

## Defensive strategies against hostile takeovers. The analysis of selected case studies

**Marcin Puziak**

*Poznan University of Economics  
Microeconomics Department  
al. Niepodległości 10  
61-875 Poznań, Poland  
marcin.puziak@ue.poznan.pl*

**Maciej Martyniuk**

*Warsaw School of Economic  
al. Niepodległości 162, 02-554 Warszawa, Poland  
maciejmart@wp.pl*

**Abstract.** Since the 1970s and 1980s mergers and acquisitions (M&A) have been a regular part of the American capital market. As the American capital market is considered to be the most developed one in the world, processes that take place there started to occur at other markets, including the Polish market. One of the most interesting aspect of M&A is the issue of hostile takeover, which is a situation when the takeover occurs against the will of existing company's board of directors and its current shareholders.

The aim of this article is to present the possible strategies, which can be used by resisting companies against hostile takeovers, and the assessment of their influence on a company in the context its restructurisation. In the part devoted to the analysis of cases, description of three processes of hostile takeovers is presented. Each of these took place at a different market and, which is the most important feature, each of these ended with different result. The discussed cases encompass the unsuccessful takeover of Gillette company at the American market, the attempt at takeover of Thyssen by Krupp-Hoesch, which resulted in a merger, and the history of the hostile takeover of Kruk company by Vistula.

The below analysis enabled to assess the defensive strategies in the context of restructuring results, which occur in the situation of hostile takeovers.

**Keywords:** restructurisation, hostile takeovers, case studies.

**JEL Classification:** G 34

**Received:**  
January, 2012  
**1st Revision:**  
March, 2012  
**Accepted:**  
May, 2012

## INTRODUCTION

The aim of this article is to present the possible strategies, which can be used by resisting companies against hostile takeovers, and the assessment of their influence on a company in the context of restructurisa-

tion. The article consists of two parts. The first part is devoted to the theoretical aspects of hostile takeovers. In his part hostile takeovers are divided according to the aim of their realization. This part also presents market situations which are conducive to hostile takeovers. It aims at systematizing the defensive strategies against hostile takeovers and its influence on the process of restructuring of a company which is the target of a hostile takeover. This part of the article is a basis for the choice of examples from real economy, which constitute the second basic part of the article. The added value of the selected examples is the fact that each of them presents the process of a hostile takeover and defensive strategies at three totally different markets: the liberal American market, the conservative German market and at the developing Polish market. Each of the examples presents a company situation in different business sector, which chose different ways of defense against a hostile takeover. The last part of the article is devoted to the conclusions concerning restructuring results, which are related to different defensive strategies against hostile takeovers.

## **THEORETICAL BASIS OF THE PROCESS OF A HOSTILE TAKEOVER AT CAPITAL MARKETS**

A hostile takeover is a situation in purchase and sale transactions, which takes place against the will of the board of directors of a purchased company. This process takes place by transfer of shares of purchased company with the price higher than at the market or with additional bonus. One of the characteristic results of hostile takeovers is taking control over a company without the consent of the current board.<sup>1</sup> This process is known at foreign markets since the 1970s – especially at the American and British markets, which are characterized by well developed market economy sector. Hostile takeovers intensify especially when a situation of a company, which can be a target of a hostile takeover, is characterized by:

- dispersion of shares;
- dispersion of shares; domination of single, private shareholder;
- dispersion of shares; poor management, which results in its inefficiency;
- dispersion of shares; undervaluation of share price (which can be a result of bad management);
- dispersion of shares; low level of debt and/or high level of liquid assets.

Apart from the internal situation of a company, institutional environment of a company may be also conducive to the threat of hostile takeover. Among the most important elements are:

- dispersion of shares; liberal government policy concerning processes of capital concentration;
- dispersion of shares; no cultural barriers that are especially present in countries characterized by strong devotion to family property.

