrounds and continue with description with the reasons, conditions and implementation process of the pills. Before reviewing the mini cases comes a description of why every mini case is relevant to the study.

The first case, that of PeopleSoft Inc vs. Oracle Corp., can be cited as one of the most bitter and intense hostile takeover battles in recent history. It is said to be one of the longest hostile takeover wars in the history of business, which lasted for a little over 18 months (Cummings, Riad & Zhang; 2006). Craig Conway, The former CEO of PeopleSoft, is said to have described the hostile bid by Oracle as “a bad dream that just didn’t seem to end” (Johnson, 2004).

In contrast with the other examples, the second mini case, Barnes & Noble vs. Yucaipa Cos., allows us to follow the negotiations and proceedings because it is so current. Due to the currency of the example, we can relate it easier to the present economic trend. Like many proxy contest, this is eventful yet what makes it interesting is that the poison pill seems to apply certain groups of shareholders whereas others’ actions will not trigger it. The market control activities can be of great value of understanding the relationship between shareholders and board and how this might be affected by a poison pill.

The case of News Corporation, number three, is one that we find to be of relative significance to our study. The case appears to bear much of the dynamics of what we need to sup-
port our study: The implementation of a poison pill and the subsequent challenge of the poison by some shareholders who saw it as bad and uncalled for.

Finally, the characteristics of the example of Yahoo!, Microsoft and a poison pill is also one that we feel can be instrumental to the subject of our study. The case of Yahoo! shows the extent that a board will go to prevent a hostile takeover and the reaction of certain parties with vested interest.

4.1 PeopleSoft Inc. vs. Oracle Corp.

Oracle is one of the world’s largest enterprise software companies with products and services covering most needs of both large and small companies. The company has successfully completed several acquisitions and mergers and thus experienced heavy expansion (www.oracle.com).

By the beginning of the year 2003, it had become apparent that industry giant Oracle Corp. was very interested in acquiring PeopleSoft Inc, a software company that had steadily grown in significance over time. A tender offer of $7bn made by Oracle in June of the same year was firmly rejected by the board of PeopleSoft, which cited more than just financial reasons for its rejection of the offer. Former CEO Craig Conway is quoted as saying “the board believes that PeopleSoft has a better plan for stockholders. Oracle’s offer does not begin to reflect the Company’s real value, including the value we are creating through our successful combination with J.D. Edwards. Don’t underestimate the significant additional value PeopleSoft can create once the disruption from Oracle’s hostile activities has ended” (Manufacturing Engineer, 2004).

It was the perceived “hostile activities” from Oracle Corp. that informed PeopleSoft’s decision to adopt a poison pill. The pill would allow the board to issue new shares and hand these out for free if a shareholder gained a stake of 20% or more (Kerstetter, 2004). The pill adoption forced Oracle to go to court seeking a court injunction requiring PeopleSoft to rescind the pill. "If the PeopleSoft board is permitted to continue to issue self-serving, entrenchment-motivated contracts under the revised money-back offer, Oracle may be
forced to abandon its bid as it will no longer be economically viable," the filing said (Moore, 2009).

Budzinzki and Christiansen (2007) explain further that Oracle’s second bid of $9.4bn on February the next year was also rejected in recommendation by the U.S. Department of Justice and the European Commission. Both authorities feared anticompetitive effects from the incorporation and meant to block the acquisition. The incorporation included the two largest players in their own market PeopleSoft had at the time products that matched the quality of the products of the European software giant SAP, whereas the quality of Oracle’s software was inferior in the past (Budzinzki & Christiansen, 2007).

As a consequence, Oracle lowered its bid to $7.7bn and overruled the verdict at the U.S. Federal justice department claiming that they had not proven its antitrust case. Oracle challenged the market definition proposed by the Justice Department. Oracle received favorable court ruling having been able to establish that the U.S. Dept of Justice’s market definition had ‘several shortcomings’, while Oracle’s alternative calculations were ‘highly qualitative’ (Budzinzki & Christiansen, 2007). Subsequently, Oracle also brought PeopleSoft to the court. Oracle sued the target for its poison pill defense in an endeavor to get it removed (La Monica, 2004).

In October 2004, CEO, Craig Conway, was fired by the board due to his understatement on PeopleSoft’s sales from Oracle’s offer. He was replaced by founder and chairperson David Duffield (also anti Oracle) who was also CEO before Conway took over (Kerstetter, 2004).

In unity with the law, Oracle was bound to its highest bid. On Monday, December 13th, 2004, the two companies signed a deal of acquisition of $26.50 per share, totaling $10.3bn (Finn & Lee, 2004). In the negotiation, PeopleSoft had shared information about itself, which made Oracle increase its bid further (La Monica, 2004).

PeopleSoft’s stock price closed at $23.95 the last working day, Friday December 10th (La Monica, 2004). In the afternoon trading on December 13th, Oracle’s shares increased 9.1%
in value to $14.49 per share whilst PeopleSoft experienced a growth of 10.3% to $26.42 per share (Kerstetter, 2004). Oracle declared that PeopleSoft had initiated the negotiation in hope of achieving a friendly deal (La Monica, 2004).

In January, the following year after the completion, Oracle announced that there would be 5000 job cuts from the 55 000 employees from the combined companies and that the intentions were to keep 90% of PeopleSoft product development and product support staff. Once under control, the management at oracle marketed many of PeopleSoft’s products under the names of J.D. Edwards in order to profit from the perceived customer loyalty of the latter (Manufacturing Engineer, 2004). In the end, there was not even a requirement of modifications of the event from the European commission or the U.S. Dept of Justice (Budzinzki & Christiansen, 2007).

4.2 Barnes & Noble vs. Yucaipa Cos.

Barnes & Noble is a bookseller with many additional services (ebooks, publishing and publishing events) and products (the book reader nook, all types of magazines and beverages and foods). The online ebookstore, launched in 2009, is regarded as the largest in the world (www.barnesandnoble.com).

