

# Discursive struggles between bidding and target companies: an analysis of press releases issued during hostile takeover bids

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**Abstract.** What are the types of interactions in the discursive struggles between the two parties involved in a hostile takeover bid? How is the legitimacy of the bid (de)constructed by both the bidding and target companies during their discursive struggles? This paper aims at addressing these research questions. Discursive struggles between the bidding and target companies are studied in a sample of 66 press releases related to seven hostile takeover bids approved by the French Market Regulator between December 2006 and December 2014. A study of the sequence followed by each party in issuing their press releases confirms the existence of strong interactions in all the hostile takeover bids studied. Using a manual content analysis methodology, we find that the disclosures made by the bidding and target companies consist of a series of attacks and defenses in which target companies are particularly offensive. We also give evidence that the two companies use legitimation, (de)legitimation and (re)legitimation arguments during discursive struggles, revealing the reciprocity of the communication between the two protagonists. We underline the symbolic or strategic dimensions of these legitimacy strategies in the view of the outcome of bids. Finally, we discuss the implications of our findings for regulators and make suggestions for future research. Based on the metaphor of ventriloquism, our research highlights the importance of considering disclosures as a dynamic and mutual influence process.

**Keywords:** bidding company; discursive struggles; hostile takeover bids; target company; interactions

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## INTRODUCTION

Hostile takeover bids are unique events in the life of a company. As such, they naturally attract much attention—both from the media and the general public (Schneider & Dunbar, 1992). This is especially the case when a “fierce battle” takes place between the bidding and target companies. A takeover bid is generally defined as hostile if the target managers reject the initial bid by the bidding company (e.g., Franks & Mayer, 1996; Morck, Shleifer & Vishny, 1989; Powell, 1997). However, rejection of the bid by the target company is not sufficient to distinguish a hostile bid from a friendly bid (Schwert, 2000). Indeed, what defines a hostile bid is also the nature and intensity of *target resistance* (Sudarsanam, 1995). In other words, a hostile takeover bid is one in which the target managers undertake one or more defensive actions such as

lawsuits, and search for a “white knight”<sup>1</sup>. The motives behind target resistance have been subject to some controversy (Schoenberg & Thornton, 2006) and are diverse in nature—financial (e.g., increase in the offer price (Franks & Mayer, 1996; Powell, 1997)), personal (e.g., changes in the personal wealth of target managers (Walkling & Long, 1984)), strategic (e.g., lack of synergies, post-takeover redeployment of assets (Franks & Mayer, 1996)) and/or social (e.g., threat of job loss).

In friendly bids, target and bidding companies have agreed to merge and generally speak with one voice. One consequence of this phenomenon is that press releases are mostly issued jointly by the two protagonists (Nègre & Martinez, 2013). The “we” is frequently used by the firms to show the good relationships between the entities. In contrast, when a hostile bid is launched, target shareholders must evaluate competing disclosure of the bidding and target companies to decide whether to accept or reject the bid (Hirshleifer & Titman, 1990). For instance, the bidder often accuses the target managers of mismanaging their company and underlines the attractiveness of the offer, whereas the target company tries to show that the offer price does not take into account the target’s future prospects. In other words, the two parties involved in the bid could send significantly different pieces of information to target shareholders and could also attempt to interfere with the other party’s disclosures. In fact, each company tries to gain the support of target shareholders because their decision determines the success/failure of the bids.

The nature of a hostile takeover bid generates organizational tensions and implies that the bidding and target companies could thus indulge in a public “*verbal warfare*” (Sudarsanam, 1995: 228) or a “*tit-for-tat*” (Brennan, Daly & Harrington, 2010: 266) to be seen as legitimate. Legitimacy refers to a “*generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system or of norms, values, beliefs, and definitions*” (Suchman, 1995: 574). In order to be seen as legitimate, managers of each company have to show to target shareholders that their decision is in line with their own system of norms. Several studies have paid attention to the use of disclosure strategies in response to legitimacy concerns. They provide evidence that organizations engage in disclosure strategies to protect and maintain their organizational legitimacy after natural disasters (e.g., Beelitz & Merkl-Davies, 2012; Cho, 2009; Deegan, Rankin & Voght, 2000; Hooghiemstra, 2000), or organizational change (e.g., Arndt & Bigelow, 2000; Mäkelä & Näsi, 2010; Ogden & Clarke, 2005). Through this theoretical lens and in the specific context of hostile takeover bids, the objective of each party would be to defend their legitimacy and/or to delegitimize the other party to the bid in order to gain the support of target shareholders.

Therefore, we argue in this paper that the disclosures made by both parties constitute a dynamic and mutual influence process. In contrast, previous literature on this topic focuses on the disclosures made by the bidding or the target companies (Brennan, 1999; 2000; Cooke, Luther & Pearson, 1998) without examining the exchanges and feedback between the two parties. From such a static perspective, disclosures are only viewed as a way to inform and/or influence shareholders, but not as a way to make the other party to the bid speak. In this study, we respond to the call for research made by several authors (e.g., Brennan, et al., 2010; Brennan, Merkl-Davies & Beelitz, 2013) to examine more closely the

1. A white knight is a counter-bidder welcomed by the management of a company that is the target of a hostile takeover bid.

interactive nature of organizational legitimation by posing the following research questions: (i) What are the types of interactions in the discursive struggles between bidding and target companies in hostile takeover bids?; (ii) How is the legitimacy of the bid (de)constructed by both the bidding and target companies during their discursive struggles?

As such, we first analyze the dynamic disclosure process between the bidding and target companies during hostile takeover bids as to the number and timing of press releases. Then, we investigate the type of interactions in the discursive struggles in terms of attacks and defenses. Offensive arguments consist of the target (the bidder) portraying negatively the bidder and the offer (the target) whereas defensive arguments consist of the target (the bidder) presenting the target (the bidder and the offer) in a favorable light<sup>2</sup>. An illustration of a defense and an attack concerning the offer is provided below:

*A very attractive offer price for Wavecom shareholders [...]: Gemalto's offer of €7 per Wavecom share is particularly advantageous.* (Gemalto press release – November 19<sup>th</sup>, 2008)

*Gemalto is trying to buy Wavecom at a price which is not considered by the Board to be attractive.* (Wavecom press release - November 20<sup>th</sup>, 2008)

Finally, we analyze how the legitimacy of the bid is constructed or deconstructed by both the bidding and target companies during their discursive struggles. We use the framework developed by Van Leeuwen (2007) and adapted by Vaara, Tienari and Laurila (2006) and Vaara & Monin (2010) in the specific context of mergers and acquisitions (M&As) for studying legitimation strategies.

Our analysis is based on a sample of 66 press releases associated with all hostile takeover bids approved by the French Market Regulator (AMF, or *Autorité des Marchés Financiers*) between December 2006 and December 2014. More specifically, among the 56 friendly and hostile takeover bids approved by the AMF during this period, seven are hostile because target managers (i) reject the initial bid by the bidder and (ii) undertake defensive actions.

Our results confirm that discursive struggles exist in all hostile takeover bids examined in this paper. An examination of the timing of press releases shows that firms are highly reactive, which confirms that the battle appears to take place at the forefront of the scene. Using a manual content analysis, we find that these discursive struggles can be represented as a succession of press releases in which the disclosures made by the bidding and target companies consist of a series of attacks or defenses. Adopting a rational-economic perspective, the bidder uses rationalization and authorization arguments to defend the bid and legitimate themselves. In contrast, target companies are more offensive than bidding companies in their discourses. While they defend their performance and management team, they also try to de-legitimize the arguments used by bidding companies. This leads bidding companies to (re)legitimize their arguments in favor of the bid. The disclosure process during hostile takeover bids is thus a succession of legitimation, (de)legitimation and (re)legitimation arguments. As a result, we find that in practice one important factor that explains the disclosures of one party is the disclosures made by the other. This shows the reciprocity of the communication between the bidding and

2. We use the word “defensive” throughout the paper from the US English language context and definition, which is in the sense of “served or intended to defend or protect”. The word “offensive”, which is used interchangeably with “attacking” throughout the paper, also comes from the US English language context and definition, which is in the sense of “actively aggressive” or “designed for attack”.

target companies in the specific context of hostile bids. In line with several studies (e.g., Cooren, 2010; Cooren, 2012; Cooren, Fauré & Matte, 2013a; Cooren, Matte, Benoit-Barné & Brummans, 2013b), we discuss the reciprocity of the communication between the target and bidding companies through the metaphor of a ventriloquism lens. Finally, we observe that target companies often use symbolic legitimation strategies through their discourse as a way to obtain an increase in the offer price through an improved offer by the bidder or a competing offer. However, they can also engage in a substantive legitimation strategy where the aim of disclosure is actually to make the bid fail. This result leads us to ask some questions about the usefulness of the information disclosed in the press releases for target shareholders who have to make a decision about the bid, and more generally for all the stakeholders affected by the offer. More specifically, we question the role of regulators in the discursive struggles that occur during hostile takeover bids and caution shareholders, or more broadly stakeholders, about several issues surrounding the disclosure process in this context.