Hostile takeovers at the American and British markets are different than those at European or Japanese markets. Hostile takeovers are rarer at these markets, because there are organized entities with the majority of shares, like banks (Germany), governments (France, Austria) or families (Italy, Sweden) that have the control over public limited companies. It is also worth mentioning that in the European countries an important role in public limited companies is ascribed to local governments or members of labor unions. Despite the fact that such situation reduce the number of hostile takeovers, they are still present in Europe. What is more, because of the convergence of economic systems, which has intensified since the 1990s, attempts at hostile takeovers at the European markets are numerous.<sup>2</sup>

---

<sup>1</sup> J. Steinbacher, *Defense strategies against hostile takeovers. Emerging trends and developments of country-specific defense strategies against hostile takeovers*, Books on demand GmbH, Norderstedt Germany 2007, p. 6.

<sup>2</sup> M. Lewandowski, *Struktura rynku kapitałowego a fuzje i przejęcia przedsiębiorstw*, *Penetrator- Rynek Kapitałowy*, 4/98, p. 77, from M. Lewandowski, *Fuzje i przejęcia w Polsce*, WIG-Press Warszawa 2001, p. 73.

From the theoretical point of view, it is assumed that the main objective of a company's activity is the maximization of profit or maximization of value for the shareholders (in case of market companies). Because of that, it should be assumed that the main objective of every takeover is the increase of company's value – both bidder and attacked company. The positive aspects of a takeover reveals in the increased activity of a company and in the rising profits. When a takeover concerns companies producing similar goods or services, the main objective is accomplished by the increase in market share, synergy effect and scale effect – such takeover is called *horizontal integration*. There is also *vertical integration*, when one company takes over its former. A good example of *vertical integration* is taking over a distributor or supplier, which enables a company to take control over the whole production process.

From the technical point of view, the easiest and the most popular way of hostile takeover is buying company's shares from its single and unassociated shareholders, what means that there is no need for the contact with the board. Such situation frequently takes place when the target of a takeover is a poorly managed company with overpaid management unwilling to negotiate selling of shares or changing the ownership. The company interested in buying shares announces publicly (to the owners of all shares of a company) its willingness to buy shares. Such an announcement is comprised of:

- dispersion of shares; invitation for shareholders to offer their shares;
- dispersion of shares; guarantee of paying bonus over present market value of shares only when they are bought;
- dispersion of shares; reservation concerning buying shares from their present owners only when their amount guarantees their future owner voting control.<sup>3</sup>

Taking control over a company is confirmed when the purchase is coming into effect and a new owner has controlling interest. Controlling interest is such an amount of shares of a company which is needed to get the majority of votes during annual general meeting. This number is between 25 and 51% of all shares.

The above process of a hostile takeover is characteristic to the situation when the attacking company has a lot of financial resources for such an investment and wants to conduct it in relatively short time. A different way of hostile takeover is to gradually and systematically buy shares at a market price. A company does not have to invest so much money as in the situation described above (saving bonus over market price) but in such case the process of buying shares lasts longer. The early process of taking control over a company is very difficult to detect. It is because of the act of public sales of securities which does not require to reveal information about buyers of shares until they get 5% of it. After that moment future buying of shares becomes more difficult as its board can interpret buyers' intentions and foresee their will to take over a company. As the realization of this strategy is difficult, it is needed to create a syndicate of several independent companies which will buy shares on their own.<sup>4</sup>

When the process of *hostile takeover* is finished, an acquired company undergoes a number of changes imposed by new owners. They restructure the company (or some of its elements) and they change the board in order to improve the efficiency of the whole company.

Summing up the characteristics of a hostile takeover, it is important to add that takeovers thought to be hostile may become friendly processes realized by mutual agreement during negotiations between boards of two companies. From this point of view, the main characteristic of a hostile takeover is situation when an attack company has to defend its sovereignty - process called *defended takeover*.<sup>5</sup> What is more, while distinguishing hostile and friendly takeovers it is indispensable to add that they differ significantly from the

<sup>3</sup> W. J. Carney, *Mergers and acquisitions. Essentials*, Aspen Publishers New York 2009, p. 25-26.

<sup>4</sup> P. A. Gaughan, *Mergers, acquisitions and corporate restructuring*, John Wiley & Sons, Inc., New Jersey 2007, p. 234-236.

