



**Hostile Takeover Landscape: Analysing Cultural and
Regulatory Differences, Corporate Governance and Ownership
Structures in Sweden and the US**

Interpreting the Twitter takeover from a Swedish perspective

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ABSTRACT

This thesis aims to provide a comprehensive analysis of the cultural, regulatory, corporate, and ownership structure approaches to hostile takeovers in Sweden and the United States. It focuses on the recent Twitter takeover as a case study from a Swedish perspective, as it is a relevant example of the larger landscape of hostile takeovers. Our aim is to identify the challenges and opportunities faced by companies involved in hostile takeovers, providing insights that will inform corporate managers and policy debates on corporate governance, regulation, and investor protection. In order to examine this topic, we conducted qualitative interviews with lawyers and analysts from Sweden and the US as the primary research method to collect data. We found that the US has a higher occurrence of hostile takeovers than Sweden, which can be attributed to the more cut-throat market where shareholder activism is much more prevalent. Additionally, regulatory factors such as the fair treatment principle and corporate governance factors, especially the dual share structures, have resulted in higher voting power and more concentrated ownership that avoids dispersed voices and directionless ownership. Moreover, we identify a high level of shareholder protection in Sweden, where family-owned companies are more concerned with long-term investments and not usually interested in short-term gains, which has played a role in the less occurrence of takeovers in the country. The research findings demonstrate the need for companies to adopt proactive long-term planning, communication and transparency measures to avoid being the target of hostile bids and provide valuable insights for policymakers, corporate managers, and shareholders who aim to improve investor protection and corporate governance in the context of hostile takeovers.

Tutor: Dong Yan

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1.Introduction

Corporate takeovers are complex events that involve significant financial and strategic considerations. Hostile takeovers, in particular, are contentious because they occur against the wishes of the target company's board of directors, often leading to legal battles, regulatory scrutiny, and public outcry (Franks & Mayer, 1996). They can hence have far-reaching implications for the target company's shareholders, employees, and customers, as well as for the wider business environment.

According to Grinblatt & Titman (2002), an acquisition can be either friendly or hostile. A friendly takeover usually involves the acquiring company directly approaching the management or board of directors of the target company, and in most cases, welcoming the proposal with open arms. However, not all target companies are enthusiastic about being acquired, and this can lead to a hostile takeover bid by the acquiring company. In a hostile takeover bid, the acquiring company often goes over the target company's management and approaches its shareholders directly with a tender offer to purchase their shares. A tender offer is a proposal to buy a specific number of shares at a fixed price on a specific date. While tender offers are commonly associated with hostile takeovers, they can also be used in friendly takeovers when the target company's management has already given their approval before presenting it to shareholders.

To illustrate the different dynamics of hostile takeovers in these two countries, this paper will use the Twitter takeover as a case study from a Swedish interpretation. The Twitter takeover was a high-profile hostile takeover by the South-African-born entrepreneur and inventor Elon Musk, in 2022. Our case analysis and interpretations highlight the differences in cultural, regulatory and corporate structure approaches to hostile takeovers between Sweden and the United States. Hence this paper aims to provide insights into the challenges and opportunities that companies face in the context of hostile takeovers and to inform corporate managers and policy debates around corporate governance, regulation, and investor protection. This paper aims to contribute to a deeper understanding of the landscape of hostile takeovers and their implications for companies, shareholders, employees, and customers.

The findings of this study on the hostile takeover landscape will have significant implications for various stakeholders, including investors, legal practitioners, and policy-makers. It provides valuable insights into the legal and regulatory differences, and ownership structures of hostile takeovers in Sweden and the US, which is essential for investors seeking to make informed investment decisions in these regions. Moreover, we examine the benefits and strategies of hostile takeovers, regulations, trends, and factors affecting the landscape of hostile takeovers in the US and Sweden, which provide practical knowledge for legal practitioners and policy-makers. By understanding the intricacies of hostile takeovers in these countries, the former can offer informed advice to their clients while the latter can make evidence-based decisions that protect the interests of all stakeholders. Additionally, the Twitter case study provides a practical application of the theoretical knowledge gained from our research. Besides, the analysis offers insights into the negotiation tactics, board resistance, and ethical considerations of a hostile takeover, which are beneficial to investors and legal practitioners. Finally, the interviews' insights into the industry experts' perspectives on hostile takeovers will add to the existing knowledge on the subject and provide practical implications for businesses operating in the US and Sweden. Our contributions will thus help businesses better understand the dynamics of the hostile takeover landscape and make informed decisions that benefit all stakeholders involved.

For this study, we used qualitative interviews with lawyers and analysts from Sweden and the US as our research method. We acknowledge that relying on these interviews means that the participants could have personal biases and opinions that could affect the data collected. However, we made sure to ask neutral and unbiased questions and compare the responses to existing literature and data to mitigate this limitation. Our case study focused on Twitter, which we believe is a great and up-to-date representative example of the larger landscape of hostile takeovers. Nevertheless, our findings may not be generalizable to other countries due to our narrow focus.

Our study consists of several chapters that each serve a specific purpose. In Chapter 1, we provide an overview of the research purpose and outline the expected contributions of the study. We will also discuss the delimitations and limitations of the research. Chapter 2 reviews the previous literature and provides a theoretical background

that explores the strategies of takeovers, regulations, trends, and factors affecting the landscape of hostile takeovers in Sweden and the US, as well as the cultural and social implications. Chapter 3 presents our methodology, including research design, data collection and specifications. Chapter 4 focuses on the Twitter case study, which will provide background information on the company, a quantitative analysis of financials, and a discussion of the negotiation tactics, board resistance, and other relevant factors. In Chapter 5, we discuss the insights of industry experts who have experience with hostile takeovers in both Sweden and the US. Chapter 6 summarises the main findings and implications of our study for future research and businesses operating in Sweden and the US. Our thesis serves several purposes, including determining the impacts of the regulatory environment on the takeover process and the parties involved, with a focus on cultural and regulatory differences between Sweden and the US. Additionally, we aim to extend the case-specific view by analysing the hostile takeover process in general and identifying regulatory features that can result in severe negative impacts on the merger parties. Finally, our thesis aims to provide the Department of Finance at the Stockholm School of Economics with the basis for creating a case study as teaching material in the area of Mergers and Acquisitions (M&A), which may exceed the scope of our research topic.

2. Literature Review and Theoretical Background

2.1 Overview of Corporate Takeovers

In the disciplinary view of corporate takeovers, companies that are targets of takeovers are seen as cases where internal governance mechanisms have failed (Walsh and Kosnik, 1993). In such cases, a change in management resulting from the takeover can help replace underperforming managers who fail to serve the interests of shareholders with new managers who are expected to create more value for the company (Varian, 1988).

Across the world, different factors influence the occurrence and success of corporate takeovers. With a focus on comparing the US and Sweden, some of these factors are considered below.

2.2 Culture and Takeovers

Culture plays a significant role in shaping fundamental economic decision-making. According to Hofstede (2001), cultural context heavily influences individuals' choices. Studies by Licht et al. (2005) and Doidge et al. (2007) demonstrate that culture also impacts the corporate governance structure of firms within a country. Additionally, Siegel et al. (2011) found that a society's culture influences international investment flows. These findings underscore the importance of considering cultural factors when analysing economic decision-making processes in both domestic and international contexts.

Some of the differences between the Swedish and American cultures are described below.

Individualism vs Blending-in: Being a melting pot of different cultures, the United States of America (USA) is rooted in the American Dream and often emphasises individual goals and freedom over collective gain (Trompenaars and Hampden-Turner, 2011). Right from childhood, Americans are positively disposed towards competition and the free market. This mindset focused on excelling and celebrating achievements is correlated with the significantly higher number of hours Americans spend at work compared to residents of other developed countries (Robinson, 2003). In contrast, Swedish culture is rooted in the informal *Law of Jante* that focuses on the collective over the individual. In Sweden and the Scandinavian region, organisational success is prioritised over personal achievements. This is also reflected in the prioritisation of work-life balance over longer working hours as in the US.

Leadership style: Workplaces in Sweden are perceived as non-hierarchical and rely less on authority. Instead, leaders tend to emphasise participation, empowerment, and consensus-building. A consequence of these characteristics is that Swedes and Scandinavians prefer to be careful and systematic in their problem-solving and decision-making, which outsiders view as indecisiveness. Although American leaders also encourage participation, they have a higher tendency to make decisions without input from their peers, especially when there is a short timeline (Bjerke, 2001).

In individualistic societies like the US, overconfidence can lead to management entrenchment, while the competitive nature of the society can result in corrective takeovers. Volkema's (2004) research suggests that higher scores on Hofstede's (2001) individuality measure are associated with assertive and forceful behaviour in competitive situations. Therefore, it is reasonable to assume that American culture, which values individualism highly, is associated with a higher occurrence of takeovers, including hostile takeovers. In non-hierarchical cultures like Sweden, consensus-building may be viewed as a demonstration of loyalty, potentially leading to a preference for friendly takeovers as opposed to hostile ones.