We believe that our research makes four main contributions to the literature. First, we investigate disclosure strategies in the specific context of takeover bids. Disclosure is a recurrent theme in management and particularly in financial accounting research. According to Williams (2008: 237), the term disclosure refers to “*any purposeful public release of information—financial, social or environmental, required or voluntary, qualitative or quantitative— that is likely to have an impact on the company’s competitive performance and on the strategic decision making of its internal and external audiences*”. Most studies on the subject have been conducted in non-specific contexts (e.g., Garcia Osma & Guillamon-Saorin, 2011; Guillamon-Saorin, Garcia Osma & Jones, 2012) during which investors could postpone their decision to buy or sell shares. However, we argue that it is interesting to examine disclosure strategies in specific situations such as takeover bids in which shareholders have a limited period to decide whether to accept or reject the bid. In such situations, a well-conceived strategy can ensure the support of shareholders and influence the outcome of the bids (Brennan, et al., 2010; Cooke, et al., 1998; Sirower & Lipin, 2003). In addition, such transactions are unique events in the lifecycle of companies; they have irreversible consequences for shareholders’ wealth and for industrial and management structures (Botsari & Meeks, 2008). As such, they are likely to lead to unusual disclosure behavior (Brennan, 1999).

Second, we adopt a new approach to examine disclosures in the context of hostile takeover bids. Most prior research examined disclosure strategies in takeover documents and focused on bidding or target companies (e.g., Brennan, 1999; 2000; Cooke, et al., 1998). Consequently, explanations about disclosures are given only in terms of bid characteristics and/or companies’ characteristics. Here, we take a different approach by studying discursive struggles between the two companies via a flexible and timely disclosure vehicle—press releases. Hence, our study brings novelty by highlighting the disclosures made by the other party to the bid.

Third, most prior research views disclosures as a static process. However, a more recent literature on disclosures (e.g., Beelitz & Merkl-Davies, 2012; Brennan, et al., 2013; Deegan & Blomquist, 2006) and Communicative Constitution of Organization (CCO) (e.g. Arnaud & Mills, 2012; Cooren, 2000, 2012; Cooren, et al., 2013a; 2013b; Fauré, Brummans, Giroux & Taylor, 2010) sheds light on the importance of considering the interactions between companies and their audiences.

Adopting a processual approach, our findings suggest that, disclosures are a dynamic and mutual influence process. More precisely, our results indicate that what drives the disclosure behavior of companies involved in a hostile bid appears to be primarily the disclosure of the other party, leading to reciprocity in the communication of the two parties. In this specific context, it is important to not only inform and/or influence shareholders through disclosures but also make the other party respond. As suggested by Cooren (2010), we use the metaphor of ventriloquism to analyze and discuss this dynamic and mutual influence process between both parties and the reciprocity in their communication.

Finally, focusing on the context of hostile takeover bids, we contribute to the literature on collective action (e.g., Arnaud & Mills, 2012) by showing how one individual action initiated by the bidding company and characterized by resistance from the target may give rise to a collective action in which both parties cooperate. Our processual analysis of the discursive struggles highlights times of resistance characterized by several voices sometimes followed, at the end of process, by times of cooperation during which the two firms speak with one voice. When these several voices become one voice, both bidding and target companies begin to share common interests and work together on the development of synergies, and thus a collective competence appears. In some cases, this shift is created by the launch of an improved offer by the bidder whereas in other cases, the absence of a concurrent offer or an improved offer makes the target stop resisting. The communication implemented by target companies should depend on their underlying objective. If they really want to make the bid fail, the communication should be more offensive than if they just want to obtain an increase in the offer price.

The remainder of this paper is organized as follows. First, we describe the institutional framework, review the relevant related literature and present the theoretical framework of the study. We next describe the sample and the methodology before providing the results. Finally, we discuss the results and conclude the paper.

## **INSTITUTIONAL FRAMEWORK, RELATED LITERATURE AND THEORY**

### **INSTITUTIONAL BACKGROUND**

In France, takeover bids are mainly governed by the AMF which makes sure that the companies involved disclose full and relevant information to all market participants on a timely basis and in an equitable manner. The main applicable laws and regulations are: (i) the AMF General Regulation and (ii) Law no. 2006-07 ("*Loi relative aux offres publiques d'acquisition*"), which is the implementation in France of the European Directive on Takeover Bids<sup>3</sup>. The two main compulsory documents are: (i) the takeover documents (offer and defense documents) and (ii) the information regarding legal, financial, accounting and other characteristics of the bidding or target companies.

While hostile takeover bids in France are less frequent than in the UK (Franks, Mayer, Hardie & Malinvaud, 1990), the French context is interesting to study for two main reasons. First, while Anglo-Saxon countries rely on a common-law system, the French legal system is based on code law. The difference between these two systems in terms of legal

3. Directive 2004/25/EC on Takeover Bids adopted by the European Parliament and the Council of the European Union on April 21<sup>st</sup>, 2004.

liability is that the reporting context in France is less subject to lawsuits and litigation than, for example, that in the US (e.g., Cormier & Martinez, 2006; Piot & Janin, 2007). One reason is that in the US, investors benefit from easier lawsuit opportunities (e.g., class action) compared to France as well as stronger protection. According to Hung (2000), strong shareholder protection should mitigate management opportunism in financial reporting. In contrast, lesser scrutiny pressures could lead to less detailed and formal disclosures or even opportunistic disclosures. For instance, Aerts and Tarca (2010) find that explanations of performance feature more self-serving bias and less formal language in environments with less regulation and litigation risk. Hence, this could influence disclosure practices in the context of takeover bids. For instance, disclosures may not only convey private and credible information to the market, but they could also turn out to become opportunistic. Such risk led the AMF in 2009 to warn investors about the “business” aspect of communication campaigns implemented in the context of takeover bids. In other words, the information disclosed in the context of hostile bids does not always describe the existing economic reality. The communication campaigns can contribute to constructing/performing the reality in order to reach a practical and concrete objective (e.g., Austin, 1962; Cooren & Matte, 2010; Fauré, et al., 2010; Hines, 1988). In our cases, these objectives are to make the bid fail/succeed or to obtain an increase in the offer price. Hines (1988: 257) summarizes the social constructionist aspect of discourse as follows: “*It seems to me that your power is a hidden power, because people only think of you as communicating reality, but in communicating reality, you construct reality*”. In the French context, both formal and less formal disclosures are common during hostile bids. By contributing to the construction of the reality, these disclosures should be of importance for shareholders at the time of decision-making.

Second, in France and in other continental European countries as well, takeover bids are still considered unique events that sometimes lead to interventions from politicians and trigger the interest of the media. One reason is the potential negative consequences of these operations on employment. For Shleifer and Summers (1988), as target management is likely to be replaced, the new managerial team may be less likely to be committed to upholding past contracts with stakeholders, leading to a “breach of trust” with stakeholders. Gugler and Yurtoglu (2004) find that the negative effect of mergers and acquisitions M&As on employment is stronger in Europe than in the US. For these authors, because continental Europe has more rigid labor markets and regulations than in the US, companies have incentives to use M&As to reduce “excess” labor. Consequently, the announcement of a hostile takeover bid attracts the attention of several stakeholders that express multiple concerns: shareholders of the target company want the offer to be attractive; managers and employees of the target firm want to keep their jobs; and politicians want to prevent French companies from falling into foreign hands. In order to address and confront these different concerns, managers have incentives to engage in disclosure strategies to legitimate their opinion regarding the bid.

#### HOSTILE TAKEOVER BIDS AS SOURCE OF DISCURSIVE STRUGGLES

Hostile takeover bids can be perceived as “*interorganizational events that threaten organizational identity and integrity*” (Schneider & Dunbar, 1992: 538). They are the source of numerous conflicts of interest between the bidding and target companies, generating organizational

tensions. Hostile takeover bids could have a disciplinary function (Morck, et al., 1989)<sup>4</sup> as they may occur to replace target managers who are not maximizing shareholder value (Jensen, 1988; Jensen & Ruback, 1983). The possibility of replacement faced by target managers as well as the probability of a loss in compensation lead to potential conflicting interests between target shareholders and target managers. Moreover, beyond economic considerations, hostile takeover bids imply major concerns about esteem, honor and dignity (Schneider & Dunbar, 1992). Indeed, target managers can perceive the bid as a personal attack, potentially leading to a loss of independence that would be negative for their self-image (Aktas, de Bodt, Bollaert & Roll, 2016).