<sup>5</sup> C. Podsiadlik, *Wrogie przejęcia*, LexisNexis, Warszawa 2003, p 3. from A. Szymańczyk, *Przyczyny przejęć kapitałowych i prawne sposoby ich zapobieganiu*, e-Finanse, finansowy kwartalnik internetowy.

point of view of their purpose. The purpose of friendly takeover is to get profits from the synergy effect while the purpose of hostile takeovers is the increase of competitiveness and satisfaction of investment needs of the attacking company. However, every takeover imposes the restructuring process of an acquired company, change of its present board and increase of profitability.

## DEFENSIVE STRATEGIES IN THE PROCESS OF A HOSTILE TAKEOVER

In the situation when a company wants to conduct a hostile takeover there are three potential scenarios. In the first one, the attacked company takes up defensive activity which is inefficient and the company is taken over. In the second scenario, the attacked and attacking companies are merged. Such situation takes place when the boards of two companies decide to make an agreement and create a vision of new economic structure. The attacked company does not defend itself any longer and their agreement leads to a merger of two companies. In the last scenario, an attacked company takes up defensive activity which helps to avoid hostile takeover by convincing current shareholders not to sell their shares. The last scenario assumes that the restructuring attempts of current board was approved by the current shareholders, who are not willing to change the governing board by selling their shares. What is important is the fact that not all possible defensive strategies lead to the restructuring of a company and the increase of its efficiency. Nevertheless, before assessing those strategies, it is indispensable to define the defensive strategies of resisting companies.

Methods of defense against a hostile takeover are divided into two basic groups: *preventive actions* deterring potential buyers and *counteractions* undertaken after receiving takeover bid. In both cases the intention of the board is to convince current shareholders to maintain *status quo* by making a company more interesting to its current shareholders or by increasing the costs of potential takeover and making a company less attractive to the attacking companies. The most frequently used defensive strategies comprise:<sup>6</sup>

1. Clauses in the articles of association, present before takeover offer:
  - *Staggered board*. In this case the board is divided into three groups. Every year only one of them is elected, which prevents immediate taking control of a company even in a situation of buying controlling interest;
  - *Supermajority*. It requires qualified majority vote (majority over 50%, e.g. 60%) in order to confirm a takeover by another company;
  - *Fair price*. This is a record requiring all the companies making takeover offers to pay the shareholders at least „fair price” defined earlier, e.g. as the highest price paid by an investor for the shares of a bought company recently.
2. Counteractions undertaken when the takeover offer is made:
  - Maintaining current shareholders’ support by sending special requests or by organizing the meetings with the most important shareholders;
  - *Lobbying*. Organizing the media campaign against a hostile takeover;
  - *Pacman defence*. Buyout of shares of attacking company in order to take control over it;
  - *Greenmail*. The company that defend itself against a hostile takeover buys its shares from the attacking company at a very high price with bonus. In Poland such trade has been illegal since 1934. Companies can have or buy their own shares only in order to amortize them<sup>7</sup>;
  - Restructuring of assets. It encompasses selling key company’s assets, buying assets unwanted by a buying company and paying additional dividend.

<sup>6</sup> M. Lewandowski, *Fuzje i przejęcia w Polsce*, WIG-Press Warszawa 2001, p. 77-79.

<sup>7</sup> Dz. U. UE L.77.26.1 from 31.01.1977 .

Over the last three decades, ways of defending against a hostile takeover have been modified. Strategies have changed because of changes in legislative system, which made those strategies inefficient or even illegal in the light of the new law. The best example of such situation is *poison pill* strategy. *Poison pill* strategy concerns actions heading for high indebtedness when a company is under threat of unwanted takeover. This method emerged in the 1980s, when the number of hostile takeovers at the American market increased rapidly. *Poison pill* strategy comprises actions as incurring high debts with high rate of interest which have to be paid immediately at the moment of a takeover by another company or granting the board of the company high severance pays in the situation of a hostile takeover and personal changes. It is so called *golden parachute*. Such practices were applied till the 1990s. After that time they were discredited by the court, and companies which applied them were disapproved of. Nowadays *poison pill* strategies are used undoubtedly more rarely.<sup>8</sup>