The investment firm, Yucaipa Companies was founded in 1986 by Ronald Burkle. The firm seeks to acquire companies, with which it can enable value creation through different strategic adjustment. Since its beginning, the firm has completed mergers and acquisitions at value exceeding $30 billion (www.yucaipaco.com).

Barnes & Noble Inc. said its board adopted a shareholder rights plan in response to the recent rapid accumulation of the bookstore chain's stock by billionaire investor Ronald Burkle (Shwiff 2009). Tibken (2010) explains that Burkle has scooped up $80.9 million (18.7%) of the company's stock recently through his investment firm Yucaipa Cos. and he intends to raise it to 37%, matching that of the Riggio brothers': Stephen Riggio and chairperson Leonard Riggio (Trachtenberg, 2010).
Burkle sent a letter to the board asking for approval to increase his ownership without triggering the pill, but received a unanimous rejection from the board. He further asked that the Riggio brothers not be able to acquire any more shares themselves without triggering the shareholders-rights plan (Burkle, 2010).

Shwiff (2009) and Trachtenberg (2010) explain that the rights plan, or poison pill, which was adopted November 2009, is designed to thwart any potential hostile-takeover effort that exceeds 20% without board approval. If an investor breaches the threshold and the rights are enforced, the board can choose to either sell new, highly reduced shares to remaining shareholders or to simply give them out for free and dilute that trespassing investor's holdings. The rights expire as decided after three years and will additionally be submitted within one year for shareholder ratification (Trachtenberg, 2010).

Burkle has well in time for the annual shareholder meeting later this year, filed a complaint to the Securities and Exchange Commission questioning the corporate governance (Trachtenberg, 2010). One of the main concerns being the unfavorable purchase of Leonard Riggio's company B&N College Booksellers Inc., which will, according to Burkle, harm shareholder return due to new loans required for the payment (Burkle, 2010). At this year’s shareholder meeting, three out of the nine board members will face a re-election, they are Leonard Riggio, investment banker Michael Del Giudice and the Vice President of N&B College Booksellers Lawrence Zilacy (Trachtenberg, 2010).

4.3 News Corp. vs. Liberty Media Corp.

Australian based News Corp. is the second largest media conglomerate in the world. Under the leadership of Media mogul Rupert Murdock, the company has significantly grown, with revenues hovering in the tens of billions of dollars (www.newscorp.com).

The suitor in this example is the American media conglomerate Liberty Media. The corporation works through three tracking stock groups: the Liberty Interactive group, the Liberty Starz group and the Liberty Capital group (www.libertymedia.com).
According to Li (2006), in 2004 News Corp. took strong steps to ensure that the Murdoch family stays in control of the company, currently holding 29.5% of the company’s shares. These steps were taken after News Corp. perceived moves and maneuvers by US cable group Liberty Media Corp. to be a threat. The latter drastically increased its voting interest from 9% to 16.3 (worth $11 billion) becoming the largest outside shareholder (BBC News, 2004). Liberty Media’s action was unanticipated and News Corp was not previously informed about the intentions. The company in response implemented a poison pill defense to deter any potential takeover and maintain the status quo (Li, 2006).

The poison pill defense was a shareholders rights plan with a triggering point of 15% and validity of one year. If any stakeholder would breach the limit, the poison pill, if triggered, would allow the other shareholders to expand their holdings at half the price (BBC News, 2004). Such an event will drastically dilute the raider’s holding. According to Silkos (2005) another reason for the defense was pressure from Liberty Media on News Corp to sell some of its assets in exchange for its holdings.

When the management at News Corp announced that they would extend the provision with another two years, a group of protesting shareholders at News Corp responded by suing the company and trying to get the decision undone. The concerning rights holders were merely pension funds from United States, Australia, Britain and the Netherlands (Silkos, 2005). The shareholders argued that the decision was mistakenly done without shareholders’ approval and had created a breach of trust between the two parties. This after voting for only ‘short-term’ poison pills lasting no longer than one year (PRNewswire, 2005).

In 2006 News Corp. and Liberty Media came to an agreement that the latter would exchange its stake in lieu of News Corp.’s 38.4% stake in DirecTV Group, three regional sports networks and a payment in cash of $550 million. After the announcement News Corp.’s shares fell with 0.14% to $21.55 in NYSE (Li, 2006).
4.4 Yahoo! vs. Microsoft

Yahoo! is an American company that provides a wide range of Internet services worldwide. The Yahoo! site is said to be one of the most popular in the world and is said to attract about 1.5 billion hits annually. When it comes to the Internet services, Yahoo! is definitely considered a major player and this might be what attracted Microsoft to this company (info.yahoo.com).

The multinational software giant Microsoft, source of Microsoft Office and the Microsoft Windows operating system develops is on the other hand ranked as the third largest company in the world (www.microsoft.com).

In the year 2001, Yahoo! implemented a shareholder option plan (poison pill) to protect the company from hostile takeovers. The triggering limit was set on 15% and if any investor traversed this without approval, the board could issue more shares, which the rest of the shareholders could purchase to half the price at the time of issuance (Davis, 2008; Thomson, 2008).

In 2008 Microsoft began manures to acquire Yahoo!, which fell back on its poison pill to act to deter Microsoft from taking a hostile option. Microsoft made an offer of $31 a share, amounting to $44.6 billion, some 62% higher than the closing price of Yahoo! the day before the offer was made (Thomson, 2008). Yahoo! rejected the offer publicly, claiming that the company was undervalued by Microsoft and sought an offer closer to $40 a share (Letzing, 2008).