From this perspective, target managers could use disclosure to support their claims of good performance and demonstrate their competences and superiority compared to bidding managers (Schneider & Dunbar, 1992). In this sense, Brennan (1999) underlines that profit forecasts are disclosed by target managers to show that they are better at running the company than bidder managers would be. They could also be aggressive and attack the other side's performance to highlight their superiority. Conversely, bidder managers try to convince target shareholders otherwise (Brennan, 2000). The bidding and target companies can thus send opposing information to target shareholders in order to gain their support. For instance, the bidder emphasizes the attractiveness of its offer, whereas the target company tries to show that the offer price does not take into account the target's future prospects. Another key recipient of the target company's disclosures is the other party to the bid. Following Brennan (1999), voluntary disclosure could be used by target managers to give evidence to the bidder of their intention to vigorously resist the bid. Similarly, disclosures are made by the bidding company to convince its own shareholders of the quality of the bid. Each company could also interfere with each other's signals and counter the reaction created by the other's disclosures (Houghton & Smith, 2006). Gaining target shareholders' support is crucial because in such a context, target shareholders are key players—in short, the takeover cannot be successful without their approval (Buehlmaier, 2011). Consequently, they are viewed as the primary audience for disclosures. Target shareholders have thus to evaluate competing statements of bidding and target companies (Hirshleifer & Titman, 1990) to assess the bid.

From this perspective, hostile takeover bids can be viewed as the "*sites of struggle*" where different groups (*i.e. the bidding and the target companies*) "*compete to shape the social reality of organizations in ways that serve their own interests*" (Mumby & Clair, 1997: 182). Therefore, it is particularly interesting to study discursive struggles between the bidding and target companies in the context of hostile takeover bids.

#### LEGITIMATION AND DISCLOSURE STRATEGIES: A THEORETICAL PERSPECTIVE

For Stone and Brush (1996), legitimacy is external validation from external groups and institutions; it involves demonstrating goal-oriented actions and the use of formal systems. In the previous literature, authors argue that there are different ways of apprehending legitimacy strategies (e.g., Ashforth & Gibbs, 1990; Suchman, 1995). For Ashforth & Gibbs

4. The disciplining function of hostile takeover bids is a controversial issue. For instance, hostile bids are not necessarily more disciplinary than friendly bids with respect to prior target performance (Franks & Mayer, 1996; Kini, Kracaw & Mian, 2004; Martin & McConnell, 1991).

(1990), these strategies can be substantive or symbolic. A substantive management approach involves “*real, material change in organizational goals, structures, and processes or socially institutionalized practices*” (Ashforth & Gibbs, 1990: 178). In contrast, a symbolic approach would “*simply portray*” (Ashforth & Gibbs, 1990: 180) the company as meeting expectations. According to Suchman (1995), prior literature defines organizational legitimacy from two different perspectives. First, from a strategic perspective, legitimacy is considered to be a resource that organizations extract from their environment and that they use to reach their goals (Dowling & Pfeffer, 1975; Ashforth & Gibbs, 1990). Second, from an institutional perspective, society generates “*cultural pressures that transcend any single organization’s purposive control*” (Suchman, 1995: 572) and thus managers’ practices are constructed by external institutions. For the author, both of these two approaches need to be considered in order to understand the complexity of organizations. More precisely, Suchman (1995: 579) distinguishes three types of legitimacy: cognitive (based on taken-for-granted assumptions), moral (concerned about whether the activity is “*the right thing to do*”) and pragmatic (related to self-interested calculations of audiences). For Golant and Sillince (2007: 1149), the construction of organizational legitimacy depends on “*both the persuasiveness of organizational storytelling and on the realization of a taken-for-granted narrative structure*”. Stone and Brush (1996: 636) add that “*to acquire legitimacy or external validation from resource suppliers, an organization must demonstrate formalization and rationalization of managerial practices*”.

In the specific context of M&A, Demers, Giroux and Chreim (2003: 224) consider that legitimation “*serves to justify decisions to oneself and to others, before and after the fact [...] it presupposes the discursive articulation of two states: the present and the desired future state*”. Several studies examine the legitimation strategies adopted by organizations during M&As (Demers, et al., 2003; Vaara, 2002; Vaara & Tienari, 2002; Vaara, et al., 2006; Vaara & Monin, 2010). Using both Weber’s (2003) typology based on different modes of authority and Boltanski and Thevenot’s (1991) framework, Demers, et al. (2003) examine the foundations of legitimacy in four texts given to employees to announce the completion of a merger and acquisition. Considering the texts as wedding narratives, they find that companies use different foundations of legitimacy such as tradition, means-ends rationality or charisma. More recently, Vaara & Monin (2010) provide a theoretical model to understand the dynamics of legitimation in the context of M&As. They argue that legitimacy links “*an organization, a specific change such as a merger or an acquisition, and the authority of particular actors such as change agents together*” (Vaara & Monin, 2010: 5). According to the authors, legitimation is “*the creation of a sense of positive, beneficial, ethical, understandable, necessary, or otherwise acceptable action in a specific setting*”. In contrast, they define delegitimation as “*a sense of negative, morally reprehensible, or otherwise unacceptable action or overall state of affairs*” (Vaara & Monin, 2010: 6). Considering legitimation as part of the merger dynamic process, they provide evidence that in M&As, managers use legitimation and (de)legitimation arguments in their disclosures.

Due to the strong conflicts of interests between the bidding and target companies in the specific context of hostile takeover bids, we examine the construction of the interactions between the two protagonists.



## **SAMPLE AND METHODOLOGY**

### **SAMPLE AND DATA COLLECTION PROCESS**

Initially, we considered all takeover bids approved by the AMF<sup>5</sup> during the period from December 2006 to December 2014 (56 takeover bids). We justify our choice for this period with a change in disclosure requirements after the adoption of the European Directive on Takeover Bids in France in March 2006<sup>6</sup>. The AMF's website was used to construct a list of all public company takeovers in France over the period examined.

Of the 56 takeover bids, seven are hostile bids (49 are friendly bids). In the previous literature, a bid is defined as hostile if the target managers reject the initial bid by the bidding company (e.g., Franks & Mayer, 1996; Morck, et al., 1989; Powell, 1997) and if the target managers undertake one or more defensive actions (Sudarsanam, 1995). Indeed, rejection of the bid by the target company is insufficient to distinguish a hostile from a friendly bid (Schwert, 2000). Thus, we used the (draft) defense documents to observe the initial recommendation of the target company's management or board of directors. These documents are available on the AMF's website. Then, we looked for information about defensive actions deployed by the target companies in newspapers extracted from the Factiva database. Table 1 presents the seven hostile takeover bids studied in this paper and the defensive actions undertaken by target firms. Table 1 also shows that two of the seven hostile bids failed and that there was no improved offer in both cases.

5. These transactions involve target companies that are publicly traded in France; however, the bidders are not necessarily French nor publicly traded companies.

6. Law no. 2006-07, dated March 31<sup>st</sup>, 2006, on takeover bids. On September 18, 2006, the AMF adopted amendments to its General Regulations that implement this law on takeover bids.

Bidder	Target	Year	Defensive actions	Improved offer <sup>a</sup>	Outcome of bid
Lagardère Active	LeGuide.com	2012	Profit forecasts Share repurchase	Yes	Success
As Online Beteiligungs GmbH	SeLoger.com	2010	Appeal before the Court of Appeal of Paris against the clearance decision of the AMF  Extraordinary General Meeting convened to vote on the inclusion of a clause limiting voting rights  Profit forecasts Repurchase of shares	Yes	Success
Siegco	Valtech	2009	Profit forecasts  Appeal before the Court of Appeal against the clearance decision of the AMF	Yes	Success
Jacquet Metals	IMS	2010	Appeal before the Commercial Court of Nanterre	None	Merger
Iamgold	Euro Ressources	2008	Arbitration award in favor of Euro Ressources	None	Success
Gemalto	Wavecom	2008	Combined Shareholders' Meeting convened to consider: (i) the distribution of a special dividend; (ii) the granting of double voting rights to nominative shares owned for at least two years; (iii) the proposed issue of bonus share warrants.	None	Failure
FS participation SAS	GFI Informatique	2007	White knight Early repayment of redeemable share subscription warrants	None	Failure

<sup>a</sup> By improved offer (or revised offer), we mean an increase in the offer price.

Table 1 - Description of the seven hostile takeover bids

Among the five bids that succeeded, there was an increase in the offer price in three cases. With regards to defensive actions, appeal for a white knight seems to lead to a successful defense as well as changes in the consistence of the target company. In addition, appeals against the clearance decision of the AMF and the disclosure of profit forecasts seem to improve the chances of an improved offer.