In case of defense against a hostile takeover, there is another interesting strategy involving the intervention of “white knight” called *white knight* strategy<sup>9</sup>. “White knight” is a company which helps a company which is a target of a takeover by buying its shares without any intention of acting against its board. Transaction of buying shares is made with consent of the board of acquired company on favorable conditions. At the moment of taking control over controlling interest, “white knight” makes a hostile takeover impossible. After getting control over a company there are no personal changes and the current board maintains its power and control over a company, as was arranged earlier. Searching for “white knight” is making friendly investors offers of buying shares. These friendly investors are most frequently companies from the same business. Such actions are treated as a last resort for attacked companies and they are very rare<sup>10</sup>.

## SELECTED EXAMPLES OF HOSTILE TAKEOVERS AT FOREIGN CAPITAL MARKETS

### Krupp-Hoesch and Thyssen – merger at conservative market

Situation between German companies Krupp-Hoesch and Thyssen exemplifies an attempt at hostile takeover which ended in a way that no company could predict. This case took place in 1997, when metallurgical-machine concern Krupp-Hoesch announced its intention to take over Thyssen company – much bigger and profitable than Krupp-Hoesch (in 1996 Krupp-Hoesch sales were 24 billions DEM and Thyssen 41 billions DEM). Nevertheless, financial analyses showed that such a takeover was profitable from economic point of view. Also specialists issued opinions that such a takeover was profitable as two companies’ product portfolios were complementary. When organizing a hostile takeover, president of Krupp-Hoesch was in cooperation with entities fully responsible for financing the transaction. Shares of Thyssen company were dispersed, which made a takeover easier. Because of the offer directed to the shareholders of Thyssen, Krupp could get even 30% shares of attacked company. Conflict between two companies escalated in media led to numerous protests near the headquarters of those two companies. People who manifested were mainly employees who were afraid of redundancies. Social objection to the hostile takeover affected mainly Krupp-

<sup>8</sup> R. F. Bruner, *Applied mergers & acquisitions*, John Wiley & Sons, Inc., New Jersey 2004, p. 837-840.

<sup>9</sup> The first intervention of “white knight” was recorded in 1953, when one company – *United Paramount Theater* bought a bankrupt broadcasting company – *American Broadcasting Company (ABC)*. This incident was the beginning of „white knights” actions at capital markets.

<sup>10</sup> P. A. Gaughan, *Mergers, acquisitions and corporate restructuring*, John Wiley & Sons, Inc., New Jersey 2007, p. 205.

Hoesch company and companies which supported it. Banks which supported this hostile takeover lost many clients – the majority of protesting employees closed their accounts there. The attempt at the hostile takeover was so serious that even politicians got involved. In 1997 4,7 million people in Germany were unemployed, so the concern for workplace was serious at that time.

This situation strongly affected the decision of Krupp company, which finally withdrew its offer of buying shares of Thyssen from its shareholders. Earlier attempts at the hostile takeover of Thyssen evolved into a dialogue between the boards of two companies. After reaching an agreement, cooperation took place. They merged metallurgical sections of Krupp and Thyssen. Merged sections (Thyssen Krupp Stahl AG) begun to operate in September 1997. This was a basis for a merger of whole companies, which took place at the beginning of 1998. From that time the entity is known as ThyssenKrupp. The reduction of workforce was minimal at that time, which prevented future protests. The problem was rather who will be the leader of a new company. The head was the president of Krupp and the manager of new company Thyssen Krupp Stahl AG.<sup>11</sup> Nowadays ThyssenKrupp is one of the biggest metallurgical concerns. By employing 200 000 workers the company generates sales at a level of 53 billion EUR<sup>12</sup> (increase of summed sales of two companies in 1996 by 37%<sup>13</sup>).