According to several sources, all 10 members of the board at Yahoo! need to get re-elected annually and that gives Microsoft the chance to nominate other candidates that would be more merger friendly (Davis, 2008). Eventually Microsoft stated that it is moving ahead with the proposal and may in the future direct their bid directly to the shareholders (Thomson, 2008).

Microsoft was not the only stakeholder astonished by Yahoo!’s actions. Billionaire investor Carl Icahn wrote a letter to Yahoo! chairperson Roy Bostock criticizing the board and its
decisions regarding Microsoft’s offers. Icahn claimed the implementation of the poison pill was done simply to entrench the top management and in his letter disproved Yahoo!’s argument that the decision was justifiable since the offer was not in the best interest of neither the shareholders nor the employees (Kawamoto, 2008). Icahn continued with pointing out that Microsoft in its bid had set aside some $1.5 billion (over $100,000 per employee) for any potential employee concerns that might evolve during the fusion. As for the offer being insufficient for shareholders, Icahn talks about an alleged offer that Microsoft made of $40 per share back in January 31st 2007, which Yahoo! also rejected. He continued with accusing the board at Yahoo of not only being foolish but also sabotaging Microsoft’s offer; the latter could not possibly trust a company with such board members. He urges the receiver to rescind the poison pill and exchange the board members and hopefully get Microsoft interested again.

4.5 Summary

All of the abovementioned companies implemented the poison pill to either fend off an unwanted suitor or in hope of receiving a better offer. Although the terms and length of the pills are different for each case, there are some common factors to be acknowledged.

In all four cases, the companies have chosen the same type of poison pill defense, ownership flip-in plans as described in chapter 2.1.3, and the triggering point has been set at either 15% (News Corp. and Yahoo) or 20% (PeopleSoft and Barnes & Noble).

What differs between the cases, however, is the time validity of the pill. Yahoo! for example has had its pill since 2001 while PeopleSoft, Barnes & Noble and News Corp implemented their provisions after perceiving threats from their suitors. Additionally, there are some differences in the decision making process in each of the cases. Even though poison pills can be implemented without shareholder approval (Velasco, 2002) some of the companies have still chosen to involve their shareholders in submitting the pills for shareholder ratification.
The above empirical material will in the following chapter be analyzed based on the theories and matrix presented in the theoretical chapter. This data gives us much information of the management’s and shareholders’ perspectives, interests and involvement in the process of poison pill implementation, thus information to fulfill the purpose.
5 Analysis

This section reviews much of the facts presented in the empirical material and seeks to put it in theory. The mini cases are presented here in the same order as before and finally the key points will be presented in a matrix model. We analyze each case in the MEH and the SIH model, and then we finish each analysis by presenting the cases in the MS-BC model which is a combination of both theories. We end the chapter finally by presenting all four cases in a cross case analysis that shows all the case together and makes comparison easier.

The analysis is organized similarly to the empirical chapter and the theoretical framework. The cases are presented individually and in the same order as in the empirical chapter. Initially, each case is analyzed based on the Managerial Entrenchment Hypothesis and later based on the Shareholder Interest Hypothesis. Subsequently, the analysis of the individual mini cases is finalized in a MS-BC matrix. Lastly, a cross case analysis, including all companies, is conducted in which components from the MS-BC matrix are compared between the cases.

5.1 PeopleSoft Inc. vs. Oracle Corp.

5.1.1 PeopleSoft Inc. vs. Oracle Corp. analyzed through MEH

Being the second largest company in their national market in human resource management systems (HRMS), financial management systems (FMS) and customer relationship management (CRM), PeopleSoft was doing a good job in expanding both organically and through acquisitions of other complementing companies (example given J.D. Edwards) before it was acquired by Oracle. (Manufacturing Engineer, 2004; Budzinzki & Christiansen, 2007) In addition to this, PeopleSoft was the third largest software company before the incorporation with Oracle.

Dowen, Johnson and Jensen (1994) mention three factors managers needed to take into account before deciding whether to implement a poison pill defense; they are the salability, the capital structure and innovative activity of the firm. If we look at the innovative ac-
tivity, the quality of the products of PeopleSoft was of higher grade than the suitor company. In fact, they were on the same level as Oracle’s largest competitor, SAP (Budzinzki & Christiansen, 2007). CEO Craig Conway remarked the value creation that PeopleSoft created. He was even more convinced of this statement after the merger with J.D. Edwards (Manufacturing Engineer, 2004). According to the Management Entrenchment Hypothesis the chief executive implemented the poison pill to protect this intangible asset.

The second factor in need of consideration, before deciding upon the implementation of the poison pill is the capital structure of the firm (Dowen, Johnson & Jensen 1994). The high quality of PeopleSoft’s products suggests that they spent a significant amount of resources on research and development. Further, considering the fast growth PeopleSoft had experienced, and the recent acquisition of J.D Edwards, we believe that the capital structure of the PeopleSoft is highly leveraged. Based on the MEH, this could be an alternate takeover defense, which would lessen the need for the company to implement a poison pill. However, in spite of the highly leveraged capital structure, the boards still adopted a poison pill plan. This act might strengthen the theory that the board felt the strong need to protect the company’s innovative activity.

Furthermore, Oracle laid off 5000 people after the acquisition of PeopleSoft (Manufacturing Engineer, 2004). From the perspective of the management, chief executives risk to lose their current compensations, personal developments or even their jobs during a takeover process. Job cuts may not always be restricted to the top management (like in this case) and following this reasoning, the management may have implemented the poison pill to not only protect their own jobs but also the jobs of thousands of workers in the company.

The MEH supports the theory of management impunity, which in many cases may have enabled CEO’s to do as they please without much resistance. Being used to this kind of tradition, individuals might feel very uncooperative when another party enters the picture and threatens their previously comfortable situation. With fear to lose the empowered position they once had, the managers could feel like they can take the risks necessary to ensure that they keep their positions. As Jensen and Meckling (1976) explain, the separation of the
administration from the ownership leads to such behavior. Hence, another reason for the CEO at PeopleSoft to implement the poison pill could have been based on management impunity and the desire to maintain this status quo.

