

INTERDISCIPLINARY RESEARCH SEMINAR



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Shareholder Rights and the Bargaining Structure in Control Transactions

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Abstract

When there are many shareholders in a firm, they face collective action problems. One problem is that acquirers can pursue divide-and-conquer strategies such as two-tiered front-loaded bids. The solution to this in the theoretical literature and in judicial practice is a centralized bargaining agent, such as the firm's management, or a shareholder vote. We show that these methods are of limited usefulness, however, in addressing the agency problem between shareholders and managers. In the relationship between shareholders and centralized bargaining agent, the shareholders receive take-it-or-leave-it offers, such that the agent captures all the surplus. This in turn hampers efficient ex ante financing: Some firms can raise sufficient funds only if (the threat of) judicial remedies provides them (an expectation of) some surplus. In realistically imperfect judicial systems, this induces trade-offs with court errors and litigation costs.