#### Gillette – preventive actions and effective counteractions

Example of Gillette company shows how the biggest producer of blades defended itself effectively against attempts at a hostile takeovers in the 1980s. In spite of having in 1985 in its product portfolio brands like Brown, Oral-B and Waterman and shares of the company increasing, business press, especially Wall Street Journal and Forbes signalized its susceptibility to a potential takeover.<sup>14</sup> There was an attempt at taking over Gillette for 4,12 billion USD in November 1986. Its initiator was president of Revlon Corporation, who had 9,2 billion shares of Gillette and decided to buyout the rest of the company by offering its shareholders a significant bonus over the current price of shares. Revlon company was to offer the buyout of shares of Gillette at 65 USD for each of them, while the current price was 58,25 USD (11.1986). After negotiations with the board of Gillette, two companies entered into agreement. The attacked company decided to buy its own shares for 558 billion USD, which gave the president of Revlon 43-million profit. This sort of greenmail was the last chance for the board of Gillette company. In return for the paid bonus, Revlon agreed to sign an agreement with Gillette (*standstill agreement*), in which it was obliged not to buyout the shares of Gillette without a consent of its board (by any of its companies). Greenmail included also the bank representing Revlon company, which obtained from Gillette 1,75 billion USD in exchange of its refusal of undertaking any potential takeovers of Gillette in the future. This agreement was valid for 3 years. Gillette decided to undertake such actions because this bank, by being aware of Gillette's weaknesses and sensitivities, could easily find another buyer.<sup>15</sup>

The board of Gillette company changed many things in order to avoid future attempts at a hostile takeover. The first one was the reduction of costs and resignation of the less profitable enterprises, which made the company more efficient. Staggered board was introduced in the company, so the current board could retain its control, even in the situation of a hostile takeover. In 1986 the board of Gillette included 12

<sup>11</sup> M. Fijałkowski, *Hutnicza fuzja Krupp/Thyssen*, Zarządzanie na Świecie, red., wyd. M. Fijałkowski, 4/97, p. 7.

<sup>12</sup> Data from 2009. Wydział Promocji Handlu i Inwestycji Konsulatu Generalnego Rzeczypospolitej Polskiej w Kolonii, *Udana fuzja gigantów stalowych* (25.03.2009 r.), <http://kolonia.trade.gov.pl/de>, access: 25.08.2011 r.

<sup>13</sup> German Mark was preplaced by euro on the 1 of January 2002 (1,96 mark for 1 euro).

<sup>14</sup> R. Ricardo-Campbell, *Resisting hostile takeovers. The Case of Gillette*, Praeger Publishers, Westport 1997, p. 84.

<sup>15</sup> P. A. Gaughan, *Mergers, acquisitions and corporate restructuring*, John Wiley & Sons, Inc., New Jersey 2007, p. 204.

members and every year four of them were changed. In his way each of the members took 3-year tenure and taking control over the company (getting majority in the board) had to take at least 2 years.

In June 1987 the president of Revlon made the board of Gillette company another offer. This time it was 4,8 billion USD for the whole company. Despite the fact that his offer was far more profitable than the previous one, the board of Gillette, after meetings, turned it down as well. Revlon's action was considered as renege of the previous agreement. Gillette's lawyers referred to the precedent from Pennsylvania from 1985, when the standstill agreement was held.<sup>16</sup>

While presenting the agreement with Revlon Corporation as a means of guarantee of company's security, it is important to add that it was not the only standstill agreement signed by Gillette under pressure of a hostile takeover. In 1987 an attorney of Coniston Partners company – the biggest shareholder of Gillette revealed the identity of all 10 companies, which signed agreements with Gillette in 1986. These were: Ralston Prina, Anheuser-Busch, PepsiCo, Metromedia, Citicorp Industrial Corporation, Kidder, Peabody, Kolberg Kravis & Roberts, Forstmann Littre and Colgate Palmolive (the last one signed an agreement with Gillette one year later). The concluded standstill agreements forbid any actions of takeover of Gillette and were valid for 2 years. The payment for the agreements was secret financial information about the company. Without the threat of takeovers, Gillette was developing till 2005 when it was bought by Protect & Gamble company.<sup>17</sup>

### W. Kruk and Vistula – the first attempts at a hostile takeover at Polish capital market

Attempts at hostile takeovers have taken place at Polish capital market as well. The first one was unsuccessful takeover of BIG Bank Gdanski by Deutsche Bank in 2000. The reason of failure was the intercession of the Polish president. The first effective hostile takeover took place at Warsaw stock exchange later. In May 2008 a company from clothing industry Vistula & Wolczanka SA announced its plan to take over jeweler's company from Poznan – W. Kruk SA.