Proponents to the MEH declare that ethical managers may adopt a poison pill defense to maximize shareholder wealth by only choosing an offer, which they are truly content with. In the case of PeopleSoft the first offer that Oracle made was of $7 billion in total. Oracle had to raise their offer (its second offer was $ 9.4 billion) and lower it (with the investigation by the U.S. Department of Justice and the European commission the bidder lowered its offer to $7.7 billion) before the two companies finally agreed upon a price of $10.3 billion (Finn & Lee, 2004). The long process and the poison pill worked, according to the MEH, as strong bargaining devices, which helped to increase the initial offer with more that 47%. The increase benefited most definitely the shareholders and in the case that the members of the board had a large stake of shares, them as well.

5.1.2 PeopleSoft Inc. vs. Oracle Corp. analyzed through SIH

In the takeover battle between Oracle and peoplesoft, CEO Conway had understated the impact that Oracle’s offer would have on the sales and was let go by the board (Kerstetter, 2004). Two months prior to the purchase agreement, former CEO stepped in and started the negotiations with the board. Seeing as the board has made decisions unanimously and that the chairperson neither wanted a takeover by Oracle, the board seemed to have made this decision in order to enable negotiations with the acquirer.

All in all, Oracle was obviously unwanted by PeopleSoft. The former CEO described it as “a bad dream that just didn't seem to end” (Johnson, 2004). And it looked as though PeopleSoft was getting things their way by precluding the hostile takeover with the interference from the U.S. Dept of Justice and the European Commission (Budzinzki & Christiansen, 2007). CEO Conway also said “the board [of PeopleSoft] believes that PeopleSoft has a better plan for stockholders” (Manufacturing Engineer, 2004). However, Oracle did not give in and finally its perseverance paid off. La Monica (2004) declares that PeopleSoft ultimately approached Oracle hoping to achieve a friendly deal.
According to the shareholder interest hypothesis, ethical managers use takeover defenses that benefit shareholders. They should create positive effects in the stock performance of the company and deter takeovers that induce shareholders to sell shares at a lower price than could be obtained otherwise (Ryngaert, 1987). Managers should ensure that the highest paying, and most qualified suitor acquires the company. This is what the board of PeopleSoft has tried to do. At first when the hostile activities from Oracle started, the board saw it in the shareholders’ best interest not to sell to Oracle at all. The “offer does not begin to reflect the Company’s real value, including the value we are creating through our successful combination with J.D. Edwards” CEO of PeopleSoft said (Manufacturing Engineer, 2004). Thus in accordance with the SIH, the board implemented the poison pill in good faith to dissuade Oracle and give its shareholders higher economic return from the inside business and the potential synergy created from the merger with J.D. Edwards. Later, when the acquisition seemed inevitable, the board then approached Oracle in order to negotiate the highest possible deal. The board even revealed potential corporate secrets to get Oracle to increase its bid, again doing what was at the time best for the shareholders.

Alternatively, if the board’s long-term strategy was to make a takeover impossible simply to gain bargaining power it succeeded with its goal. The offer was raised from $7bn to $10.3bn (Finn & Lee, 2004).

5.1.3 PeopleSoft Inc. vs. Oracle Corp. in MS-BC Matrix

When viewing this case in the MS-BC Matrix, it is easier to decide who appears to be the real winner among the stakeholders of PeopleSoft. Two key benefits for the management of the company listed in the Matrix are: job and financial security, and increased executive power. In the case of PeopleSoft, the poison pill appears to have neither been able to save the jobs of the management of the company, nor increase their executive power. However when one looks at the shareholders, the outcome of the 18-month ordeal appears to have worked in favor of them. Much of the benefits for shareholders listed in the matrix appear to have materialized. They did get much higher premiums for their stock and also increased
voting rights. The conduct of the management during this ordeal is not reported to have negatively affected the stock price, which many say it does. Below

In view of the above, we can state that pill implementation in the case of PeopleSoft vs. Oracle served to boost the fortunes of shareholders while failing to preserve the jobs and the positions of the governing board. The analysis of the PeopleSoft vs. Oracle case is illustrated in table 5-1.

<table>
<thead>
<tr>
<th>Consequences</th>
<th>Shareholders</th>
<th>Management</th>
</tr>
</thead>
</table>
| Advantages   | • Increased stock premium by 40%  
• Increased voting rights  
• Stable stock performance |            |
| Disadvantages|              | • Loss of job  
• Decreased executive power |

Table 5-1 MS-BC (Management Shareholder Benefits Comparison) Analysis for PeopleSoft

5.2 Barnes & Noble Inc. vs. Yucaipa Cos.

5.2.1 Barnes & Noble Inc. vs. Yucaipa Cos. analyzed through MEH

In the case of Yucaipa Cos. vs. Barnes & Noble Inc. Burkle, CEO of the former accuses the board of management impunity and gives the example of the bold investment of purchasing B&N College Booksellers Inc. According to Burkle, the investment was a bad one, which will result in lower shareholder returns due to the loans required to manage the payment (Burkle, 2010; Trachtenberg, 2010). A unanimous decision to acquire an asset that
will not lead to high premiums and that will further lower these due to increased costs due to higher interest rates is according to the MEH and Jensen and Meckling (1976) one of management impunity and inconsiderate of the shareholders’ best interests.

The fact that the acquired company, B&N College Booksellers Inc., was founded and owned by the chairperson of the board, Leonard Riggio, contributes further to the above stated and to MEH. Top managers are not and cannot be completely controlled by the shareholders (Jensen & Meckling, 1976). Even in such a decision that is directly harmful for the shareholders, the shareholders have not disallowed it.