2.3 Regulations and Takeovers

2.3.1 Overview of the Regulatory Environment in the USA

More than in other countries, the legal and regulatory environment in the US has been more permissive for hostile takeovers. In 1968, the Williams Act was introduced to, among other reasons, protect individual shareholder interests as the wave of hostile takeover attempts with cash tender offers increased. The cash tender offers forced shareholders to decide on their holdings within relatively shorter timelines, resulting in less informed decisions (Harvard Law, 2011). The Act also made it harder for hostile takeovers to succeed because it imposes some minimal requirements on both the courts of the State of Delaware and state antitakeover statutes, allowing management teams of US firms to engage in defensive tactics.

Some of the important provisions of the Williams Act include

- 1) **Disclosure requirements:** The Act mandates bidders to disclose certain information to shareholders, including their identity, the terms of the tender offer, and their plans

for the company. It requires any person or group acquiring 5% or more of a company's stock to disclose certain information to the Securities and Exchange Commission (SEC), the target company, and the stock exchanges on which the company is traded.

- 2) **Timing of the offer:** The bidder must keep the tender offer open for at least 20 business days, giving shareholders time to consider the offer.
- 3) **Equal treatment of shareholders:** The tender offer must be open to all shareholders, and the offer must be the same for all shareholders.
- 4) **Anti-fraud provisions:** The act includes provisions to prevent fraud and manipulation in the tender offer process, including insider trading and market manipulation rules.
- 5) **Remedies for non-compliance:** The act provides legal remedies for shareholders who are harmed by non-compliance with the law, including the ability to sue the bidder for damages.

Other relevant Federal statutes in the US are

- 1) **Securities Act of 1933 and The Securities and Exchange Act of 1934:** The 1933 Securities Act regulates the initial offering of stocks whereas the 1934 Securities and Exchange Act regulates the secondary sale. The 1933 Securities Act was made to ensure transparency in financial statements and was the first response to the 1929 crash. It aimed to make investors make informed decisions about investments and create laws against misrepresentation and fraudulent activities. The 1934 Act created the Securities and Exchange Commission (SEC) which serves to govern the securities exchanges and the rules that govern the registration and regulation of broker-dealers.
- 2) The Williams Act of 1968 is an amendment to The Securities and Exchange Act of 1934.
- 3) **Sarbanes-Oxley Act of 2002:** This was created in response to the Enron scandal in 2001. Its main goal is to protect investors by enhancing the accuracy and reliability of corporate disclosure to prevent fraud.
- 4) **Dodd-Frank Act of 2010:** This Act was a result of the 2008 housing crisis. The act prevents certain risk-taking activities within publicly traded companies. It allows for financial monitoring of the corporations that are “too big to fail”, and whose failure could have tremendous effects on the economy.
- 5) **Model Business Corporation Act and Revised Model Business Corporation Act (MBCA):** Promulgated in 1950, this is a model act to make the corporate law within

the United States more uniform. Many states have incorporated the MBCA. However, Delaware, where the majority of American countries are incorporated, is one of the states that have not ratified the MBCA except for a few similar provisions.

Many companies are incorporated in the state of Delaware because of the flexibility the state's laws offer. In Delaware State, Delaware General Corporation Law is important. It sets out the legal framework for Delaware corporations. This law includes mergers and acquisitions provisions and rules for shareholder approval of major decisions. Delaware has a specialised court system, the Delaware Chancery Court, which hears cases related to corporate law.

2.3.2 Overview of the Regulatory Environment in Sweden

As a civil law country, most of the laws in Sweden are found in different statutes. Alongside case laws, the initial proposal for the law, regulations, and directives from the European Union (EU) is also followed in Sweden because of the country's membership in the Union.

Some of the relevant laws in Sweden are outlined below:

- 1) **The Swedish Companies Act:** This act provides the legal framework for Swedish companies, including rules for mergers and acquisitions, and sets out the requirements for shareholder approval of major decisions, such as changes to the company's articles of association.
- 2) **The Swedish Securities Markets Act:** This act regulates the securities markets in Sweden, including the disclosure requirements for companies involved in a takeover bid, as well as rules for insider trading and market manipulation.
- 3) **The Takeover Rules:** These rules, established by the Swedish Corporate Governance Board, provide guidelines for the conduct of takeover bids in Sweden, including rules for the disclosure of information, the timing of the bid, and the treatment of shareholders.
- 4) **The EU Takeover Bid Directive (TBD):** One of the main goals of the Directive is the protection of minority shareholders in target companies from aggressive bidders and excessive antitakeover provisions that serve managerial entrenchment (Takeover Bid Directive 2004/25/EC).

- 5) **The EU Merger Regulation:** In cases where the companies involved in a takeover bid have a certain level of turnover in the European Union, the EU Merger Regulation may apply, and the European Commission may be involved in reviewing the proposed merger or acquisition.
- 6) **Nasdaq Stockholm Takeover Rules:** These Rules provide guidelines for the conduct of takeover bids for companies listed on the Nasdaq Stockholm exchange. They aim to ensure fairness and transparency in takeover bids for companies listed on the Nasdaq Stockholm exchange, while also providing protections for minority shareholders. Some key provisions of the rules include
- **Mandatory bid requirements:** If a bidder acquires more than 30% of the shares or voting rights in a listed company, the bidder must make a mandatory bid for all outstanding shares in the company.
 - **Disclosure requirements:** Bidders must disclose certain information about the takeover bid, including the bidder's identity, the terms of the bid, and the bidder's plans for the company.
 - **Equal treatment of shareholders:** The takeover bid must be conducted in a way that ensures equal treatment of all shareholders, and the offer must be the same for all shareholders.
 - **Timing of the bid:** The bidder must make the takeover bid in a timely manner, and the bid must be open for at least four weeks.
 - **Protection of minority shareholders:** The rules provide certain protections for minority shareholders, including the requirement that the bid must be accepted by at least nine-tenths of the outstanding shares in the company in order for the bidder to acquire full ownership.

2.4. Corporate Governance and Takeovers

2.4.1 Board Characteristics and Takeovers

Boards play a crucial role in the principal-agent context of companies, representing the interests of shareholders and ensuring that management acts in their best interest. Fama (1980) and Fama and Jensen (1983) suggest that boards are an important internal governance mechanism, while La Grange Mace (1986) questions their effectiveness as monitors due to CEOs dominating the director selection process. To effectively perform

their fiduciary duties, boards must have aligned interests with shareholders. When a board is ineffective in executing its duties it may result in high agency costs, making a takeover more appealing to bidders.

When considering hostile takeover attempts, factors such as board incentives (e.g., equity ownership in the target company), and the expertise and experience of board members are crucial. Fama (1980) argues that a director's involvement in other boards indicates their expertise, and directors who are not involved in other boards are viewed as less competent. Also, not having a substantial financial stake in the company or being appointed by management may lead to a misalignment with shareholders, limiting the board's ability to perform effectively. Shivdasani's (1993) study concludes that unaffiliated outside directors are effective in lowering the likelihood of hostile bids, particularly when they have high ownership and additional directorships.

2.4.2 Ownership Structure and Takeovers

Equity ownership in a company and its likelihood of being taken over can be viewed from different perspectives.

Companies with dispersed ownership structures are more vulnerable to hostile takeovers than those with a more concentrated ownership structure. With no single shareholder or group of shareholders with enough voting power to block a hostile takeover, hostile acquirers can accumulate a controlling stake in the company by purchasing shares on the open market or through a tender offer. Where there's concentrated ownership, block shareholders can block a hostile bid by refusing to sell their shares or by voting against the takeover proposal.

In situations where there are no clear ties to management, concentrated ownership of the equity could significantly raise the likelihood of a hostile takeover attempt. In contrast, blocks held by family trusts and relatives, company retirement plans, Employee Stock Ownership Plans (ESOPs), and corporations and institutions with business relations with management significantly lower the likelihood of a hostile takeover.

According to Shleifer and Vishny (1986), the probability of a takeover attempt is related to ownership by pre-existing block holders, holders of substantial shares, even if they do not themselves bid for the firm. Shleifer and Vishny demonstrate this in 3 ways

Informal negotiations with management - unless the large shareholder holds a controlling interest in the firm this means of monitoring is the least effective and is used to make relatively low-valued improvements. This is because the lack of a controlling interest limits the block holder's ability to oversee management's actions or because the monitoring entails the replacement of inefficient managers.

Acquisition of the firm - The greater the block holder's ownership, the larger the gains to any improvement realised on his holdings. This gives the block holder incentives to acquire and initiate improvements if the expected gains justify the cost of acquisition.

Facilitate takeovers by outsiders who have no initial holdings in the firm - Because pre-takeover trading increases the price of the firm's shares, it is cheaper for a bidder to acquire a block of shares from an existing large shareholder. In this manner, 'large shareholders can facilitate third-party takeovers by splitting the large gains into their own shares with the bidder' [Shleifer and Vishny (1986)].