Beyond takeover documents which tend to become longer and more complex over time, companies can use press releases to disclose information to (target) shareholders and interact with the other party to the bid (Brennan, et al., 2010). In line with these authors, we analyze press releases issued by both the bidding and target companies for four main reasons. First, press releases constitute a timely vehicle for communicating with shareholders (Garcia Osma & Guillamon-Saorin, 2011). Their flexibility enables responsiveness of the bidding and target companies. Therefore, they are an adequate disclosure vehicle for examining discursive struggles between the two protagonists. Second, the language used in press releases is particularly expressive (Aerts & Cormier, 2009). They are less formal than offer and defense documents—hence, they offer more opportunities for “*verbal warfare*” (Sudarsanam, 1995: 228). Moreover, press releases have a wide audience due to: (i) extended coverage in the

media (Maat, 2007); (ii) their dissemination through wire services (Lang & Lundholm, 2000); and (iii) their being published on companies' websites (Guillamon-Saorin & Sousa, 2010). Finally, few studies deal with disclosures in press releases—and this is specifically true for the European context (Brennan, Guillamon-Saorin & Pierce, 2009).

The issuance of press releases during hostile bids could be either voluntary or compulsory<sup>7</sup>. A press release is considered voluntary whenever its disclosure represents a free choice on the part of a company's management (Meek, Roberts & Gray, 1995). Conversely, a compulsory press release has to be understood as a press release whose disclosure is duly required, for example, by the AMF General Regulation<sup>8</sup>. Compulsory press releases are mainly a summary of (draft) offer and defense documents (for a synthesis, see Nègre & Martinez, 2013). They put the emphasis on the terms and conditions of the bid and on the valuation factors of the target. Consequently, it seems more relevant to study discursive struggles in press releases voluntarily issued by the bidding and target companies (Nègre & Martinez, 2013).

Press releases are obtained from the Factiva database or from the bidding and target companies' corporate websites. As part of the 7 hostile takeover bids, 66 press releases are voluntarily issued by the bidding and/or target companies. Thus, as shown in Table 2, the research sample consists of 66 press releases.

Bidder	Target	Number of press releases	Number of bidder's press releases	Number of target's press releases	Total number of sentences
Lagardère Active	LeGuide.com	10	6	4	134
As Online Beteiligungs	SeLogger.com	12	4	8	171
Siegco	Valtech	8 <sup>b</sup>	1	6	82
Metal Jacquet	IMS	5 <sup>b</sup>	1	3	49
Iamgold	Euro Ressources	15	7	8	140
Gemalto	Wavecom	9	4	5	130
FS participation SAS	GFI Informatique	7	3	4	53
		<b>66</b>	<b>26</b>	<b>38</b>	<b>759</b>

<sup>b</sup> One press release is issued jointly by bidding and target companies.

Table 2 - Sample of press releases

Table 2 reveals active disclosure behavior of the target companies. Indeed, out of the 66 voluntary press releases identified, 38 are disclosed by the target companies (approximately 58%) and 26 are disclosed by the bidding companies (39%)<sup>9</sup>. A total of 759 sentences have been analyzed and we observe differences in the length of press releases.

7. Following article 221-3 of the AMF General Regulation, press releases must be disseminated effectively and in full.

8. Another way to distinguish compulsory press releases from the others is the following mention at the beginning of the text: "This press release has been drawn up in accordance with article ... of the AMF General Regulation".

9. Two are jointly issued by bidding and target companies.

## METHODOLOGY

We first follow the methodology adopted by Brennan, et al., (2013) to examine the interactions between the disclosure of both the bidding and target companies. To this end, we study the sequence followed by both parties in issuing their press releases. An interaction exists only if press releases are issued by the two companies involved in the bid. Usually, the bidder issues a press release to make his bidding intention known to the public. This press release is immediately followed by a responding press release from the target company to underline the hostile nature of the bid—this is where the exchanges of press releases between both parties begin. We assume that short delays between the press releases issued by the two parties could also give evidence of the intensity of the interactions and are indicative of the companies' responsiveness.

Second, we examine the content of the press releases in terms of attacking and defensive sentences by performing a manual content analysis. This methodology is labor-intensive (Beattie, McInnes & Fearnley, 2004), but the relatively small size of the sample enables us to conduct an in-depth analysis of the press releases. We use sentences as the unit of analysis because they are more reliable than other units of analysis such as words (Milne & Adler, 1999). According to these authors, individual words have no meaning to provide a sound basis for coding disclosures without a sentence for context. In most prior research, sentences have been coded as positive or negative (e.g., Clatworthy & Jones, 2003; Lang & Lundholm, 2000). However, in the hostile takeover bids context, it is more relevant to distinguish between attacking and defensive sentences (Brennan, et al., 2010). Attacking sentences from the bidder are generally aimed at the target company's performance and management team, whereas defense sentences may be associated with the offer or the bidder itself (its performance and management team). Attacking sentences from the target are generally aimed at the bidding company's performance and management team or relate to the offer, whereas defense sentences may be used to defend itself. We choose to not distinguish the sentences regarding firm *performance* from the ones regarding *management team* because Brennan, et al., (2010) underline that there are very few attacks or defenses on bidding or target companies' management. Given the inherent subjectivity of the coding process, press releases have been coded independently by two of the authors. The overall rate of agreement was over 92%, which is in line with prior studies (e.g., Clatworthy & Jones, 2003). The few coding differences between the two coders were resolved through discussions. Table 3 provides examples of attacking and defensive sentences of the bidding and target companies.

Type of arguments	Subject of attacks/ defenses	Examples extracted from bidding companies' press releases
<b>Attacking</b>	Target companies	"Continuously disappointing results for Wavecom shareholders: Wavecom reported a decline in earnings for the first, second and third quarters of 2008" (Gemalto press release, November 2008, p.1)
<b>Defensive</b>	Bidding companies	"We continue to believe that we can be a valuable shareholder for SeLoger.com. Axel Springer has considerable digital expertise, a reach throughout all major European markets and strong financial capabilities" (As Online Beteiligungs GmbH press release, November 2010, p.1)
	Offer	"These prices imply a significant premium of 19.6% over GFI Informatique's closing share price of €7.11, [...], which would be a very attractive offer to all shareholders" (FS participation SAS, May 2007, p.1).
Type of arguments	Subject of attacks/ defenses	Examples extracted from target companies' press releases
<b>Attacking</b>	Offer	"Accepting this unsolicited offer does not seem the best approach to preserve the interests of Wavecom, its shareholders and its employees" (Wavecom press release, October 2008, p.1)
	Bidding companies	"The Jacquet Metals shares being offered in exchange are shares whose liquidity is substantially lower than those of IMS. Furthermore, a substantial portion of the value of Jacquet Metals' share price is the result of that company's stake in IMS" (IMS press release, February 2010, p.1)
<b>Defensive</b>	Target companies	"Thanks to its overall strategy, Wavecom has achieved one of its corporate goals by becoming a widely-recognised leader in its chosen field of M2M communications and is well-positioned to take full advantage, [...], of the future and exciting prospects of the market" (Wavecom press release, November 2008, p.2)

Table 3 - Examples of attacking/defensive sentences of both the bidding and target companies

In order to provide an in-depth analysis of the content of the press releases, we also complete our analysis by examining how the *legitimacy* of the bid is constructed or deconstructed by both the bidding and target companies during their discursive struggles. We use the legitimation strategies framework developed by Van Leeuwen (2007) and adapted by Vaara, et al., (2006) and Vaara and Monin (2010) in the specific context of M&As. Van Leeuwen (2007: 91) distinguishes four categories of legitimation: (i) authorization, when legitimation is made "by reference to the authority of tradition, custom and law, and of persons in whom institutional authority is vested"; (ii) moral evaluation, when arguments given by managers refer to values; (iii) rationalization, when legitimation is made "by reference to the goals and uses of institutionalized social action, and to the social knowledges that endow them with cognitive validity"; and iv) mythopoesis, when "legitimation conveyed through narratives whose outcomes reward legitimate actions and punish non-legitimate actions". Following Vaara and Monin (2010), we replace mythopoesis by naturalization that refers to naturalizing elements. Managers can use

naturalizing arguments to insist on the necessity of the operation. We also examine the presence of de-legitimation strategies through naturalization, rationalization, authorization and moralization (Vaara & Monin, 2010). The aim of these arguments is to deconstruct the legitimation arguments used by the other party to the bid.

## RESULTS

### AN ANALYSIS OF THE INTERACTIONS BETWEEN THE BIDDING AND TARGET COMPANIES' PRESS RELEASES

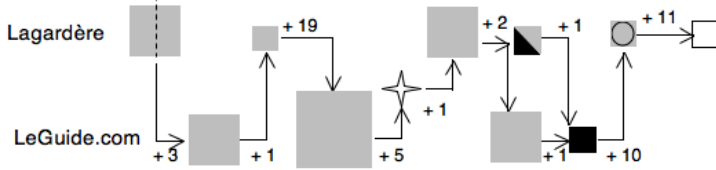
The interactions between both parties are assessed through the sequence followed by both parties in issuing their press releases. Figure 1 illustrates the dynamic disclosure process between the bidding and target companies.