W. Kruk company, being a family company from 1840 has always been in jeweler's business. In the 1970s Wojciech Kruk became its owner, who significantly developed this company. From 1993 venture capital from the US was invested in W. Kruk company, which led to developing the chain of shops to 80 and let buy a new brand – Deni Cler producing ladies' wear. In 2002 Kruk debuted at stock exchange, what caused the decrease of shares of the main owner – W. Kruk to 22%. Nevertheless, he was still an unquestionable decision-maker in this company. A year before the market attack on the jeweler from Poznan, W. Kruk generated 167 million income PLN (19 millions net profit PLN), capitalization was estimated at 433 million PLN and in this company worked 50 goldsmiths.<sup>18</sup>

The attacking side was represented by the president of Vistula & Wolczanka (V&W) company – Rafal Bauer, who planned to take over W. Kruk company for 2 years. The president of V&W was present at Polish capital market from the 1990s. In 2004 he was made a president of clothing company – Wolczanka, which was then out of condition. Till 2006 he succeeded at revitalizing the company and merged it with a producer of men's wear – Vistula. Because of complementary products of Vistula i Wolczanka the merger turned out to be a profitable solution to both companies. The new company, headed by R. Bauer significantly developed

---

<sup>16</sup> The New York Times, *Talking Deals; Gillette Testing Standstill Pact*, Published 25.06.1987, <http://www.nytimes.com/1987/06/25/business/talking-deals-gillette-testing-standstill-pact.html?src=pm>, access: 29.08.2011.

<sup>17</sup> A. L. Cowan, *10 Parties In Standstill Deals With Gillette Are Disclosed*, The New York Times, Published 25.06.1988, <http://www.nytimes.com/1988/06/25/business/10-parties-in-standstill-deals-with-gillette-are-disclosed.html?src=pm> access: 29.08.2011.

<sup>18</sup> Interview with W. Kruk, <http://ceo.cxo.pl/artykuly/59338/Wrogie.przejecia.html>, access: 30.08.2011.

its activity and made numerous investments, e.g. purchase of Galeria Centrum (shopping center). A year before the attack on W. Kruk, Vistula & Wolczanka generated 411 million PLN income and its capitalization was at 702 million PLN.

At the beginning of May 2008 Vistula & Wolczanka company, according to market procedures, made an announcement to the shareholders of W. Kruk to sell the possessed shares. As it was mentioned earlier, this takeover was initiated by the president of V&W R. Bauer. His idea was supported by many analysts, who estimated products of two companies as competing luxurious goods which can complement each other. V&W obliged to buy from 51 to 66% of shares of jeweler from Poznan. It was estimated that getting 2/3 of shares of his company cost 298 million PLN, which was 42% of capitalization of V&W. The registration for shares were to be made in May 2008 and R. Bauer was willing to buy each of them for 23,7 PLN, which was more than the current market price of these shares.<sup>19</sup>

W. Kruk company decided unanimously to defend itself, justifying that a family company with traditions will do better on its own than as a part of a bigger entity. After several days of the announcement of Vistula, W. Kruk SA appealed to its shareholders not to react to Vistula's offer. The main argument was potential withdrawal of suppliers who might break off cooperation if Kruk family withdrew their name and their shares. In response, the board of Vistula & Wolczanka SA promised reduction of logistic costs because of location of shops in the same cities. Even the meeting of presidents of two companies turned out to be futile. This conflict of interest seemed to be intractable.

Kruk took into consideration various methods of defense. The first one was medial defense. W. Kruk employed PR agency. The next step was a counterappeal for shares, but his method turned out to be too costly after thorough analyses. It was not only about the costs of bank loans, but also costs related to further possibility of establishing higher price by R. Bauer. The last action undertaken by W. Kruk was to attract Italian jeweler company, but a two-week deadline excluded technically the possibility of getting foreign capital. In order to increase the probability of finalization of transaction, V&W increased its offered price to 24,5 PLN for each share of W. Kruk. In his situation W. Kruk predicted the reaction of undecided investment funds, which had 40% shares in his company. Admitting his defeat, he sold 3 560 118 of his own shares, decreasing his share in company's capital to 3%.