2.4.3 Toeholds and Takeovers

A common action taken by the bidder to anticipate any takeover defence and gain more confidence in the negotiations is the toehold. A toehold refers to the acquisition of a small percentage of shares in a company by a potential acquirer before making a formal bid for the company (Singh, 1998). While toeholds can be beneficial for potential acquirers by providing them with greater bargaining power in takeover negotiations, they can also lead to the "owner's curse", where potential acquirers overpay for the target company due to a belief that the toehold will give them an advantage in the bidding process (Singh, 1998). The owner's curse can arise in situations where potential acquirers overestimate the benefits of holding a toehold. Shading, on the other hand, refers to the practice of a potential acquirer reducing their bid below their true valuation of the target firm in order to avoid overpaying due to the presence of a toehold held by another bidder. Singh argues that potential acquirers with a toehold may bid more aggressively and potentially overpay for the target firm due to their belief that the toehold gives them an advantage in the bidding process. On the other hand, potential acquirers without a toehold may shade their bids to avoid overpaying and to compete with the potentially more aggressive toehold bidder.

2.4.4 Dual Share Structure and Takeovers

In companies with a dual share structure, shareholders have different voting and cash flow rights based on the class of shares held. An example of this is Facebook where there are Class A and Class B shares. While both shareholder groups have voting rights, one share equals one vote for Class A shareholders while Class B shareholders have ten votes per share.

According to Howell (2017), this structure enables companies to enjoy the benefits of public ownership such as raising external capital and diversifying idiosyncratic risks while maintaining control and having a strong takeover defence. Specifically, firms with dual share structures and concentrated voting power have superior voting shareholders who gain significant bargaining power when faced with a tender offer. With higher bargaining power, shareholders who have concentrated voting power can significantly drive up the takeover premium and may eventually discourage the bidder (Comment and Schwert, 1995; Fischel, 1987; Smart and Zutter, 2003). With 66.1% of Swedish companies having a dual share structure in 1998 compared to 6.1% of American companies, data from Faccio and Lang (2002) reveals the prevalence of the dual-class share structure in Sweden. Family-controlled firms are the dominant organisational form in Sweden across businesses of different sizes and industries when not crowded out by the government. They generate more than a third of employment and GDP (Andersson et al., 2017). Although family-controlled firms have a higher hazard rate of take-over, the use of dual-class shares and firm leverage reduces the hazard rate of takeovers (Holmen and Nivorozhkin, 2007).

In the US, the differences in share structure have evolved. Beginning in the 1920s with a structure that permitted shares to be issued without voting rights, non-voting rights prohibitions led to a structure with shareholders owning classes of shares with different voting privileges, i.e., one class had less privilege than the other. In the 1980s, companies began to implement the dual share structure through recapitalization techniques as a takeover defence mechanism. General Cinema Corporation is an example of a company that adopted this approach. From 1994, all exchanges in the US approved a uniform policy on dual-class shares which prevented companies from reducing the voting rights of existing shareholders through such actions as “the adoption of time-phased voting plans, the adoption of capped voting rights plans, the issuance of super-voting stock, or the

issuance of stock with voting rights less than the per-share voting rights of the existing common stock through an exchange offer” (Howell, 2017).

Critics of dual share structures still cite management entrenchment, expropriation of minority shareholders, rejection of attractive takeover offers and ineffective running of the company as reasons to discourage their acceptance.

2.5 Takeover Defences

Takeover defences were first introduced by managers to defend the companies they were responsible for in response to hostile bids that accompanied the battle for corporate control (Karpoff and Wittry, 2022). Broadly, a takeover defence can be described as any action undertaken by a corporation that increases the cost or decreases the benefit to an outsider of acquiring control of the corporation’s board and top management. Takeover defences do not completely eliminate takeovers. However, they influence the likelihood of acquisition and overall company value. The resistance posed by takeover defences is sometimes aimed at slowing down a bidder, but in extreme cases, this could entrench inefficient managers (Ruback, 1987).

Alongside the takeover defences adopted by management, companies are subject to takeover defences associated with the laws of the jurisdictions where they are incorporated. In the United States, 33 states including Delaware have anti-takeover business combination laws (Karpoff and Wittry, 2018). In Delaware, the anti-business combination law prevents a company that acquires a Delaware company without the target company’s board approval from merging or selling the target firm’s assets until after a three-year waiting period. Control share acquisition laws (29 states), fair price laws (27 states), poison pill laws (35 states), and directors’ duties or constituency laws (35 states) are other types of state antitakeover laws present in the US.

From the 1980s till date, firms have increased the number of takeover defences they adopt (Danielson and Karpoff (1998) and Cremers and Farrell (2014)). In the US, more than 99% of S&P 1500 firms and 92% of new IPO firms have at least one takeover defence (Karpoff and Wittry, 2022). Focusing on IPO firms in the US, Johnson, Karpoff, and Yi (2022) find that the average firm went public with 2.4 of the six E-index provisions. Over this period, the use of classified boards decreased among large firms and increased among smaller firms (Field and Lowry (2022), Guernsey, Guo, Liu, and Serfling

(2022)). Within the same time frame, the use of poison pills also increased. This has been explained as a response to access to shadow poison pills, i.e., the ability to adopt a poison pill at any time without shareholder approval (Catan and Kahan, 2016) and the career costs they impose on directors (Johnson, Karpoff, and Wittry, 2021). However, they became popular again during the pandemic with new features such as low trigger thresholds and shorter sunset provisions.

Fair price, supermajority vote, classified boards, poison pill, dual-class shares, and unequal voting rights are some defences that are effective in reducing the likelihood of takeovers (Pound, 1987, Borokhovich, Brunarski, and Parrino, 1997, Sokolyk 2011, Goktan and Kieschnick 2012). Golden parachutes have been linked to increasing takeover likelihood (Sokolyk 2011, Goktan and Kieschnick 2012). The takeover defences mentioned here are described in Appendix A.

3. Methodology

3.1 Research Design

Our thesis aims to understand the factors that inform the difference in hostile takeover approaches and outcomes in the US and Sweden and we have adopted a case study method that focuses on Twitter's acquisition by Elon Musk. To address the complexity of real-world circumstances and draw meaningful conclusions, we chose a case study approach supported by Eisenhardt (1989) and Dubois & Gadde (2012). Miller (1977) also underscores the value of case studies in capturing the reality of decision-making compared to theoretical models:

“Given the complexities of the real-world setting, actual decision procedures are inevitably heuristic, judgmental, imitative and groping even where [...] they wear the superficial trappings of hard-nosed maximization. On this score, has there ever been any doubt that the Harvard cases [...] give a far more accurate picture of the way things really look and get done out on the firing line than any maximizing ‘model of the firm’ that any economist ever drew?”

While a case study can consist of several cases, we opted to focus on a single case to gain a deeper understanding of its specifics following the guidance of Dyer & Wilkins (1991). For this purpose of in-depth exploration of our key research question, we opted to use interviews as research methodology, as suggested by Yin (2002). These interviews were conducted using a semi-structured approach, utilising an interview template as a guide to ensure relevant topics were covered. However, interviewees were encouraged to freely express their perspectives, and provide insights on qualitative and quantitative measures of success in acquisitions. This approach aimed to gather novel insights and ideas that might not have been initially considered in the research design phase.

Lastly, we combined the descriptive and explanatory case study methods, two of the three categories outlined by Yin (1984). This approach allows us to present a narrative of the events as they unfolded and delve deeper into significant occurrences for a more comprehensive analysis.

3.2 Data Collection

We relied on interviews as our main qualitative data source for this study. To gain comprehensive insights into the case, we conducted interviews with individuals representing various groups involved in the hostile takeover process. This included lawyers who provided legal and regulatory perspectives and financial analysts who offered insights into the financial rationale behind the acquisition. We obtained an initial overview of the deal during the interviews, covering the process and key decision-making events. We also made a deliberate effort to seek a wide range of viewpoints and insights on the subject matter, including but not limited to, the cultural, corporate governance and regulatory discrepancies that exist between the United States and Sweden, which we believe are crucial factors in shaping the overall landscape of our investigation.

To ensure the accuracy and timeliness of the information gathered, we conducted the interviews promptly after the completion of the acquisition, within the first 6 months. The interviews were conducted virtually using Google Meet and recorded for transcription. Transcriptions were completed within one week of the interviews, allowing us to thoroughly review the conversations, analyse the collected information, and accurately capture relevant quotes from the interviewees. All interviewees consented to answering follow-up questions or providing additional data if needed. We took advantage of this opportunity to gather complementary data.

In addition to the interviews, we complemented the information with publicly available data sources such as press releases, company filings, and articles in the business press. This combination of primary and secondary data sources enabled us to understand the acquisition from different perspectives comprehensively. It played a vital role in corroborating our research findings.