As shown in Figure 1, press releases are indeed issued by the two companies involved in the bid. This essentially proves the existence of interactions between the bidding and target companies. In most cases (five cases out of seven), we observe that the first press release is issued by the bidding company and this press release is followed by a responding press release from the target company. In the two other cases, even if the target issues the first press release, we can see this disclosure as a response to the filing of the bid to the AMF by the bidder.

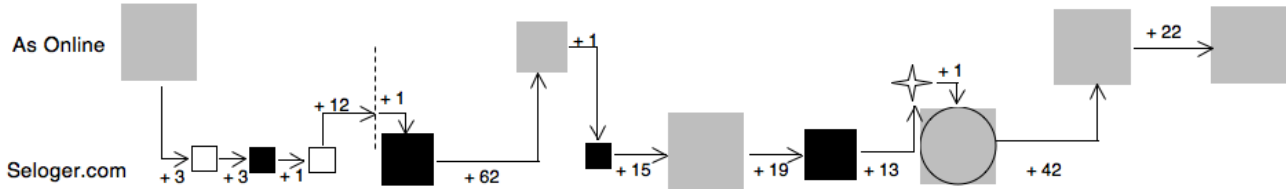
Thus, the debate between the two parties starts with either the filing of the bid to the AMF or the disclosure of a press release by the bidding company that announces its intention to launch a bid. The delay between the issuance of these two press releases is relatively short (between one and seven days) and highlights the reactivity of the target company. This responsiveness indicates that the press release issued by the target company is a response to the bidder's press release. Moreover, by looking at the number of days between each press release, we find that the target company is more reactive than the bidding company. We also observe that the delay between the press releases of the two companies involved in the bid is shorter at the beginning of the bid than it is at the end. One main reason could be that there is less uncertainty regarding the outcome of the bid at the end of the process than at the beginning.

Finally, we find that the press release issued to announce an agreement (five cases out of seven) is preceded by a quiet period in which the intensity of the disclosure struggle decreases. This may suggest that the discussions between the two parties take place in the private area to facilitate the finding of an agreement.

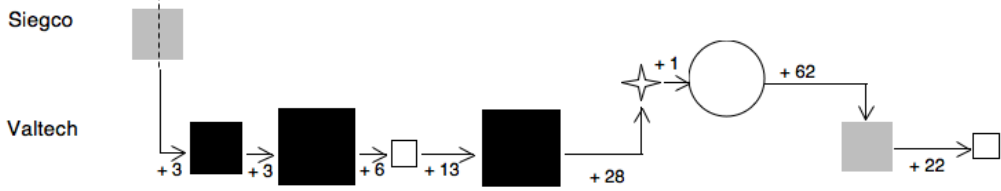
Lagardère Active's bid for LeGuide.com from May 7, 2012 to June 29, 2012: situation 1



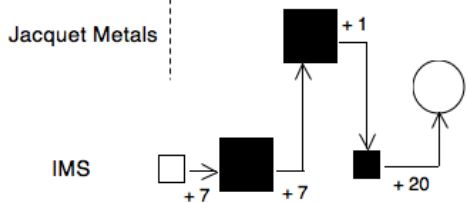
As Online Beteiligungs GMBH's bid for Seloger.com from September 9, 2010 to March 23, 2011: situation 1



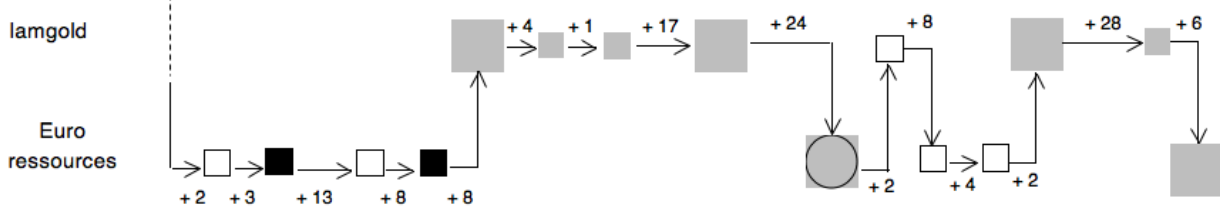
Siegco's bid for Valtech from October 23, 2009 to March 10, 2011: situation 1



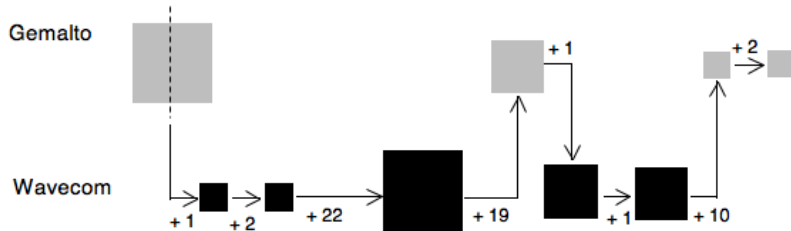
Jacquet Metals's bid for IMS from February 3, 2010 to April 28, 2010: situation 2



Iamgold's bid for Euro Ressources from August 31, 2008 to January 6, 2009: situation 2



Gemalto's bid for Wavecom from October 6, 2008 to January 6, 2009: situation 3



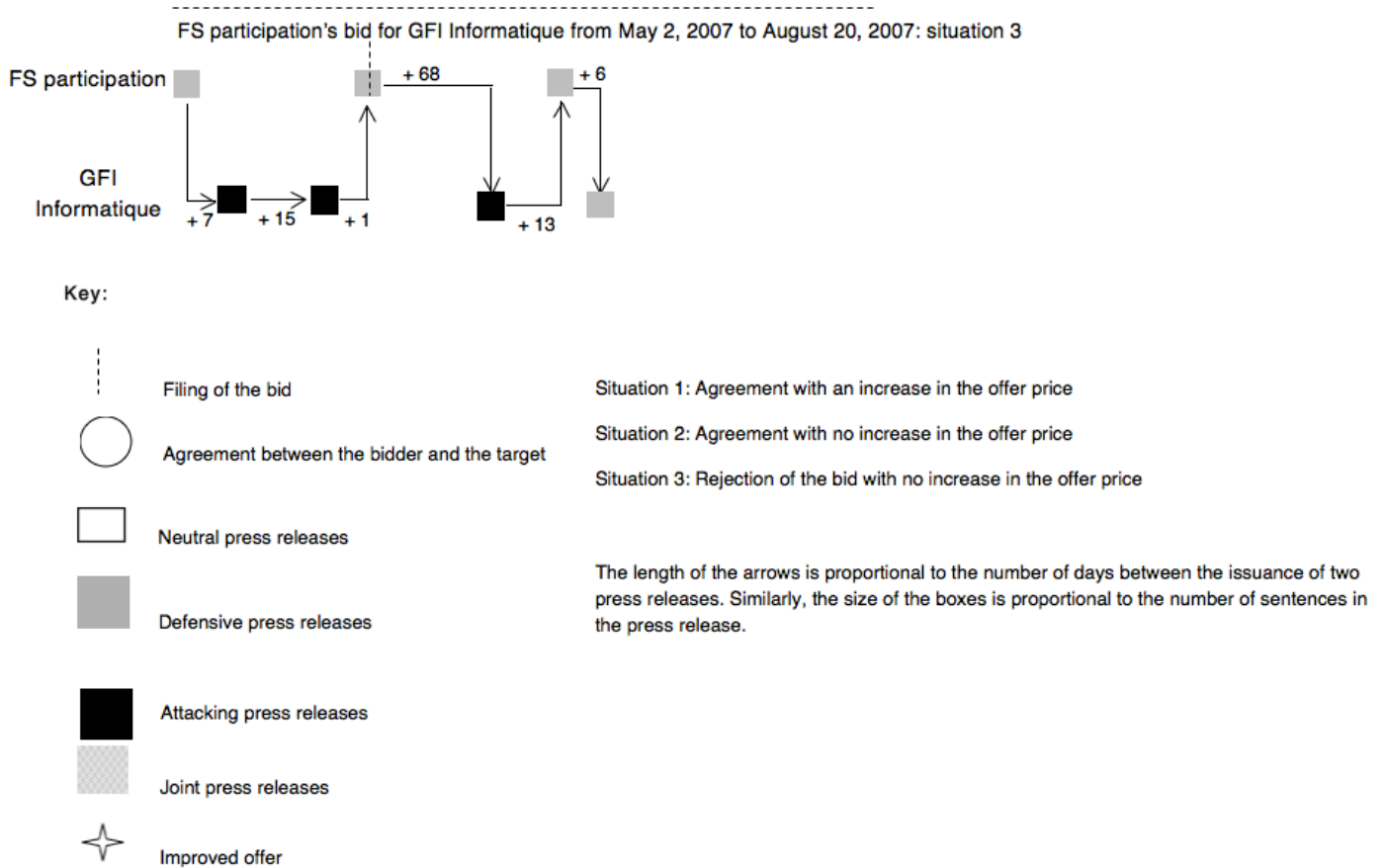


Figure 1 - Chronology of press release

DISCURSIVE STRUGGLES AS A SUCCESSION OF ATTACKS AND DEFENSES

We next investigate the types of interactions in the discursive struggles between the bidding and target companies. Each company can adopt either attacking and/or defensive strategies. Table 4 presents the number of attacking and defensive sentences in the press releases respectively issued by the bidding or target companies. The numbers that appear in the first column correspond to the seven hostile bids studied. For each operation, the results related to the bidder (the target) are mentioned in the first (second) line. Table 4 reveals that 41% (129/317) of sentences in press releases issued by bidding companies are attacking or defensive sentences compared to 44% (182/413) in the ones issued by target companies.