Vistula & Wolczanka company bought 66% of shares of W. Kruk SA and became its main shareholder. To buy Kruk, it took up 250 million PLN credit, which affected the share price of V&W. W. Kruk made use of his situation and bought 5,05% of shares of Vistula & Wolczanka SA, using financial means from selling his own shares (87 million PLN). Because shares of V&W were dispersed, deciding vote belonged to insurance company, which was the main investor (18% of shares).<sup>20</sup> W. Kruk signed agreement with the main investor and made a new deal in V&W company.

In June 2008 General Assembly of Vistula & Wolczanka dismissed almost every member of the current board. It appointed attorney of Kruk family and representatives of investment funds. R. Bauer handled in his resignation, which was accepted by the board. During Extraordinary General Assembly of Shareholders a new board was presented. Changes were introduced to the board – W. Kruk became its president while his trusted co-workers became other members of the board. Companies of Kruk family bought 412 951 shares of W. Kruk SA, increasing their share in company to 7,18%.

<sup>19</sup> *Historia pierwszego w Polsce wrogiego przejęcia*, <http://msp.nf.pl/Artykul/11242/Historia-pierwszego-w-Polsce-wrogiego-przejecia-W-Kruk-SA-Vistula-Wolczanka-SA/fuzje-i-przejecia-Kruk-strategia-przejecia-Vistula-Wolczanka-SA/>, access: 01.09.2011.

<sup>20</sup> M. Książdźyna, *Biały Kruk – jak mały wykupił dużego*, <http://www.topmenedzer.pl/2008/08/case-study-bialy-kruk/>, access: 01.09.2011.

Nowadays Vistula Group S.A is devoted to develop its four brands: Vistula, Wolczanka, W. Kruk and Deni Cler. It has 242 shops (including: 71 shops of Vistula, 71 shops of W.Kruk, 70 shops of Wolczanka and 30 shops of Deni Cler Milano).<sup>21</sup>

## CONCLUSION

On the basis of selected case studies, it is possible to note that not every attempt at a hostile takeover ends up as taking control over an attacked company. Final effect depends mainly on two factors: current legal and economic situation at the market and defensive strategy applied by a resisting company. The selected case studies showed how important was the surrounding of a hostile takeover. The example of Krupp-Hoesch and Thyssen is characteristic to the conservative capital market (European), where there is no social consent for hostile takeovers as it is at the liberal American market (example of Gillette). However, it is important to stress that hostile takeovers are legal but against business ethic, and that is why they are perceived ambiguously. Completely different example is Kruk and Vistula, mainly because of relatively short history of hostile takeovers at the Polish capital market. Because of insignificant experience of participants of the Polish capital market in hostile takeovers example of Kruk and Vistula was treated in special way, by devoting more attention to it.

In every of the described case study the effect was completely different. In the example of Krupp-Hoesch and Thyssen, the process of the hostile takeover turned to a merger, while the example of Gillette showed how defensive strategies can be applied successfully (effective in the 1980s and 1990s). In the Polish example the hostile takeover took place, but because of the application of pac-man strategy by W. Kruk, he was able to take over the power in the attacking company.

On the basis of these examples, it can be stated that an effective defensive strategy against a hostile takeover at the conservative capital markets is PR campaign, mainly because of the way hostile takeovers are perceived there. At the liberal capital markets the best defensive strategy seems to be standstill agreement strategy and restructuring, which will make the resisting company a difficult aim. In the case of the Polish takeover of W. Kruk, PR campaign was ineffective, probably because of the lack of established social opinion. The Polish capital market is developing and it is still unclear whether it becomes liberal or conservative capital market.