3.3 Case Study Validity and Reliability

Case studies are often criticised for not meeting the standards of a proper scientific method, but they are valued for providing detailed narratives of events with limited generalizable results (Yin, 2002). However, Dubois & Gadde (2002), corroborating Miller (1977), argue that in depth case studies are best suited to understand the interaction between a phenomenon and its environmental context. In this regard, Yin (2002) presents

four areas that challenge the research quality of case studies in terms of validity and reliability:

1. **Construct validity** is defined as the extent to which the study measures what it claims to measure. Interviews, influenced by their setting and subject to one's interpretation, pose challenges in this area. We adopted triangulation, i.e. the use of multiple information sources, by relying on new articles and filings with the government on Twitter as well as the perspective of independent lawyers, equity research analysts and investment bankers.
2. **Internal validity**, which is concerned with justifying causal relationships, only applies to explanatory and not descriptive or exploratory case studies.
3. **External validity** deals with the generalizability of findings to other cases and is often associated with statistical generalisation. When a single case study is considered an insufficient example, Siggelkow (2007) argues that it can still provide analytical generalisations when compared with established academic theory.
4. **Reliability** refers to “demonstrating that the operations of a study - such as the data collection procedures - can be repeated, with the same results” (Yin, 2009). The interview-based methodology employed challenges the reliability of this study. The use of semi-structured interviews makes exact replication unlikely and conducting interviews within one year of the deal raises the possibility of changing recollections and opinions over time. The interviews have been transcribed, dated, and stored to mitigate these reliability-related issues.

Despite the criticism of the case study method, we have taken necessary measures to ensure a high research quality. The findings provide valuable insight into the limits of empirical methods and the implications of the research in evaluating the factors that inform the difference in hostile takeover approaches and outcomes in the US and Sweden that can be applied to deals other than Elon Musk's acquisition of Twitter.

4. Twitter Case

4.1 Background Information on Twitter Acquisition

Twitter (the Company) offers a platform for users to express themselves and share short messages, called "tweets," with a large and diverse audience in real-time. In March 2006, Twitter was created as a side project from Odeo, a podcasting platform, by Jack Dorsey, Noah Glass, Biz Stone, and Evan Williams. The Company soon raised a Series A seed funding of \$100,000 in July 2007 and its popularity grew within the tech community. Since then, Twitter's acceptance as an essential tool in media communication has significantly increased. It played a crucial role in disseminating information during the Arab Spring protests that took place across Egypt, Libya, and Tunisia in 2011. By 2012, Twitter had amassed 200 million active users and adopted the bird logo (See Appendix B). On November 7, 2013, Twitter went public in an Initial Public Offer (IPO) and priced its shares at \$26 per share. Appendix C summarises Twitter's description in the IPO documents filed with the SEC. On its first day of trading, its shares traded at a premium opening at \$45.10 and closing at \$44.90.

Following its initial public offering, Twitter's share price experienced significant fluctuations. On December 26, 2013, the company's stock reached a peak of \$74.73. However, in 2014, the company faced challenges as user growth began to slow down, resulting in multiple drops in stock value and downgrades by analysts. Throughout 2015, Twitter continued to grapple with difficulties in acquiring new users, which had a negative impact on its advertising business. Despite these struggles and the decline in share price, Twitter's valuation remained higher than its competitors. Investors maintained confidence in the company, pricing it at a price-to-sales ratio of 20.

Between 2015 and 2020, Twitter implemented various strategies aimed at improving its profitability. One notable development during this period was the return of Jack Dorsey as the Chief Executive Officer (CEO), who simultaneously served as the CEO of Square starting in 2015. On May 24, 2016, Twitter shares hit their all-time low at \$13.73 but subsequently made a recovery.

Starting from 2016, Twitter found itself at the centre of various political conversations, particularly regarding the role of social media platforms in Donald Trump's success during the 2016 US elections. The platform played a significant role in combating the spread of misinformation during the COVID-19 pandemic in 2020 and in curbing hate

speech and violence. In 2021, then-President Donald Trump was banned from Twitter due to his inflammatory comments regarding the US Capitol Riots, which were deemed to have the potential to incite further violence.

In early 2022, Elon Musk quietly acquired Twitter shares, eventually amassing a 9% stake in the company. This acquisition was disclosed in a filing with the Securities and Exchange Commission (SEC) on April 4, 2022. In the same month, Musk entered into a binding agreement with Twitter to purchase the remaining shares. Initially, Twitter implemented a poison pill plan to deter the acquisition, intending to make itself more expensive to acquire by issuing additional shares to all buyers except Musk, at double the price. However, Musk responded with a hostile takeover threat and a proxy fight.

Musk's offer to acquire Twitter was set at \$54.20 per share, representing a 38% premium over the unaffected share price as of April 1st. This offer valued Twitter at \$44 billion and did not rely on any financing or due diligence considerations.

4.2 Corporate Governance in Twitter

Despite recording steady revenue growth from its initial public offering (IPO) in 2013 until 2021, with the exception of 2017, Twitter consistently incurred losses during those years, except in 2018 and 2019. Appendix D provides an overview of Twitter's financial performance throughout this period.

In the first quarter of 2020, Elliot Management, an activist hedge fund, acquired shares worth \$1 billion, equating to a 4% stake in Twitter. Following this acquisition, the hedge fund expressed certain requests for changes within Twitter, including replacing CEO Jack Dorsey and occupying board seats. Another investor, Silver Lake, also acquired a \$1 billion stake in Twitter during the same period. The combined \$2 billion investments made by both companies were utilised for a share repurchase program in 2020. As a result, Elliot Management and Silver Lake each obtained a board seat in Twitter, which was occupied by Jesse Cohen and Egon Durban, respectively.

During this time, concerns arose regarding Jack Dorsey's ability to effectively lead Twitter while also serving as the leader of Square, another company he founded and held a higher stake in. In particular, the slow growth of Twitter's Daily Active Users (DAUs) compared to its peers such as Facebook and Snapchat raised concerns. Appendix E

provides a graphical comparison of Twitter's DAUs growth in relation to Facebook and Snapchat.

Although Dorsey successfully defended against the hedge fund's demands for his replacement in 2020, he voluntarily stepped down from his position in November 2021. The board subsequently appointed Parag Agrawal as his successor.

4.2.1 Twitter's Ownership

Prior to Elon Musk's announcement of his 9% ownership stake in Twitter on 4 April 2022, institutional investors held the majority of shares in the company. Following Musk's announcement, the Vanguard Group, in a filing with the Securities and Exchange Commission (SEC), disclosed that its funds held 82.4 million shares, representing approximately 10.3% of the total shares.

As of May 2022, the top five shareholders of Twitter and their respective ownership stake were as follows:

Table 1: Twitter's top five shareholders and their ownership stake

S/N	Shareholder	Ownership Stake
1	Vanguard Group, Inc.	10.29%
2	Elon Musk	9.2%
3	Morgan Stanley	8.4%
4	BlackRock Inc.	6.5%
5	State Street Corp	4.5%

Source: Company/director filings

During Elon Musk's bid for Twitter, it was revealed that the company's Board of Directors collectively held a 2.37% ownership stake in Twitter. This included a 2.2% stake held by Jack Dorsey, the co-founder and former CEO. Just before his bid, Musk highlighted the limited number of shares owned by the directors and emphasised the misalignment between their interests and those of the shareholders.

Twitter's directors and their ownership stake prior to the acquisition are outlined below:

Table 2: Twitter's Directors and their ownership stake

Director	Years on Board	Number of Shares ('000)	Recent Value ('000)	% Ownership
Jack Dorsey	15	18,042.4	\$847,993	2.363%
Omid Kordestani	7	934.2	\$43,907	0.122%
Parag Agrawal (CEO)	Less than 1	507.5	\$23,853	0.066%
David Rosenblatt	11	109.8	\$5,161	0.014%
Bret Taylor (Chair)	6	56.6	\$2,660	0.007%
Martha Lane Fox	6	32.5	\$1,528	0.004%
Patrick Pichette	5	24.8	\$1,166	0.003%
Robert Zoellick	4	21.5	\$1,011	0.003%
Egon Durban	2	15.0	\$705	0.002%
Fei-Fei Li	2	10.7	\$503	0.001%
Mimi Alemayehou	Less than 1	3.7	\$174	0.000%

Source: Company/director filings

4.3 The Key Stages

4.3.1 Toehold, Rejection and Unsolicited Bid

On April 4, 2022, a filing with the Securities and Exchange Commission (SEC) disclosed that Elon Musk had obtained a passive stake of 9.1% in Twitter. The excitement among investors grew when it was announced the following day that Musk would be joining Twitter's board. This news had a significant impact on the company's shares, which surged by nearly 30% on April 4 after the SEC filing revealed Musk's stake. Additionally, the shares experienced an increase of close to 10% in pre-market trading the next day upon learning about his board appointment.

However, Musk later declined the board seat, but expressed his openness to "engage in discussions" with the directors "without limitations". This decision left the door open for potential future involvement in the company's strategic decisions. Surprising Twitter and its management, less than two weeks after these developments, Musk made an unsolicited bid for the company at a price of \$54.20 per share on April 14, 2022.