The chairperson made a great profit by selling his private company to Barnes & Noble and this compensated for the reduction in the annual return from his holding in the company. For his individual economy, this decision was a good one, but not for the rest of the shareholders. It is important to also ask why the rest of the directors would allow such misconduct. Were they all discouraged to oppose if it meant that they would lose their current positions, maybe a future chance to get through a similar project of their own, or did they simply not care about the shareholders? In either case, this unfathomable decision is one that can best be described with MEH, which states that the managers can take risks without having to take much of the responsibility (Jensen & Meckling, 1976).

What is more, the poison pill provision states that if a single shareholder (person or entity) acquires more than 20% of the outstanding shares the board can choose to execute the rights plan and then choose to either sell new, highly reduced shares to remaining shareholders or to simply give them out for free and dilute that trespassing investor’s holdings. This however does not apply to the Riggio brothers (Trachtenberg, 2010). Burkle (2010) accuses the board of hypocrisy in that different rules apply to different groups of shareholders. This suggests that the board is not acting fairly and if hostile activities are perceived as a threat to the company, they are not eliminating all possible threats. It is still very easy for the Riggio brothers to make decisions as they fit, even if they wanted to increase their stake further. Additionally, according to Ryngaert (1987), the SIH predicts that poison pills should be adopted with the sole purpose to maximize the price shareholders receive in
control transactions. And with this reasoning, the board has failed to both properly protect the shareholders from any possible tender offer or to ensure maximum wealth in control transactions.

In the same time, the board members are securing their jobs by not allowing anyone else to increase stake and threaten to throw them off their positions. This might very well be the reason to the unanimous decision from the board; as long as the Riggio brothers are in control the other directors may be confident of maintaining at least some benefits. In such a case, the top management has acted more in line with the MEH than the SIH.

5.2.2 Barnes & Noble Inc. vs. Yucaipa Cos. analyzed through SIH

The SIH states that a poison pill should be adopted if the aim is to deter any unfavorable offers or contrarily to receive as high offer as possible (Ryngaert, 1987). Additionally, Comment and Schwert (1995) show that poison pills have an aggregately positive effect on maximizing shareholders’ wealth. If the board acted in accordance with the SIH, they could have made the decision to wait for a higher offer than what Burkle is willing give by simply buying shares at the current stock price. Their strategy could be to try to negotiate for higher overall price at a later point.

It can be argued that the board has valued decisions based on what has been the best for the largest shareholders (the Riggio brothers). Shareholder activism, which is a focal point in the SIH, is the way shareholders can assert their power as owners of the company to influence its behavior according to the European Corporate Governance Institute. Since the Riggio’s are in fact the largest shareholders with a stake of 37% and thus their opinions should be heard (Trachtenberg, 2010). However, Burkle holds a large stock as well, more precisely 18.7% (Trachtenberg, 2010; Burkle, 2010) and should not get discriminated either. So an argument that the Riggio brothers should have a say in the strategy is discharged since there are several block stockholders, which all want to influence.

We do not see any intention from the board at Barnes & Noble to sell the company. The chairperson is heavily involved in the company with several family members as sharehold-
ers. Previous decisions state that they know how they want to manage the company and have made determined decisions that may not have been popular. Thus far there has not even been any form of negotiation with the interest acquirer nor has the board even suggested any requirements that would need to be achieved for a potential negotiation to take place.

5.2.3 **Barnes & Noble Inc. vs. Yucaipa Cos. in MS-BC Matrix**

Looking at the case through the MS-BC Matrix (see table below) we see that many of the benefits for managers were achieved, and not so many for the shareholders. The managers secured their jobs, monetary incentives were ensured and the chairperson got more empowered and enabled to enhance its stock over the company if desired. The benefits resulting from a poison pill implementation are higher voting power, bargaining power for a better bidder or suggested higher premium for purchase. The majority of the shareholders (other than the Riggio brothers) were discriminated against, block holders were restricted from increasing their holdings and the management impunity increased.

We conclude based on the above stated analysis that the shareholders did not gain much from the adoption of this defensive tactic and that the real winners were the board members.

<table>
<thead>
<tr>
<th>Who</th>
<th>Shareholders</th>
<th>Management</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consequences</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Advantages</td>
<td></td>
<td>• Increased executive power</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Increased financial compensation</td>
</tr>
<tr>
<td>Disadvantages</td>
<td>• Loss of shareholder rights</td>
<td></td>
</tr>
</tbody>
</table>
5.3 News Corp. vs. Liberty Media Corp.

5.3.1 News Corp. vs. Liberty Media analyzed through MEH

In the case of News Corp. against Liberty Media Corp., the potential acquirer Liberty Media advanced its stake at a very fast pace (BBC News, 2004). Such aggressive and unanticipated actions can be alarming in any other case and could lead to drastic measures. As the second largest media conglomerate with revenues of tens of billions of dollars News Corp would attract many investors interested in making money. Not to mention assets that are much appealing and easy to sell to competitors. Thus, the company had attractive resources as well as good liquidity and capital structure. According to MEH, this is a good reason to implement a poison pill.

Siklos (2005) revealed that one of the reasons for Liberty Media’s interest in increasing its holding was that it hoped to pressure News Corp to sell some of its assets in exchange for its holdings. In the end that was exactly what happened. Liberty Media swapped its stake for News Corp.’s interest in DirecTV Group, three regional sports networks and $550 million in cash (Burkle, 2010). If the management’s goal was to reduce the cost as much as possible in the final exchange between the companies, the poison pill ensured just that. Liberty Media needed to be stopped from acquiring more shares so that they could not demand as much at the swap.