	Bidder/ Target	Number of press releases	Number of sentences	Total attacking sentences	Total defensive sentences	Total attacking and defensive sentences
1	Lagardère Active	6	59	4	23	27 (46%)
	LeGuide.com	4	75	18	44	62 (83%)
2	As Online Beteiligungs	4	80	0	43	43 (54%)
	SeLoger.com	8	91	10	25	35 (40%)
3	Siegco	1	10	1	2	3 (30%)
	Valtech	6	57	13	4	17 (30%)
4	Jacquet Metals	1	12	3	1	4 (33.5%)
	IMS	3	23	8	2	10 (43.5%)
5	Iamgold	7	80	0	17	17 (21.5%)
	Euro Ressources	8	60	2	3	5 (8.5%)
6	Gemalto	4	50	5	19	24 (48%)
	Wavecom	5	80	32	12	44 (55%)
7	FS participation	3	26	0	11	11 (42.5%)
	GFI Informatique	4	27	6	3	9 (33.5%)
	<b>Total</b>	64 + 2	730	102 (33%)	209 (67%)	311 (100%)
	For bidding companies	26	317	13 (10%)	116 (90%)	129 (41%)
	For target companies	38	413	89 (49%)	93 (51%)	182 (59%)

Table 4 - Number of attacking/defensive sentences of both bidding and target companies

These proportions indicate that the level of involvement of each company in the discursive struggles is relatively similar. Regardless of the type of issuer, we observe that the defense strategy is more often adopted than the attacking strategy. Indeed, approximately 67% of the 311 attacking and defensive sentences identified are defensive sentences (116 for bidding companies and 93 for target companies), whereas only 33% are attacking sentences (13 for bidding companies and 89 for target companies). However, we observe that the defense strategy is used much more by bidding companies than by target companies as 56% (116/209) of the defensive sentences are extracted from their press releases. Bidding companies try to present themselves positively without negatively describing the target. One possible explanation is that the bidding company does not want to appear “biased” or “close-minded (Ohl, Pincus, Rimmer & Harrison, 1995: 99).

In contrast, we observe that the attacking strategy is more often adopted by target companies since 87% (89/102) of the attacking sentences are extracted from their press releases. Moreover, 49% of attacking and defensive sentences identified in press releases issued by target companies are attacking sentences. Therefore, disclosures made by target companies are more offensive than the ones made by bidding companies. This result is illustrated in Figure 1 in which most of the press releases disclosed by target companies are represented by black boxes (majority of attacking sentences) contrary to bidding companies for which press releases are represented in grey boxes (majority of defensive sentences). This result is in line with Ohl, et al., (1995), who show that the press releases issued by target companies are more conflicting than the ones issued by bidders.

The percentage of attacking sentences obtained (49%) is more than the percentage found by Brennan, et al., (2010) in the UK context. Based on the analysis of ten defense documents, they find that only 39% of attacking and defensive sentences identified in these documents are attacking sentences. Press releases are shorter, less formal and written in particularly expressive language (Aerts & Cormier, 2009; Brennan, et al., 2009) compared to required documents. This can explain some differences in the results as well as the different institutional backgrounds in which the two studies are conducted.

The attacking sentences by target companies are mostly attacks on the bid (see Appendix 1 for more details about the attacking and defensive sentences). Indeed, of the 89 target companies' attacking sentences, 81 are attacks on the bid (91%). These attacks are mainly related to the bid price. Such result is in line with the view of disclosure strategies as a way to obtain an increase in the offer price (e.g., Cooke, et al., 1998). Most of the defensive sentences of the bidding companies are a defense of the bid. Indeed, of the 116 defensive sentences extracted from press releases issued by bidding companies, 63 constitute a defense of the bid (54%). It may be that the bidding companies praise the offer in order to counter the arguments against the bid of the target companies. Interestingly, we observe, in some cases, that the bidder wants to speak mainly to target shareholders through their discourses, denying in a way the attacks of the target. For instance, in its press release one bidder underlines that "*the decision belongs now only to the target shareholders*". Target company's management is keeping out the debate.

#### IDENTIFICATION OF (DE)LEGITIMATION ARGUMENTS AT DIFFERENT STAGES OF THE BID

An in-depth analysis of each press release reveals that disclosures of both the bidding and target companies consist of a series of legitimization, de-legitimation and re-legitimation arguments.

##### *(De)legitimation arguments used during discursive struggles*

The bidder usually starts the debate on the attractiveness of the bid in its first press release issued to announce the bid. Most of the time, it uses defensive sentences to promote the offer and convince its own shareholders of the expected positive consequences of the operation. This strategy also aims at attracting target shareholders by highlighting the attractiveness of the offer for them, for instance because of a high bid premium. In order to do this, the bidder mainly uses rationalization arguments as a legitimization strategy. In this perspective, managers positively describe the target's performance to show that the bid will be beneficial for the two companies and to limit potential controversies coming from the target company.

*"During the first semester of 2010 [...], Seloger.com SA has recorded growth activities on almost all of its business lines. The Company increased its consolidated revenues by 11.2% to 39.4 million Euros (versus 35.5 million Euros last year)" (Axel Springer AG press release, September 2010, p. 1).*

The bidder also uses authorization arguments in its press releases to show that the decision has already been accepted by specific experts (e.g., independent appraiser). By doing so, it shows that it does not directly

judge the bid, but rather uses a third party which validates the decision to implementing the takeover. This provides an apparently more objective argument in favor of the transaction (Hahn & Lülfs, 2014).

*The French Securities Regulator stated that the takeover bid made by Axel Springer to purchase Seloger.com (the leading French real estate property classifieds portal) to be compliant. (Axel Springer AG press release, November 2010: 1)*

However, this debate is continually revived by the target company. As mentioned above, the number of sentences that are attacks on the bid is higher than the number of sentences that defend it. This result shows that the target company seeks to impose its point of view regarding the bid by using attacking sentences. We observe that target managers use two main legitimization arguments to attack the offer. The first one aims at de-legitimizing the arguments provided by the bidder with regard to the offer. As the bidding company uses more rationalization arguments to promote the offer, the target also uses rationalization to de-legitimize the arguments and underline the weakness of the bid premium compared to the financial performance of the target company.

*[The management of Valtech] estimates that the proposed price reflects neither the intrinsic value nor the company's prospects. (Valtech press release, October 2009: 1)*

Similarly, the target company de-legitimizes the arguments used by the bidder by discrediting the authority mentioned in their press releases.

*Seloger.com will file an appeal with the Court of Appeal of Paris against the compliance decision made by the AMF on the takeover bid made by Axel Springer AG. (Seloger.com press release, December 2010: 1)*

The second series of arguments used by the target company aims at attacking the bidder to justify the rejection of the offer. The target mainly uses moralization and rationalization arguments. By using moralization arguments, the objective is to denounce the concealed motives of the bidding company for the offer.

*The low amount of the bid premium and the lack of a minimum threshold may enable SiegCo to take control of Valtech, whose ownership is extremely dispersed, without paying the price. (Valtech press release, October 2009: 1).*

Moralization arguments can also be used by the target company to suggest that the offer is not in the interest of all stakeholders. As such, managers use a stakeholder perspective by highlighting their responsibility towards stakeholders in order to gain their support.

*Accepting this unsolicited offer does not seem the best approach to preserve the interests of Wavecom, its shareholders and its employees. (Wavecom press release, October 2008: 1).*

In contrast, rationalization arguments are mainly used to convince target shareholders to reject the bid in its current terms.