4.3.2 Board Resistance

In response to Musk's hostile bid of \$43 billion for Twitter, the company's board took defensive measures by implementing a shareholder rights plan, commonly known as a "poison pill." This action aimed to make the acquisition more difficult and costly to complete without the board's approval.

According to the 8-K filing submitted to the Securities and Exchange Commission (SEC) on April 18, 2022, the poison pill was designed to impose "*a significant penalty upon any person or group that acquires 15 percent or more of the shares of Common Stock without the approval of the Board*". In practical terms, if an investor, such as Musk, increased their stake in Twitter to 15%, it would trigger the poison pill provision. Once triggered, all other shareholders would be entitled to purchase an additional share at a discounted price. This right to purchase the additional share would remain valid until April 14, 2023. Shortly after the board implemented this plan, Elon Musk tweeted lyrics from Elvis Presley's song "Love Me Tender," suggesting that he might consider a tender offer as his next option. Twitter's chairman, Mr Taylor, later clarified that the poison pill was not intended to prevent Musk from acquiring the company but rather to regain control of the negotiation process.

Another defensive measure employed by Twitter was the inclusion of golden parachute clauses for its executives in the event of a layoff. These clauses ensured that the executives would receive certain benefits, including accelerated vesting of future shares, base salary, and health insurance coverage for one year. CEO Parag Agrawal, CFO Ned Segal, and Head of Legal Policy, Trust, and Safety Vijaya Gadde's costs amounted to \$121.8 million.

Table 3: Golden Parachute Costs for Twitter’s Executives

Name	Role	Value of Shares for Accelerated Vesting (\$)	Base Salary (\$)	Health Insurance (\$)
Parag Agrawal	Chief Executive Officer	56,400,000	1,000,000	9,172
Ned Segal	Chief Financial Officer	34,800,000	600,000	31,730
Vijaya Gadde	Head of Legal Policy, Trust and Safety	19,400,000	600,000	31,739

Source: CNN, Guardian, and Washington Post

4.3.3 Cold Feet and a Legal Battle

As the global economy recovered from the COVID-19 pandemic and began to feel the impact of Russia’s attack on Ukraine, interest rates that had remained low for most of the decade began to rise in May 2022. In response to this, the value of tech companies’ stocks, including Twitter and Tesla, became less attractive. However, Twitter shares still outperformed the tech index. Tesla stocks were expected to be one of the sources of financing for the Twitter deal. In its first quarterly earnings report for 2022, also the first since the buyout agreement with Elon Musk, Twitter admitted to overstating its audience figures by almost 2 million users for about three years.

On 8 May 2022, Elon Musk’s lawyers filed a letter with the SEC about terminating the deal on the following grounds:

- 1) Nonreceipt of information to prove that the true number of false or spam accounts on Twitter’s platform is not substantially higher than the amount of less than 5% represented by Twitter in its SEC filings.
- 2) Deviation from conducting its business in the ordinary course reflected in the firing of 2 key employees namely the Revenue Product Lead and the General Manager of Consumer, announcing the layoff of a third of the talent acquisition team, instituting a hiring freeze and resignation of three executives - the Head of Data Science, the Vice President of Twitter Service, and a Vice President of Product Management for Health, Conversation, and Growth.

The filing also stated that Musk considered whether Twitter's "declining business prospects" and worsening financial outlook violate the agreement. Musk said Twitter's failure to provide information about fake accounts would make it problematic to secure financing from banks that agreed to lend him the cash to complete the transaction. Twitter's chair, Bret Taylor, Twitter's chairman responded swiftly with a tweet saying,

"The Twitter Board is committed to closing the transaction on the price and terms agreed upon with Mr. Musk and plans to pursue legal action to enforce the merger agreement. We are confident we will prevail in the Delaware Court of Chancery."

In preparation for a legal battle towards the completion of the deal, Twitter hired elite law firm Wachtell, Lipton, Rosen & Katz, a leading litigation practice in Delaware that defends companies in lawsuits over breach of fiduciary duty and broken merger agreements in the state. Twitter asked a Delaware court to force Elon Musk to honour his \$44bn agreement to buy the company. Kathaleen McCormick, the judge overseeing the case, on August 25, 2022, ordered Twitter to produce information regarding 9,000 accounts it analysed for authenticity as part of an audit at the end of last year. She stopped short of fully granting Musk's "absurdly broad" requests for information on the entire user base.

4.3.4 Concluding the Deal

Two weeks before the trial was set to begin in the Delaware Chancery Court, Elon Musk decided to proceed with the acquisition of Twitter for the agreed price of \$ 44 billion on 3 October 2023 on the condition that litigation over his attempt to walk away from the deal stayed. In response to this, the judge presiding over the case Kathaleen McCormick agreed to stay legal action to enable the parties to close the deal. However, she stipulated that if the transaction had not closed by 5:00 pm on October 28, she would set a trial date for November. On 26 October 2022, Elon Musk updated his Twitter biography to read "Chief Twit" and posted a short video of himself on Twitter walking into Twitter's office, carrying a sink, with the caption:

"Entering Twitter HQ — let that sink in!"

Elon Musk took over the following day and immediately fired Twitter's Chief Executive, Parag Agrawal, alongside some other executives.

4.4 Negotiation Tactics

The board had previously employed a defence strategy referred to as a "poison pill" to prevent Elon Musk from acquiring additional Twitter shares. However, Mr Taylor, Twitter's chairman, stated that this was not a measure to stop Musk from purchasing the company, but rather to regain control of the negotiation process for the board (The New York Times, 2022).

Deciding not to join the board of directors after acquiring more than 9% of Twitter's shares. After tweeting "Looking forward to working with Parag & Twitter board to make significant improvements to Twitter in coming months!" on April 4th 2022, Elon Musk announced that he has been offered a seat on Twitter's board of directors in 2022, but he ultimately decided not to take the position later during the week when Agrawal Parag, Twitter's CEO, tweeted "Elon Musk has decided not to join our board" (NBCnews, 2022). While he owned more than 9% of Twitter's shares at the time, he reportedly chose to decline the offer due to concerns about the time commitment required for the position and potential conflicts of interest with his role as CEO of Tesla and SpaceX. Musk is known for being very hands-on with the companies he runs, often working long hours and involving himself in many aspects of the business. Joining the board of directors of another company, even one he had a significant ownership stake in, may have been too much of a time commitment for him to take on. In addition, Musk has also expressed concerns about Twitter's approach to dealing with issues such as online harassment and misinformation and may have been wary of joining the company's board in the midst of these controversies. However, the main uncovered reason is that Elon Musk would not be limited to a 14.9% stake in the company if he had a governance seat for a two-year term. As his goal was to acquire the whole entity Musk might have refused the position due to this endeavour.

4.5 The possible Overvaluation of Twitter

Between 2017 and 2021, Twitter's revenue experienced a steady increase, rising from \$2 billion to \$5 billion (Twitter financial statements, 2017-2021). Despite record profits in 2018 and 2019, the company reverted to its loss-making status in 2020 due to increased costs, particularly in research and development and litigation expenses. Twitter has faced challenges in retaining its user base for extended periods, thereby making advertising, its

primary source of income, unreliable. In the last decade, the company has failed to generate profits in eight out of ten years. Elon Musk's offer to acquire Twitter for USD 54.2 per share, represents a premium of 54% over the share price before his investment on January 28, 2022, and 38% over the share price on April 1, 2022, before the announcement. Elon Musk paid a significant premium for the target company. Notably, the bid was made at a time when the market was trading at a higher valuation than when the deal was eventually consummated. Thus, the bid's performance was influenced to a considerable extent by the market conditions prevailing at the time of the bid as compared to those at the time of the deal's completion. Although Musk has declined to comment on the reasoning behind his valuation, some journalists have interpreted his reference to the number "420" as a reference to smoking marijuana, similar to Musk's tweet in 2018 about taking Tesla private for USD 420.

In the aftermath of a market collapse, Elon Musk attempted to renegotiate the deal price downwards. However, despite these efforts, he was unable to secure a lower price. In retrospect, it is arguable that Elon Musk should not have paid more than \$20-\$25, according to Mark Zgutowicz, taking into consideration both the market conditions prevailing at the time and the performance of comparable firms, such as Snapchat. Had Musk paid a valuation comparable to Snapchat, which had a better financial profile and a higher growth rate than Twitter, the transaction value would have fallen within that range. However, due to the contractual agreement that locked Musk into the initial agreement, he was unable to pursue such an option. Notably, Mark Zgutowicz mentions that Twitter's contract did not include an out-clause, which is atypical for such transactions.