The Murdoch’s are the largest shareholder and they intend to keep the lead. The poison pill adoption following Liberty Media’s stunt was an action clearly to maintain the power and influence of the company. According to the MEH the reason to the poison pill is again to maintain the board of the members in place and in power.
On the other hand, it is to a certain degree in the shareholder’s best interest to keep as many of the profitable assets of the company since that leads to higher premiums and eventually to a higher selling price come the possibility of selling to an acquirer. The media industry is huge and finding potential buyers to any of the subsidiaries or units in the company would not be a difficult task. In this case the top management has taken into account the saleability of the assets, which Dowen, Johnson and Jensen (1994) mention. Ethical managers in fact did the implementation in this sense to protect the assets of its shareholders.

The shareholders accepted the poison pill given that the provision did not exceed one year. A decision like this one is very smart since it works well as a bargaining power and can be readopted if the shareholders agree that it would be the wisest thing to do in order to ensure maximum wealth from their stakes. But when the board members in the case of News Corp. decided independently that the provision should be extended they breached the trust between the two parties leading to a lawsuit by a group of shareholders (Silkos, 2005). Making a decision this crucial and which directly goes against the agreement between the parties is a clear indicator that the board was not considering the shareholders to the fullest.

5.3.2 News Corp. vs. Yucaipa Cos. analyzed through SIH

The SIH states that managers risk to lose compensation or jobs after an acquisition. To avoid this a poison pill is effective since it prevents the acquisition completely. The job losses can (and may very well) include workers at other levels as well and hence SIH managers would implement a poison pill to help all those workers from losing their jobs. Thus, potential layoffs may have been yet another motive the board at News Corp. to try to annul a tender offer.

Ultimately, we cannot see any intentions by News Corp.’s board or Murdoch to actually sell the company and could not have used the poison pill in negotiations. The pill was adopted as damage control prohibiting Liberty Media from increasing its holdings so that in the event of a compromise, News Corp. would not have to lose more than absolutely necessary.
5.3.3 News Corp. vs. Yucaipa in MS-BC Matrix

The dynamics of the News Corp case can also be seen in the MS-BC Matrix (see table 5-3 below). Here, as opposed to the case of PeopleSoft, the pill appears to have done a great deal in serving the interests of the managerial board. The implementation of the pill managed to keep the board of management intact thus securing their jobs and sources of financial compensation. The board also appears to have maintained a great deal of executive power (although it is not clear if it is more than pre pill implementation levels). The shareholders on the other hand don’t seem to have that much to celebrate about. There is not much in the facts that seems to suggest that pill implementation increased their stock premiums or raised their voting or bargaining power. We can therefore say that pill implementation by News Corp worked much more in favor of the management than the shareholders.

<table>
<thead>
<tr>
<th>Consequences</th>
<th>Shareholders</th>
<th>Management</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advantages</td>
<td></td>
<td>• Job security</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Guaranteed compensation</td>
</tr>
<tr>
<td></td>
<td>• Lack of gains on the stock premium</td>
<td>• Increased executive power</td>
</tr>
<tr>
<td></td>
<td>• Decreased voting power</td>
<td></td>
</tr>
</tbody>
</table>

Table 5-3 MS-BC (Management Shareholder Benefits Comparison) Analysis for News Corp
5.4 Yahoo vs. Microsoft

5.4.1 Yahoo! vs. Microsoft analyzed through MEH

Yahoo Inc. implemented its poison pill several years ago in 2001 without any time restriction (Davis, 2008; Thomson, 2008). This decision supports MEH in that the management wanted to stay in power, indefinitely. The entrenched management has not taken into account the shareholders’ potential desire to sell to an acquirer that offers well above the trading price. Neither does it seem like the pill was ever intended to ensure a really good deal guaranteeing high premiums such as the SIH suggests (Ryngaert, 1987).

In fact, Thomson (2008) informed that Microsoft Corp. has given several offers above the trading price. Thomson reports about an offer that would give the shareholders a premium of 62%. This is very good, indeed, and very possibly interesting enough for many shareholders to sell. By not allowing the shareholders to make this decision for themselves, the management is completely undermining the shareholders’ authority as the owners of the company. Interestingly, the management has rejected offers since they supposedly were not in the best interest of the shareholders (Letzing, 2008).

5.4.2 Yahoo! vs. Microsoft analyzed through SIH

The Yahoo! board said that another reason to why Microsoft’s offer was rejected was the fact that it was not in the best interest of the employees. Icahn disproves this statement by declaring that Microsoft in its bid had set aside some $1.5 billion (over $100,000 per employee) for any potential employee concerns that might evolve during the fusion (Kawamoto, 2008). If Microsoft is willing to invest so much to secure the future of the company by keeping the people that maintain it, how can that be hurtful for the employees? The incoherence in the Yahoo! board’s actions makes this decision very confusing since it does not seem to have gained any of the parties that they were concerned about. The decision to implement a poison pill indefinitely has been harmful for the shareholders. Thus, managers that operate in this manner do not work in line with the SIH but rather the MEH.
Further, looking at the conditions of the pill, the rights were first implemented in 2001. This is longer than most of the other poison pills implemented by the other companies mentioned in our thesis (PeopleSoft implemented the pill after Oracle acted aggressively, News Corp.’s poison pill was valid for one year and Barnes & Noble’s expired after three years but was submitted within one year for shareholder ratification). Yahoo! also set a relatively low triggering point (Barnes & Noble had a triggering point of 20% same as PeopleSoft’s while News Corp set one of 15%). These further difficult stipulations with the pill indicate further antipathy to any acquirer from the board at Yahoo.