Summing up the impact of hostile takeovers on functioning of companies, it should be acknowledged that they are costly operation for both attacking and the resisting sides. However, it could be assumed that high expenditures usually lead to higher future profits. In case of finishing a hostile takeover, the benefit of an attacking company is the development of the whole company. So, it can be treated as an investment. A takeover imposes restructuring process upon a new company. Also a threatened company has to conduct restructuring. If defensive changes against a hostile takeover are made effectively, it can save a company and enable it to develop – as it was in the Gillette example. In the opposite situation, a hostile takeover is finalized and restructuring process is conducted by a new owner. In both cases the quality of a company's management improves.

In the long run one can perceive hostile takeover process in a very positive sense. It usually forces companies to make improvements and the quality of companies at the market upgrades. Weak, inert and badly managed companies are taken by stronger companies, which results in their further development. From the point of view of the whole capital market, hostile takeovers and their effects should be assessed in a positive

---

<sup>21</sup> <http://www.vistulagroup.pl/informacje-o-firmie/> and <http://www.vistulagroup.pl/relacje-inwestorskie/akcjonariusze>, access: 01.09.2011.

way. Moreover, there is no surprise that legal changes are focused on preventing and forbidding some defensive strategies, which lead only to maintain the control of current board and which do not lead to the restructuring of a company. Such strategies are those which put company into debt (*poison pill* and *golden parachute*) or cause such changes in the assets, which deters potential aggressors. Such change is detrimental to present shareholders, because shareholder's value should be the main goal of every public limited company.

## REFERENCES

- Bruner R. F. (2004), *Applied mergers & acquisitions*, John Wiley & Sons, Inc., New Jersey.
- Carney W. J. (2009), *Mergers and acquisitions. Essentials*, Aspen Publishers New York.
- Cowan A. L. (1988) 10 Parties In Standstill Deals With Gillette Are Disclosed, The New York Times.
- Fijałkowski M., *Hutnicza fuzja Krupp/Thyssen*, Zarządzanie na Świecie, red. M. Fijałkowski.
- Gaughan P. A. (2007), *Mergers, acquisitions and corporate restructuring*, John Wiley & Sons, Inc., New Jersey.
- Lewandowski M. (2001), *Fuzje i przejęcia w Polsce*, WIG-Press Warszawa.
- Ricardo-Campbell R. (1997), *Resisting hostile takeovers. The Case of Gillette*, Praeger Publishers, Westport.
- Steinbacher J. (2007), *Defense strategies against hostile takeovers. Emerging trends and developments of country-specific defense strategies against hostile takeovers*, Books on demand GmbH, Norderstedt Germany.
- Szymańczyk A., *Przyczyny przejęć kapitałowych i prawne sposoby ich zapobieganiu*, e-Finanse

## OTHER SOURCES

- [ceo.cxo.pl/artykuly/59338/Wrogie.przejecia.html](http://ceo.cxo.pl/artykuly/59338/Wrogie.przejecia.html)
- [kolonia.trade.gov.pl/de](http://kolonia.trade.gov.pl/de)
- [msp.nf.pl/Artykul/11242/Historia-pierwszego-w-Polsce-wrogiego-przejecia-W-Kruk-SA-Vistula-Wolczanka-SA/fuzje-i-przejecia-Kruk-strategia-przejecia-Vistula-Wolczanka-SA/](http://msp.nf.pl/Artykul/11242/Historia-pierwszego-w-Polsce-wrogiego-przejecia-W-Kruk-SA-Vistula-Wolczanka-SA/fuzje-i-przejecia-Kruk-strategia-przejecia-Vistula-Wolczanka-SA/)
- [nytimes.com/1987/06/25/business/talking-deals-gillette-testing-standstill-pact.html?src=pm](http://nytimes.com/1987/06/25/business/talking-deals-gillette-testing-standstill-pact.html?src=pm)
- [topmenedzer.pl/2008/08/case-study-bialy-kruk/](http://topmenedzer.pl/2008/08/case-study-bialy-kruk/)
- [vistulagroup.pl/informacje-o-firmie/](http://vistulagroup.pl/informacje-o-firmie/)
- [vistulagroup.pl/relacje-inwestorskie/akcjonariusze](http://vistulagroup.pl/relacje-inwestorskie/akcjonariusze)