The purchase price of Twitter shares was high at USD 54 per share, which may have deterred other bidders from participating in the acquisition process. From a strategic perspective, there were no apparent synergies between Twitter and Musk's other companies, Tesla and SpaceX. However, there may have been potential marketing benefits for Musk to acquire Twitter. Despite Twitter's vulnerability as a company, Musk's bid for over \$40 billion was not an issue to him because his worth was over \$400 billion. The bid he made was intended to deter other bidders and make it nearly impossible for the board to refuse. Although there were no synergies between Twitter and Elon Musk's other companies, he had an assertive approach in highlighting areas where Twitter could

improve and proposed solutions to address them. According to him, Twitter was underutilised and the management was restricting freedom of speech by moderating content. Musk's interest in controlling media and free speech, promoting the values of free speech and openness, and building a new community on Twitter were some of the strategic reasons behind the acquisition. Hence, from the price factor perspective, the deal was not successful since according to analysts who covered the case, Elon Musk ended up overpaying for the deal.

5. Empirical Study and Analysis

This chapter presents the findings of our interviews conducted in the course of our research on the topic of hostile takeovers. Through these interviews, we aimed to gain insight into how professionals perceive such takeovers from both a Swedish and American perspective, particularly in the context of Twitter. The interviews were conducted in an open-ended format, to allow for a natural conversation to happen. Each interviewee was selected based on their relevant expertise and experience, and their contributions to this chapter reflect their unique perspectives. Our primary focus was on the insights provided by the selected group of individuals, whose responses are analysed and presented in detail in the following sections.

To conduct the interviews, we have selected the following individuals.

Interviewee	Company and Role	Interview Date
David Andersson	Partner Lawyer at VINGE (Sweden)	02/22/2023
Daniel Ives	Managing Director, Senior Equity Analyst, covered Twitter WEDBUSH SECURITIES (USA)	03/17/2023
Patrik Marcelius	Partner, Lawyer MANNHEIMER SWARTLING (Sweden)	03/17/2023
Adam Green	Partner, Lawyer MANNHEIMER SWARTLING (Sweden/USA)	03/17/2023
Vilhelm Hultgren	Senior investment advisor - Institutional Investments at NORDEA (Sweden)	03/22/2023
Mark Zgutowicz	Managing Director at THE BENCHMARK COMPANY (Sweden)	04/18/2023

5.1 Unravelling the Factors Behind the Lesser Occurrence of Hostile Takeovers in Sweden in Comparison to the United States

The prevalence of hostile takeovers and acquisition transactions is a topic that has garnered significant attention in the global financial landscape. The environment for hostile takeovers is complex and involves various tactics, such as ownership and public relations, to gain leverage and make it difficult for a company to defend itself against attacks.

The United States is often seen as a more cut-throat market compared to Europe (Licht et al. (2005) and Doidge et al., (2007)). In contrast, in Sweden, there is a stronger emphasis on ethical business practices and social responsibility. This difference may impact the approach to a hostile takeover, with American companies being more likely to aggressively pursue their targets while Swedish companies may prefer a cooperative or negotiated approach. Mark Zgutowicz believes that Sweden has fewer hostile takeovers partially because of its fair treatment principle that requires equal payment to both minority and majority shareholders. He also believes that the limited takeover activity in Sweden can be attributed to its small economy and concentrated ownership structures, where certain shareholders have majority control. On the other hand, Daniel Ives argues that:

“The US is seen as a more hostile environment for takeovers because of the fiduciary responsibilities that boards have to shareholders, which can lead to strategic and financial considerations”.

“If Twitter were a Swedish company, a hostile takeover bid would be much less likely to succeed due to the presence of stacked boards and AB shares structures, which would make it extremely difficult to carry out such a bid”.

The phenomenon of activism, which involves taking over underperforming companies, is much more prevalent in the United States than in the European Union (Volkema's, 2004) and this trend has been a driving force behind a significant portion of mergers and acquisitions activity in the US, whereas activism is less common in Europe ((Bjerke, 2001), Volkema's (2004). One common tactic is to initially come in as an activist shareholder.

“The most common tactics, is to first come in as an activist shareholder, 9% or more of a company’s shares, ask for a seat on the board and prove yourself to be speaking on behalf of all shareholders and then once you have their ear, use the leverage to continue to acquire more shares which makes it harder for a management team to defend itself against the takeover.” - Mark Zgutowicz

Two tactics often employed are ownership and public relations, with the latter making it difficult for a company to defend itself from attacks by public figures. Interestingly, Elon Musk used a different tactic to take over the company he desired. If he had assumed a board seat, it would have limited his ability to publicly attack the company due to restrictions on sharing internal information. Therefore, he chose to purchase more than 9% of the company's shares, which provided the perfect balance for him to have leverage but not be legally bound by a board seat. If his intention had been a long-term game plan, he could have worked with the company to grow his wealth, but since he preferred to take over the company, he needed to stay close enough to have leverage.

Sweden's concentrated ownership structure and fair treatment principle may also limit multinational interest in takeovers. The allocation of A/B shares in Sweden holds a significant impact on the ownership structure of companies (Howell (2017)). A company's voting power is determined by the number of votes they possess, which explains the premium price of strong voting shares. However, the illiquidity of such shares could also result in selling at a discount. This differentiation of shares based on voting power can have several advantages, such as having strong owners who can steer the company in a specific direction. Having a single strong owner is preferred over diluted ownership, which can lead to directionless management, according to Patrik Marcelius.

“When you have strong owners, someone that sitting behind the wheel who has a direction for the company instead of having it diluted with no captain on the ship.” - Vilhelm

Hultgren

However, Adam Green mentions that the lack of strong owners behind some banks globally has created issues due to the control of AB shares. One major disadvantage is the difficulty in acquiring control of the company without enough votes, which limits the role of the highest bidder. Obtaining strong voting shares is time-consuming as institutional investors typically hold them, and off-the-record deals are common. The concentrated

ownership structure in Sweden can also lead to potential conflicts of interest between the shareholders and the company's management. This can be seen in cases where the majority shareholder may prioritize their personal interests over those of the company and its other shareholders. As such, it's important to strike a balance between concentrated ownership and shareholder rights to ensure the company operates in the best interest of all stakeholders (Ruback, 1987).

As per Mark, the acquirer would not only need to acquire the publicly traded A shares but also the B shares, which are usually held by the founders and give them significant control over the company. This makes it much harder to convince them to sell, even at a high premium.

“Even Mark Zuckerberg will pay 300 USD even if the stock is trading at USD 150, the control for him is more important than the economic returns, so it is a big advantage for having B shares.” - Mark Zgutowicz

In the case of Twitter, the board itself had very little ownership in the company aside from Jack Dorsey. The lack of supervoting shares made it easier for a hostile takeover bid to occur. However, having supervoting shares can also reduce the liquidity of B shares and hurt the company's PR, as was evident when Elon Musk made it clear that the board had no stake in Twitter and could not be trusted to make decisions for the company.

Overall, the allocation of shares with different voting powers in multiple share structure companies can have both advantages and disadvantages. It can enable shareholders who want to take a long-term approach to build a significant stake in the company, but it can also limit the role of the highest bidder in acquiring control of the company (Comment and Schwert, 1995; Fischel, 1987; Smart and Zutter, 2003). The lack of hostile takeovers in Sweden can limit potential benefits that can come from such takeovers, but it also ensures that the company's management operates in the best interest of all stakeholders (Holmen and Nivorozhkin, 2007).

5.2 The Toehold and Disclosure Mechanisms

In Sweden, there are regulatory requirements that must be followed when a shareholder acquires shares in a listed company. Mr Marcelius explains that:

“Shareholders must disclose their acquisition in increments of 5%, with thresholds for disclosure set at 5%, 10%, 15%, 20%, 25%, and 30%.”

Adam Green spoke about the usefulness of the toehold strategy, which allows buying cheaper shares before reaching the 5% threshold. This can be used to acquire a corner position by buying more than 10% of shares, which makes it less attractive for a third party to bid as they may not have access to more than 90% of shares. This is necessary for the squeeze-out rule, as bidders need to reach more than 90% to squeeze out shareholders. In Sweden, a shareholder who has acquired more than 90% of the shares in a target company may request that the remaining shareholders sell their shares to the majority shareholder. This is a mandatory requirement if the majority shareholder meets the 90% threshold.

“In the US, the squeeze-out threshold varies depending on the state in which the target company is incorporated. Some states have a 90% threshold, while others have a lower threshold, such as 80% or 75%.” - Adam Green

However, not all US states allow for squeeze-outs, and the rules surrounding them vary from state to state (Karpoff and Wittry, 2018).

Patrik Marcelius shared that in Sweden, the use of stakebuilding or toehold strategy is not commonly used as it can decrease the bidder's credibility when threatening to terminate the bid if they encounter resistance from major shareholders or activist funds.

“Stake building is not very common in Sweden and the main reason is that by doing that, the bidder will show he has skin in the game and will be able to less credibly say to the outside world we will terminate the bid.” - Patrik Marcelius

The bidder may thus have a harder time convincing shareholders to tender their shares.