*If this transaction – which is expected to be resolved by the end of 2009 – comes to completion, it should generate net proceeds of about 2.5 to 3 million Euros for Valtech in the fourth quarter of 2009. This exceptional profit of about 0.03 Euros per share is not taken into account in SiegCo's offer.* (Valtech press release, October 2009: 1)

Sometimes the target company responds to the bidder by defending its performance and the quality of its management team (and not by attacking the bidding company). As a consequence, the target company does not spontaneously describe itself in a positive way; it is a response to the bidding company's attempt to pride itself on its performance and the quality of its management team. Based on the analysis of ten hostile takeover defense documents, Brennan, et al., (2010) find that presenting target companies in a favorable light (i.e. defensive strategy) seems to be a better strategy for defeating the bid rather than portraying the bidding company negatively (attacking strategy). In turn, the bidding company responds to the target company's statement. As in their first interventions, managers mainly use rationalization and authorization arguments to reaffirm the legitimacy of the offer.

*The French Securities Regulator (Autorité des marchés financiers or AMF) has cleared the offer of Axel Springer for all outstanding shares of SeLoger.com, the leading French real estate property classifieds portal.* (Axel Springer AG press release, November 2010: 1)

In some cases, the bidder engages in a more attacking strategy by de-legitimizing the arguments provided by the target or by emphasizing that the offer is a good opportunity for the target shareholders, particularly in the light of its disappointing results. In this view, the bidder uses disclosure strategies to reinforce the difficulties of the target company or its poor performance, resulting in a more aggressive struggle.

*The offer price includes a significant premium in relation to the current valuation and contrasting financial performance of the company in recent years, and particularly to the substantially lower earnings announcements in 2009.* (SiegCo press release, October 2009: 1)

In most cases, we notice that attacks on the target company by the bidder result from attacks on the bidding company by the target. This finding suggests that disclosures of the target company appear to set the tone of the discursive struggle between the two protagonists. It is not in the interest of the bidding company to first attack the target company. However, if the bidder is subject to attacks, it may respond in turn by attacking.

Overall, we show that the interactions between the bidding and target companies that take place in the public arena during hostile takeover bids are in fact a dialogue that takes the form of discursive struggles between the two parts (Beech, 2008). These discursive struggles can be represented as a succession of press releases in which bidding companies defend the bid and try to legitimate and re-legitimate the same arguments in favor of the bid. In contrast, target companies not only defend their own position, they also attack the other party to the bid. They try to de-legitimate the arguments of bidding companies and/or legitimate their

rejection of the bid. Finally, each company involved in the bid repeats the argument of the other in order to better counter it. In practice, one important factor that explains the disclosure of information of one party is the information disclosed by the other. This shows the reciprocity of the communication between the bidding and target companies in this specific context.

#### *Changes in the disclosure strategies at the end of the bid*

At the end of the bid, three situations can be identified depending on the outcome of the offer.

##### Situation 1 – Agreement with an increase in the offer price

The target company decides to accept the bid after an increase in the offer price. This is the case for the following takeover bids: Lagardère Active's bid for LeGuide.com; As Online Beteiligungs GMBH's bid for Seloger.com; and Siegco's bid for Valtech. The target legitimates its decision by explicitly or implicitly mentioning that this increased offer responds to its criticisms about the bid.

*The new offer now includes a premium of 7.3% for Valtech's shareholders compared to the closing price of the share as of December 15, 2009, and of 43.1% compared to the average of the three months preceding the filing of the initial offer. (Valtech and SiegCo press release, December 2009: 1)*

The legitimization arguments used here depend on those found in previous press releases. When the de-legitimation strategy of the target was based on moralization, the final press release underlines that the offer is now aligned with the company's moral values. In the same vein, previous arguments in line with the rejection of the bid are assumed not to be valid anymore. The arguments used by the target in favor of the offer are now very close to those used by the bidder at the first stage of discursive struggles. Sometimes at the beginning of the bid, the target company underlines the absence or the lack of synergies that could be expected from the deal. In contrast, after an increase in the offer price, synergies are also expected by target managers. We thus observe in some cases a total "change of opinion" of the target company with regard to the offer that (i) can lead to skepticism of target shareholders at the time of their decision; and (ii) reflect the symbolic dimension of the disclosure (strategic disclosure that aims at increasing the offer price) (Ashforth & Gibbs, 1990).

*"The Supervisory Board of Seloger.com welcomes this agreement which provides a significant improvement in terms of valuation, corporate governance and executives' profit-sharing compared to Axel Springer's initial offer, and allows Seloger.com to obtain support from a referent shareholder in order to pursue its development strategy in the long term" (Seloger.com press release, January 2011, p. 2).*

In this situation, the target company could disclose a press release to explain its new position regarding the bid and/or the bidding company. The two protagonists could disclose a joint press release in which managers of each company explain their respective positions. When the entities speak with one voice, this reflects the now good relations between

them. This type of press release generally reports the words of each manager and insists on the fact that they are indeed satisfied with the agreement between the two companies.

*We are very pleased to have reached an agreement with SiegCo and we believe that such agreement lays the foundations that will enable Valtech to take a step further in its strategic development.* (SiegCo and Valtech press release, December 2009: 3).

#### Situation 2 – Agreement with no increase in the offer price

The target company accepts the offer but is not in a favorable position to negotiate given its performance. Moreover, the absence of a competing offer or an improved offer makes the target stop its resistance and ends the “show”. This is the case in the following takeover bids: Jacquet Metals’s bid for IMS; and lamgold’s bid for Euro Ressources.

*In particular, the Board of Directors of Euro noticed the absence of a competing or outbidding offer from lamgold, as the deadline to make such an offer expired on November 14, 2008. The offer proposed by lamgold at a price of 1.20 Euros per share remains open until November 21, 2008.* (Euro Ressources press release, November 2008: 1)

In one case, the bidding and target companies disclose a joint press release in which there is no formal argument given to explain the change of opinion with regard to the offer. This is in contrast with the huge number of de-legitimation arguments contained in the previous press releases of the target to justify its recommendation to resist the offer. The audience has the feeling of inconsistency in the target’s disclosure and wonder about management’s real motivations for finally accepting the bid (or for initially rejecting the bid). The press release does not report the views of the two companies’ managers. Overall, the last joint press release seems to be more about the bidding company’s expression than of the target company’s.

In another case, the agreement between the two firms is announced in a press release issued by the target company. In this situation, there are more explanations about the change of opinion than about the bid.

*The Board of Directors of Euro noted that since lamgold’s takeover bid on August 29, 2008, global financial markets have suffered from a major disruption and very high volatility.* (Euro ressources press release, November 2008: 1)

#### Situation 3 – Rejection of the bid with no increase in the offer price

In this case, the struggle between the two companies often goes beyond disclosure. This is the case for the following takeover bids: Gemalto’s bid for Wavecom; and FS participation’s bid for GFI Informatique. The strategy adopted by the target company is not symbolic but substantive. The objective here is to implement all relevant actions to defeat the bid (including the distribution of exceptional dividends) and/or to use a very offensive disclosure to influence the target shareholders against the bid.

*In order to reward current shareholders who supported the company despite market conditions and a difficult economic situation, the Board of Directors of Wavecom will propose the exceptional and immediate distribution of 1 Euro per share at the upcoming shareholder general meeting. (Wavecom press release, November 2008: 1)*

Overall, the outcome of hostile takeover bids is the result of a complex process that includes both quantitative (e.g., bid price) and qualitative aspects (e.g., disclosure strategies, strategic concerns). However, we try to draw some conclusions from the analysis of attacking and defensive sentences according to the final result of the bid (see Table 5).

	<b>Situation 1</b>	<b>Situation 2</b>	<b>Situation 3</b>			
<b>Bidder</b>	<b>Sentences</b>	<b>%</b>	<b>Sentences</b>	<b>%</b>	<b>Sentences</b>	<b>%</b>
Attack	5	7 %	3	14 %	5	14 %
Defense	68	93 %	18	86 %	30	86 %
Total attacking/defensive sentences	73	100 %	21	100 %	35	100 %
<b>Target company</b>	<b>Sentences</b>	<b>%</b>	<b>Sentences</b>	<b>%</b>	<b>Sentences</b>	<b>%</b>
Attack	41	36 %	10	67 %	38	72 %
Defense	73	64 %	5	33 %	15	28 %
Total attacking/defensive sentences	114	100 %	15	100 %	53	100 %

Table 5 - Attacking and defensive sentences by bid outcome

With regards to target companies, failed bids with no increase in the offer price (situation 3) have the highest number of attacking sentences (72%), whereas succeeded bids with an increase in the offer price (situation 1) have the highest number of defensive sentences (64%). Our recommendations in terms of disclosure for the target companies depend on whether they really want to make the bid fail. If their resistance is a strategy to obtain an improved offer, it seems that defense is the best strategy. However, if their objective is to make the bid fail, it seems better to be more offensive. With regards to bidding companies, most sentences are defensive in all situations. We notice that the percentage of attacking sentences slightly increases in situations 2 and 3. This is a reaction to the highly offensive tone of target companies' disclosures.