5.4.3 Yahoo! vs. Microsoft in MS-BC Matrix

From the perspective of the MS-BC Matrix, we can see that there is clearly a conflict of interest. The fact that Microsoft offered a higher premium than normal market price for the company might suggest that the notion that pill implementation leads to higher stock premiums is correct. However the shareholders not being able to make the decision to sell or not also underline another factor that has been associated with pill implementation: Increased executive power and managerial impunity. The adoption of a poison pill by Yahoo! appears to provide benefits for both the management and the shareholders as listed in the matrix, however, the shareholder benefits are completely void if they are not allowed to make the decisions that they believe to be best in their interest. Therefore, increased executive power and impunity appears to trump the benefits of higher premiums offered. Poison pill implementation in Yahoo! therefore did provide some benefit for both parties (shareholders and board), but the shareholders could not utilize the benefits because the board was too powerful. Table 5-4 below shows the advantages and disadvantages.

<table>
<thead>
<tr>
<th>Consequences</th>
<th>Who</th>
<th>Shareholders</th>
<th>Management</th>
</tr>
</thead>
<tbody>
<tr>
<td>Advantages</td>
<td></td>
<td>● Higher stock premium</td>
<td>● Increased executive power</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>● Job security</td>
</tr>
</tbody>
</table>
Disadvantages

- Management impunity
- Loss of voting power

Table 5-5 MS-BC (Management Shareholder Benefits Comparison) Analysis for Yahoo!

### 5.5 Cross Case Analysis and Summary

The MS-BC Matrix gives a clear picture of the advantages and disadvantages as described by us. In the matrix, advantages such as increase in stock premiums and wealth, increased power and impunity amongst top management, and changes in voting power are listed to name a few of the points (for more information please see chapter 2.4.1).

It is interesting to list some of the points from the MS-BC Matrix, as mentioned above, to better see the differences between the companies. In table 5-5 below are the companies presented in the top row and the different results presented in the left column.

<table>
<thead>
<tr>
<th>Pairs of Companies</th>
<th>PeopleSoft vs. Oracle</th>
<th>Barnes &amp; Noble vs. Yucaipa</th>
<th>News Corp. vs. Liberty Media</th>
<th>Yahoo! vs. Microsoft</th>
</tr>
</thead>
<tbody>
<tr>
<td>Job Security</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Increased Compensation</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Increased Executive Power</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Increased Shareholder Rights</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Management</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Impunity</td>
<td>Increased Stock Premium</td>
<td>Increased Cost of Implementation</td>
<td></td>
<td></td>
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<tr>
<td>----------------------------------------------------</td>
<td>-------------------------</td>
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<td></td>
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<tr>
<td>Yes</td>
<td>No</td>
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<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
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</tbody>
</table>

Table 5-5 Cross Case Comparison based on the MS-BC Matrix

The table serves to summarize much of what has already been said in the analysis and also helps to clarify many of the issues discussed. Looking at results independently we see that three of the pill companies (Barnes & Noble, News Corp. and Yahoo!) created job security for the top management. The management at the same companies also got increased compensation after the failed takeover. These companies also increased executive power while PeopleSoft did not. Continually, the same three companies failed to increase shareholder rights or wealth of the stock. These also perceived an increase in management impunity.

An interesting note is that in all cases, Barnes & Noble, News Corp. and Yahoo! received the same results, which also are the opposite of PeopleSoft’s. We can clearly see that the companies that were not acquired have got increased management power and saved jobs and other results that are presented in the cross case comparison matrix. However, shareholders have not received any compensation or higher premiums due to the fact that there were no changes in corporate control; i.e. no sale. And for PeopleSoft that was acquired in the end, we see the opposite trend since there was a change in corporate control and thus shareholders received money for the sale of their capital. And as illustrated in table 5-5 the management at PeopleSoft did not get job security nor increased compensation after the ordeal was finished. This is because the acquiring company managed to replace the incumbent board. These differences depend on whether the companies have been purchased or not.
In this chapter, the empirical material has been analyzed with the theories and the matrix in the theoretical framework. The next and last chapter presents our five conclusions based on this analysis and discusses our recommendations for further study.
6 Conclusions and Reflections

This section reflects on the findings in the analysis, seeks to provide a solution to the problem and makes recommendations for future study. We have a five point conclusion in accordance with our purpose and we round up the study in this chapter. We finish up the chapter by making recommendations for future study.

The impact of the implementation of the poison pill appears to be diverse and in some cases contradictory. Pill adoption has proven to bear great merits for the company and its shareholders in some cases, and in others not so much. Establishing a single assertion as to the justifiability of this policy will probably not be possible in light of the established facts. We can however make a series claims based on the results of the analysis of this thesis. They are:

6.1 Conclusion One

Arguments for and against the poison pill can both be substantiated.

The proponents and opponents of the poison pill policy have centered their arguments on issues relating to the general welfare of the company, the interest of the shareholders and the tendencies of the management board. Pill sympathizers claim that the adoption of this policy leads to increased premiums of the stock of shareholders, greater voting rights for the bearers of company stock, preservation of company culture and core competencies, etc. The analysis conclusively shows that these merits can actually be realized through the adoption of the poison pill. In the case of PeopleSoft Vs Oracle, we clearly see that the management of people soft was able to wrangle with Oracle until they got a deal that they felt was worth the company. The implementation of the poison pill went a long way to make this possible. The shareholders in the Peoplesoft case also appeared to have a lot of power and say in the entire process and appeared to have increased voting rights and power. We also see in the case of Yahoo Vs Microsoft, although the shareholders did not have the power to sell off their shares, the premiums for the stock of the company still rose consi-
derably thus giving more substance to the arguments of the pro poison pill group. The opponents of the Poison pill formula claim that pill adoption leads to an undermining of the shareholders rights, top management impunity, decline in price of stock, etc. The analysis shows that much of these arguments can also be validated. In the case of News Corp, we see that no substantive reason is cited for the adoption of the pill. Thus, other than to keep the suitor company from a hostile takeover we can conclude that the management of News Corp was determined to maintain to status quo by any means necessary. The same can be seen in the case of yahoo Inc. Although Microsoft offered higher premiums for the stock of the company, the board refused to sell the company and refused to rescind the pill thus undermining the shareholders rights. Both cases reflect management impunity and undermining of the rights of shareholders. Therefore, most of the arguments for and against pill adoption can be substantiated in different cases.