“So even if you may read in the literature that it is common or appropriate leverage, it actually doesn't and decreases it, it is not that effective.” - Patrik Marcelius

Owning a significant percentage of shares may increase the probability of a takeover bid being successful, as the shareholder in question only needs to acquire the

remaining percentage (Fama and Jensen (1983)). However, the method of acquiring shares could have a negative impact on the probability of success, as other shareholders may interpret the bid as a signal that the company is undervalued and that the bidding shareholder has insider knowledge regarding the company's value. Conversely, an acquirer without any shares could offer a more appealing proposition to small shareholders, as it is less likely to be perceived as an attempt to exploit insider knowledge. When a bidder does not hold a toehold, they are more likely to engage in bid shading, which means offering a lower bid price due to a lack of information about the target firm. The target company may increase competition and the expected sale price by only considering non retractable bids, which are more likely to result in a higher sale price (Singh, 1998).

“It's quite uncommon that you buy shares in advance in Sweden. You know, it happens but it's not very common and I think the main reason for that is probably that the kind of acquirers, I mean typically private equity firms or similar, they want nothing or 100%.”

- David Andersson

5.3 Managerial Entrenchment

Managerial entrenchment means that managers of a company use tactics to prevent hostile takeovers or changes in the board which may not be in the best interest of shareholders (Mace (1986)). David Andersson explains that a high level of minority protection leads to fewer successful takeovers because minority shareholders are protected from being neglected by the acquirer. He notes that in Sweden, where there is a high level of takeover protection, family-owned companies are more concerned with long-term investments and are not usually interested in short-term gains, which has played a role in the low level of takeovers in the country. However, David also points out that the A&B share structure could affect the voting power of shareholders during shareholder meetings, which could be a hindrance to changing the board in the company. Nonetheless, an acquirer with a substantial stake in the company could still change the board and implement new strategies, despite the potential obstacles posed by the shareholder.

“In Sweden the institutional shareholders are looking for buy and hold, and there is more value investing. They're looking for a very long term.” - Vilhelm Hultgren

Vilhelm observes that some attempts to acquire Swedish companies, such as Nordea, a Swedish bank, have not been successful due to the presence of two sets of investors with divergent interests, namely families and hedge funds. This highlights the contrast between the long-term perspective of co-owning institutional investors and the more short-term focus of investment firms. The Swedish regulatory agencies have intervened to maintain a balance between these different interests and to prevent any one group from becoming too dominant in the market.

Adam Green on the other hand mentioned managers may abuse the use of poison pills to hold on to their jobs in the event of a hostile takeover. He argues that poison pills are not used for shareholder value, and the Institutional Shareholder Services (ISS) have expressed scepticism about their use. Research has also shown that it is inconclusive whether poison pills do good for shareholders on average.

While takeover protection can provide minority shareholders with some level of protection, it can also make it more difficult for acquirers to take over the company and implement new strategies (Johnson, Karpoff, and Wittry, 2022). Similarly, while poison pills may be used to prevent hostile takeovers, they can also be abused by managers to protect their interests. It is important for shareholders to be aware of these tactics and to hold managers accountable for their decisions.

5.4 The Success Factor of Hostile Takeovers

Various factors can impact the process and results of hostile takeovers. Adam Green emphasised that thorough due diligence is crucial in assessing the risks and benefits of a hostile takeover, including identifying potential legal or financial obstacles. A due diligence is necessary for any acquirer to understand the risks associated with acquiring a social media platform, such as the risks of data breaches or regulatory scrutiny. The role of stakeholders is also a significant factor in the success of a hostile takeover. It is essential to consider the interests of all stakeholders, including shareholders, employees, and customers. The acquirer needs to take into account the interests of the customers/users, who may have concerns about how their data is being used and who may be wary of any changes to the platform's features or user experience.

Communication and transparency also emerged as crucial factors in the success of a hostile takeover. Daniel Ives emphasised the need for “*clear and open communication*” between the acquirer and the target company, as well as with stakeholders. Any potential acquirer would need to communicate clearly with the management and employees to ensure a smooth transition. Firms should prioritise transparency and engage in discussions with their investors to address any areas of concern.

“Failure to listen to shareholders can result in poor management and increase the risk of a hostile takeover bid.”- Daniel Ives

It is also important for the board to seek a fairness opinion from their financial advisor to appear confident and credible and leave less room for negotiation from the bidder. Companies facing the risk of a hostile takeover bid can mitigate this risk by adopting proactive measures to understand their inefficiencies and by building closer relationships with their investors. It's important for a board to “*thoroughly comprehend their strategic options and know its fair valuation*”, as per Daniel Ives. To achieve this, the board should regularly assess the company's performance, business plan, and capital distribution, and explore other potential strategic alternatives with the help of financial advisors and other consultants (Liekefett & Austin, 2020). Corporations should evaluate their plans for the firm and consider the value of their shares in the next 5-10 years. The firm should be aligned with the long-term goals of the shareholders. They should focus on building support from outside shareholders and ensuring that they have a long-term strategic plan in place to produce economic gains for their shareholders. The case of Twitter should have prioritised monetizing its products over simply creating great features, as this can help increase long-term value for shareholders.

“The Twitter management did not have a long term plan. Jack Dorsey is an engineer by trade so he focused on the utilities of the application and making it very cool to use but did not focus on how to monetise the applications. When you're a public company you need to focus much on how to monetise a product rather than how to create the cool feature.”

- Mark Zgutowicz

Companies at risk of a hostile takeover bid should take proactive measures to prepare themselves.

“What companies tend to do if they think that they are on the radar of interest from potential acquirers, is to educate themselves – what are the obligations of the board in the takeover situation?’ ... So, you can't really prepare that much as the target company, but you can make sure that you know how to act in that situation.” - David Andersson

David Andersson recommends that targeted companies should educate themselves on their obligations in a takeover situation and be proactive in preparing for a potential takeover bid by identifying and assembling the necessary documents and agreements that may be required in a takeover situation, such as data rooms and other relevant information. The targeted company should have a clear plan of action in the event of a hostile takeover bid, including having an emergency communication response. Initially, many bidders prefer to approach their targets cordially and privately. This approach is practical because amicable deals are usually less expensive than hostile ones, and public animosity tends to harm the value of the target due to the uncertainty it creates among employees, customers, and other stakeholders. If a hostile bidder decides to go public, it is necessary to have a well-thought and prepared internal process in place to prevent errors in such a rapidly changing environment. The most critical element is a prompt and effective public response. Therefore, it is advisable for a company to have a "break the glass" communication plan that includes prepared response press releases and media statements, along with relevant talking points and a Q&A section for investors, the media, employees, and other stakeholders (Liekefett & Sidley, 2020).

On the other hand, to succeed in taking over a target firm in a hostile takeover bid, it is essential to identify the large shareholders and negotiate with them. Private equity firms may form bidding consortia with these shareholders to buy the company, which can indicate to other shareholders that there is unrecognised value in the company. It is another key factor to obtain the commitment of the largest shareholders to accept the offer and sell their shares, claims David Andersson. However, reaching the 90% threshold of shares

required to delist the company from the stock exchange is also critical, failing which the bidder may be left with a minority stake in the company.

If a hostile bidder offers a premium that the company cannot justify turning down, it may be in the company's best interest to accept the bid. However, companies should also focus on executing their plans to grow revenues and profits to maximise shareholder value and prevent hostile takeover bids from occurring in the first place.

6. Conclusion

In conclusion, the comparison of the hostile takeover landscape between Sweden and the US reveals significant differences in their cultural and regulatory approaches, corporate governance practices, and ownership structures. The lower incidence of hostile takeovers in Sweden as compared to the United States can be attributed to various factors. Firstly, Sweden's strong emphasis on shareholder protection and the stakeholder model of corporate governance results in a more challenging environment for hostile takeovers. In contrast, the US has a more shareholder-centric model of corporate governance and a less regulated M&A landscape, making it a more favourable environment for hostile takeovers. The US market is often viewed as more aggressive, with a greater prevalence of shareholder activism. Secondly, regulatory factors such as the fair treatment principle and corporate governance structures, including the AB shares structures which result in higher voting power and more concentrated ownership, can limit the occurrence of hostile takeovers in Sweden. Moreover, the lesser use of toehold strategies in Sweden also plays a role. Additionally, the high level of shareholder protection in Sweden, coupled with the prevalence of family-owned companies that prioritise long-term investments over short-term gains, has contributed to the low level of takeovers in the country.

In order to mitigate the risk of being targeted by hostile takeover bids, firms are advised to adopt a number of measures. First, fostering a high level of communication and transparency between management and shareholders is key. This allows the firm to proactively share strategic plans and its vision with the shareholders, which can in turn engender trust and promote a shared sense of purpose. Besides, setting out strategic plans and having a clear vision can serve as an effective defence against hostile bids, as potential acquirers are less likely to target a firm with a clearly articulated and compelling strategy. And finally, firms are advised to prepare an emergency communication response plan in case a hostile bid does materialise. This includes identifying the key stakeholders to be engaged, the messaging to be conveyed, and the timeline for response. By adopting these measures, firms can better position themselves to fend off hostile bids and maintain control over their strategic direction.