## DISCUSSION AND CONCLUSION

### SUMMARY OF RESULTS AND DISCUSSION

Our results confirm that discursive struggles exist in all the hostile takeover bids examined in this paper. The study of the timing of releases shows the quite high level of reactivity of firms proving that the battle

takes place in the forefront of the scene. Using a manual content analysis, we find that these discursive struggles can be represented as a succession of press releases in which the disclosures made by the bidding and target companies consist in a series of attacks or defenses. Adopting a rational-economic perspective, the bidder uses rationalization and authorization arguments to justify its position. This perspective suggests that agents make complex calculations to obtain a fair price because “*they are calculative by nature*” (Callon & Muniesa, 2005: 1230). As suggested by Boltanski and Thevenot (2006: 203), rationalization arguments “*help managers defend their positions when controversies occur*”. The bidding companies engage in financial realism and arguments tend to provide information about the true values of things (Vollmer, 2007). The use of authorization arguments allows the bidding companies to show that the offer price rests on the evaluation of independent experts. The intervention of a third independent voice in the debate between the two companies is expected to reinforce the fairness of the evaluation of the target company and so convince target shareholders that the bidder offers a sufficient price. The use of authorization arguments can be related to the metaphor of ventriloquism (Cooren, 2012; Cooren, et al., 2013a; 2013b). Ventriloquism is defined by Cooren (2012: 5) as “*the activity that consists of making someone or something say or do something*”. For Cooren, et al., (2013b: 256), the study of interactions through a ventriloquial approach, reveals “*how human interactants position themselves (or are positioned) as being constrained or animated by different principles, values, interests, (aspects of) ideologies, norms, or experiences, which operate as “figures” that are made to speak to accomplish particular goals or serve particular interest*”. In our context, the metaphor of ventriloquism is illustrated by the fact that the bidding companies start the debate with the target companies. Therefore, they can say what “*count or matters*” (Cooren, et al., 2013a: 13) and thus force the target companies to also make these things matter in their discourses even if it is merely to counter them.

In contrast, target companies are more offensive than bidding companies in their discourses. This behavior contributes to building target management resistance to the bid. While they defend their performance and management team, they also try to de-legitimize the arguments used by the bidder by discrediting the authority and the rationality of the arguments given by the bidding company. The discourse of the target is more offensive and characterized by repeated attacks against the bidding company. The objective is to prove that the discourse of the bidding companies does not represent an objective reality but one reality constructed by the bidder and with which they do not agree (e.g. Hines, 1988; Morgan, 1988; Tinker, 1991). By de-legitimizing the arguments of the bidder, the target company struggles against the performativity of these arguments.

It is interesting to note the differences in the positions of the two companies. The bidder may tend to hide behind rationalization and authorization arguments, as these arguments would speak by themselves. In contrast, target companies may position themselves in the foreground and speak in their name due to the offensive nature of their discourses. Both the responsiveness of target companies and the use of attacking sentences may show that a lot of uncertainty affects their behavior, leading them to sometimes evoke emotional aspects with moralization arguments.

Overall, the disclosure process during hostile takeover bids is a succession of legitimation, (de)legitimation and (re)legitimation arguments. As a result, we find that in practice one important factor that explains the disclosures of one party is the disclosures made by the other. This shows



the reciprocity of the communication between the bidding and target companies in the specific context of hostile bids. The metaphor of ventriloquism provides an interesting framework to discuss the dynamic and mutual influence process between both parties and the reciprocity in their communication. Most of the time, the bidding company makes the target start to speak. However, the target also tries to make the bidding company speak in return by showing its resistance to the offer. As far as both parties responding to each other is concerned, the show is on and it ends when the bidding and target companies manage to speak with one voice, for instance after an increase in the offer price.

Finally, disclosures do not always reflect the true intentions of managers. Target companies often use symbolic legitimization strategies through their discourse as a way to obtain an increase in the offer price. The objective is not really to reject the offer but rather to negotiate its terms. In this case, the verbal struggle can be viewed as a “comedy” in which the bidding and target companies mime a discursive struggle while knowing that the outcome of the offer will be positive. However, the target company can also engage in a substantive legitimization strategy where the aim of disclosure is actually to make the bid fail. In this case, the struggle between both parties is more aggressive and the outcome of the offer is more uncertain.

This study raises a number of questions regarding the role of regulators in such discursive struggles during hostile takeover bids. Following article 231-36 of the AMF General Regulation, the two parties involved in the bid and their managers shall demonstrate “*particular vigilance in their statements*”. These guidelines may not be sufficient to ensure transparency in takeover bids and regulators should require more clarity and objectivity in the disclosures made in this context. Another question is whether regulators should take sides in order to help target shareholders in making their decisions. Indeed, the AMF’s approval does not constitute a guarantee of the quality of the bid. Given the opposing information provided by the bidding and target companies, it is likely that the target shareholders do not know which party to the bid they should believe.

Finally, regulators should at least reinforce their warnings to investors about the disclosures made in the context of takeover bids. We provide further evidence that the objectives of companies are not only to inform the public of the bid’s characteristics, but also to counter the other side’s disclosure and influence shareholders’ decisions. Investors should be aware of how firms can communicate to meet their own objectives. For instance, target (bidding) companies may discredit (praise) a bid even though the prospects of synergies are high (low), because they want to convince the shareholders to defeat (vote for) the operation.

#### LIMITATIONS AND AVENUES FOR RESEARCH

Like all studies, this examination is subject to some limitations. First, we examine only the French context in this study. Examining the extent to which bidding and target companies in other countries use disclosure during hostile takeover bids could be valuable. Second, we focus on a managerial/preparer perspective without taking a user perspective. Consequently, one important question remains unanswered—how do target shareholders react to the discursive struggles between the bidding and target companies? They know that target managers have incentives to make symbolic disclosures because of a high probability of dismissal. From another perspective, management of the bidding company is likely to describe the bid and its consequences as more positive than expected in

an attempt to sell the bid to the target shareholders. In this context, do target shareholders fall in with the most convincing “speaker”? Are the attack and defensive strategies effective or do the target shareholders see these statements as “cheap talk”? We believe that it would be relevant to address these questions in future research through an experiment because the outcome of the bid depends on their decision.

It would also be interesting to study how far these press releases influence or are influenced by the financial press. For instance, in hostile bids, do journalists tend to take the side of the target firm or the “predator”? Does the press give more coverage to releases issued by one party or the other? Moreover, in line with the work of Vollmer (2007), one interesting perspective could be to focus on the use of numbers in the debate between the bidding and target companies by drawing on Goffman’s (1974) method of frame analysis. As mentioned by Vollmer (2007: 578), *“more than exercises in calculation and much more than material aspects of the world which numbers refer to, which they are claimed to measure or calculate, are at stake when numbers are performed”*. Thus, future research could examine how the introduction of numbers in the struggles between the two protagonists changes their behavior and discourses. Also, as discussed above, it would be interesting to examine the questions of performativity in the context of takeover bids (e.g., Cabantous & Gond, 2011). To do so, an in-depth case study based on interviews and non-participant observation is necessary to observe exchanges between the different actors. Indeed, as suggested by Fauré, et al., (2010: 1250), *“these exchanges from the ground zero of accounting language, and it is during/ through these exchanges that financial, organizational realities are actually being constructed”*. We encourage future research in management and accounting to explore these avenues.

## Appendix 1. Details about the defensive and attacking sentences

	Bidder/ Target	Attack on the target	Attack on the bidder	Attack on the bid	Total attacking sentences	Defense of the bidder	Defense of the target	Defense of the bid	Total defensive sentences
1	Lagardère Active	4	/	/	4	5	/	18	23
	LeGuide.com	/	/	18	18	/	44	/	44
2	As Online Beteiligungs	/	/	/	0	5	29	9	43
	SeLogger.com	/	/	10	10	/	19	6	25
3	Siegco	1	/	/	1	1	/	1	2
	Valtech	/	1	12	13	/	2	2	4
4	Jacquet Metals	3	/	/	3	/	/	1	1
	IMS	/	3	5	8	/	2	/	2
5	Iamgold	/	/	/	0	2	0	15	17
	Euro Ressources	/	/	2	2	/	2	1	3
6	Gemalto	5	/	/	5	7	1	11	19
	Wavecom	/	4	28	32	/	12	/	12
7	FS participation	/	/	/	0	3	/	8	11
	GFI Informatique	/	/	6	6	/	3	/	3
	<b>Total</b>	<b>13</b>	<b>8</b>	<b>81</b>	<b>102 (33%)</b>	<b>23</b>	<b>114</b>	<b>72</b>	<b>209 (67%)</b>
	For bidding companies	13	/	/	<b>13 (10%)</b>	23	30	63	<b>116 (90%)</b>
	For target companies	/	8	81	<b>89 (49%)</b>	/	84	9	<b>93 (51%)</b>

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