6.2 Conclusion Two

A rigid and generalized conclusion cannot be made about the poison pill policy and it must be treated on a case-by-case basis.

In view of the above, it is important to note that a rigid and strict generalization cannot be made as regards to the effect of poison pills on companies and shareholders. As was just stated, the poison pill can have different effects depending on the circumstances surrounding its implementation. We must be careful to not make conclusive generalizations based on facts that up till this point are still significantly tentative. We believe that the poison pill should be assessed on a case-by-case basis and the result for case A should not significantly influence the result of case B. The analysis has shown that pill implementation in some cases can be very beneficial to the shareholders and in others to the top management. Although the former does not necessarily have to be viewed in isolation of the latter, the cases reviewed seem to suggest that both parties tend have a conflict of interest when it comes to the implementation of the pill. There appears to be somewhat of an inverse relationship between the shareholders and the managerial board where one seems to benefit always at the expense of the other. Therefore, much of the arguments for and against the poison pill
can be said to be fundamentally flawed if not for anything but for the fact that pro and anti poison pill groups are very quick to generalize the policy and not treat it on a case by case basis. We believe that people should take a much more flexible stance when dealing with issues regarding the pill.

6.3 Conclusion Three

The poison pill is a very effective and dreaded fighting toll in the current business world.

Although we believe that interest groups should refrain from generalizing when debating the merits and demerits of pill implementation, there is one thing that can be held as a general fact: The poison pill is a very effective and dreaded fighting tool in the current business world. Whether it is for negotiating higher premiums or for fending off hostile takeovers, the pill has proven to be quite the business weapon. The cases presented in this thesis have shown that pill adoption has usually made hostile suitors to retreat and rethink their strategy. Whether or not the adoption of the pill has a positive or negative impact on the implementing company might actually be secondary to the fact that it always has a harmful impact on the hostile suitor. This can be said in consideration of our basic definition of the poison pill stated in the background of this thesis. Perhaps this is an area for further research.

6.4 Conclusion Four

Guidelines regarding pill legality and implementation should be reviewed and the entire process should be more transparent and open.

We also believe that the guidelines surrounding the legality of pill implementation should be reviewed. The restrictions around the adoption of the poison pill appear to be very loose and any company seems to be able to adopt a pill whenever it feels like. A more stringent policy should be put in place to ensure that companies adopting the pill are doing so for a just cause. More stringent measures will translate into greater transparency among
companies that have chosen to adopt the poison pill. We believe this should be so because all the efforts we made to make contact with companies that have previously implemented or adopted the poison were met with great frustration. Companies were unwilling to directly answer any of the questions asked by us and instead preferred to reply with a much scripted statement that divulged little or no information. There appears to be a significant level of secrecy surrounding pill implementation and the companies appear to be very unwilling to discuss the company policy as regard to poison pills. The level of secrecy and discomfort that pill adoption brings raises more questions than answers. We believe that the SEC and other responsible regulatory boards should compel all companies that have adopted a poison pill to disclose fully all the details surrounding implementation of the pill and move to break the strange atmosphere of secrecy associated with pill adoption. This will aid to help stakeholders to better scrutinize the policy and help future studies to better ascertain the facts surrounding the adoption of the poison pill.

6.5 Conclusion Five

There appears to usually be an inverse relationship between shareholders and management when benefiting from pill adoption.

The relationship between shareholders and the managerial board appear to significantly inverse when it comes to benefiting from the adoption of the poison pill. As can be seen in the analysis, the MS-BC matrix clearly shows that shareholders tend to benefit from pill adoption at the expense of top management or vice versa. The case of PeopleSoft Vs Oracle shows that while the shareholders appear to have benefited greatly from the conduct of the top management and the adoption of the poison pill, the top management appears to have not benefited much and most of the advantages seem to tilt towards the shareholders while the disadvantages towards the management. The same cannot be said in the case of NewsCorp and Barnes and Nobles. In these cases, the management appears to be the big winners while the shareholders seem to not have much to appreciate. The adoption of the poison pill by Newscorp and Barnes and Nobles shows most of the advantages going the way of the management and the disadvantages the way of the shareholders. The
case of Yahoo Inc appears to be the lone case that shows significant advantages for both parties in question. It shows that the shareholders did get higher premiums and the management also got many incentives. However, the management ended up as the big winner as their power served to trump any benefits of the shareholders and protect managerial interests.

6.6 Suggestions for further study

In view of all the prevailing issues, we believe that there is much need for greater study into this issue. There appears to be limited academic and business research done on this topic and this has also served to further cloud the main points of contention. We believe that further research should be conducted to better define and determine the impact of pill adoption on company and shareholder welfare. We also believe that more research should be conducted to shed light on the impact of pill adoption on hostile suitors. We believe this should be done because the cases and the analysis have constantly shown that hostile suitors are sternly opposed to the adoption of any kind of poison pill by the target company. If solid academic research can conclusively prove that pill adoption always has a devastating effect on hostile suitors, this might come a long way to justify its practice as it can be said to be a policy meant to keep corporate bullies in check and also hinder firms with monopolistic intentions. Other areas we believe researchers should look into is the criteria for the implementation of the pill. We believe that the rules allowing the adoption of the poison pill should be stricter and companies implementing this policy should be required to meet a certain criteria. Perhaps the research by Dowen, Johnson and Jensen (1995) should be further developed and enhanced by academics and regulatory agencies with an intention to establish some kind of perquisite requirement for companies seeking to adopt the pill.
7 References


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