While these differences have implications for foreign investors and companies pursuing M&A deals in these countries, it is also essential to note that the two countries' approaches are deeply rooted in their respective histories, cultures, and legal systems. Therefore, it is crucial to consider these factors when developing and implementing strategies in these countries. Overall, our analysis underscores the importance of understanding the cultural and regulatory differences between countries when assessing the potential for hostile takeovers. Through such an understanding, investors and companies can develop more informed strategies that are better aligned with the specific environments of each country.

7. Limitations and implications for future research

Our findings may not be generalizable to other countries due to our narrow focus on Sweden and the US. However, given the potential for hostile takeovers to have far-reaching economic and social consequences, further research could also explore the impact of these practices on job security, income distribution, and economic growth, in both Sweden and the US. This could include examining how takeover attempts affect employment levels, wages, and productivity, and whether there are any long-term implications for the broader economy. Overall, this analysis underscores the need for ongoing research into the cultural and regulatory differences that shape the hostile takeover landscape in different countries, as well as the long-term implications of these practices. By deepening our understanding of these issues, we can develop more informed policies and practices that promote responsible corporate governance, protect shareholder rights, and foster sustainable economic growth.

8. References

Papers published in periodicals

Andersson, F., Johansson, D., Karlsson, J., Lodefalk, M., & Poldahl, A. (2018). The characteristics of family firms: exploiting information on ownership, kinship, and governance using total population data. *Small Business Economics*, 51(3), 539–556. <https://doi.org/10.1007/s11187-017-9947-6>

Beny, L. N. (2005). Do Insider Trading Laws Matter? Some Preliminary Comparative Evidence. *American Law and Economics Review*, 7(1), 144–183. <https://doi.org/10.1093/aler/ahi002>

Bjerke, B. (2000). Business leadership and culture: national management styles in the global economy. *Choice Reviews Online*, 38(01), 38–0382. <https://doi.org/10.5860/choice.38-0382>

Borokhovich, K. A., Brunarski, K. R., & Parrino, R. (1997). CEO Contracting and Antitakeover Amendments. *Journal of Finance*, 52(4), 1495–1517. <https://doi.org/10.1111/j.1540-6261.1997.tb01118.x>

Breuer, W., Ghufuran, B., & Salzmann, A. J. (2018). National culture, managerial preferences, and takeover performance. *International Business Review*, 27(6), 1270–1289. <https://doi.org/10.1016/j.ibusrev.2018.05.008>

Comment, R., & Schwert, G. W. (1995). Poison or placebo? Evidence on the deterrence and wealth effects of modern antitakeover measures. *Journal of Financial Economics*, 39(1), 3–43. [https://doi.org/10.1016/0304-405x\(94\)00823-j](https://doi.org/10.1016/0304-405x(94)00823-j)

Cosh, A., Guest, P. C., & Hughes, A. (2006). Board Share-Ownership and Takeover Performance. *Journal of Business Finance & Accounting*, 33(3–4), 459–510. <https://doi.org/10.1111/j.1468-5957.2006.00615.x>

Cremers, M., & Ferrell, A. (2013). Thirty Years of Shareholder Rights and Firm Valuation. Social Science Research Network. <https://doi.org/10.2139/ssrn.1413133>

Danielson, M. G., & Karpoff, J. M. (1998). On the uses of corporate governance provisions. *Journal of Corporate Finance*, 4(4), 347–371. [https://doi.org/10.1016/s0929-1199\(98\)00012-1](https://doi.org/10.1016/s0929-1199(98)00012-1)

Dedman, E., & Lin, S. (2002). Shareholder wealth effects of CEO departures: evidence from the UK. *Journal of Corporate Finance*, 8(1), 81–104.

[https://doi.org/10.1016/s0929-1199\(01\)00027-x](https://doi.org/10.1016/s0929-1199(01)00027-x)

Doidge, C., Karolyi, G. A., & Stulz, R. M. (2007). Why do countries matter so much for corporate governance? ☆. *Journal of Financial Economics*, 86(1), 1–39.

<https://doi.org/10.1016/j.jfineco.2006.09.002>

Dubois, A., & Gadde, L. (2002). Systematic combining: an abductive approach to case research. *Journal of Business Research*, 55(7), 553–560.

[https://doi.org/10.1016/s0148-2963\(00\)00195-8](https://doi.org/10.1016/s0148-2963(00)00195-8)

Dyer, W. G., & Wilkins, A. L. (1991). Better Stories, Not Better Constructs, to Generate Better Theory: A Rejoinder to Eisenhardt. *Academy of Management Review*, 16(3), 613.

<https://doi.org/10.2307/258920>

Eisenhardt, K. M. (1989). Building Theories from Case Study Research. *Academy of Management Review*, 14(4), 532. <https://doi.org/10.2307/258557>

Faccio, M., & Lang, L. H. (2002). The ultimate ownership of Western European corporations. *Journal of Financial Economics*, 65(3), 365–395.

[https://doi.org/10.1016/s0304-405x\(02\)00146-0](https://doi.org/10.1016/s0304-405x(02)00146-0)

Fama, E. F. (1980). Agency Problems and the Theory of the Firm. *Journal of Political Economy*, 88(2), 288–307. <https://doi.org/10.1086/260866>

Fama, E. F., & Jensen, M. C. (1983). Separation of Ownership and Control. *The Journal of Law and Economics*, 26(2), 301–325. <https://doi.org/10.1086/467037>

Fischel, D. R. (1987). Organized Exchanges and the Regulation of Dual Class Common Stock. *University of Chicago Law Review*, 54(1), 119. <https://doi.org/10.2307/1599716>

Field, L. C., & Lowry, M. (2022). Bucking the trend: Why do IPOs choose controversial governance structures and why do investors let them? *Journal of Financial Economics*, 146(1), 27–54. <https://doi.org/10.1016/j.jfineco.2022.06.004>

Franks, J. R., & Mayer, C. (1996). Hostile takeovers and the correction of managerial failure. *Journal of Financial Economics*, 40(1), 163–181.

[https://doi.org/10.1016/0304-405x\(95\)00840-b](https://doi.org/10.1016/0304-405x(95)00840-b)

Goktan, M. S., & Kieschnick, R. L. (2012). A target's perspective on the effects of ATPs in takeovers after recognizing its choice in the process. *Journal of Corporate Finance*, 18(5), 1088–1103. <https://doi.org/10.1016/j.jcorpfin.2012.07.003>

Guernsey, S. B., Guo, F., Liu, T., & Serfling, M. (2022). Classified Boards: Endangered Species or Hidden in Plain Sight? Social Science Research Network. <https://doi.org/10.2139/ssrn.4085735>

Halkier, B. (2011). Methodological Practicalities in Analytical Generalization. *Qualitative Inquiry*, 17(9), 787–797. <https://doi.org/10.1177/1077800411423194>

Hofstede, G. H., & Hofstede, G. (2001). *Culture's Consequences: Comparing Values, Behaviors, Institutions and Organizations Across Nations*. SAGE.

Holmen, M., & Nivorozhkin, E. (2007). The impact of family ownership and dual class shares on takeover risk. *Applied Financial Economics*, 17(10), 785–804. <https://doi.org/10.1080/09603100500461694>

Howell, J. S. (2017). The survival of the U.S. dual class share structure. *Journal of Corporate Finance*, 44, 440–450. <https://doi.org/10.1016/j.jcorpfin.2014.07.006>

Jarrell, G. A., & Peltzman, S. (1985). The Impact of Product Recalls on the Wealth of Sellers. *Journal of Political Economy*, 93(3), 512–536. <https://doi.org/10.1086/261313>

Johnson, W. D., Karpoff, J. M., & Wittry, M. D. (2021). The Consequences to Directors of Deploying Poison Pills. Social Science Research Network. <https://doi.org/10.2139/ssrn.3460201>

Karpoff, J. M., Schonlau, R. J., & Wehrly, E. W. (2022). Which antitakeover provisions deter takeovers? *Journal of Corporate Finance*, 75, 102218. <https://doi.org/10.1016/j.jcorpfin.2022.102218>

Karpoff, J. M., & Wittry, M. D. (2018). Institutional and Legal Context in Natural Experiments: The Case of State Antitakeover Laws. *Journal of Finance*, 73(2), 657–714. <https://doi.org/10.1111/jofi.12600>

Karpoff, J. M., & Wittry, M. D. (2022). Corporate Takeover Defenses. Social Science Research Network. <https://doi.org/10.2139/ssrn.4211798>

Li, A. M. (2016). The Meaning of Item Four of Schedule 13D of the Securities Exchange Act of 1934: A New Framework and Analysis. *The Business Lawyer*. <https://www.jstor.org/stable/40687731>

Licht, A. N., Goldschmidt, C., & Schwartz, S. H. (2005). Culture, Law, and Corporate Governance. *International Review of Law and Economics*, 25(2), 229–255.

<https://doi.org/10.1016/j.irle.2005.06.005>

Liekefett, K. (2022). The Comeback of Hostile Takeovers. Harvard Law School Forum on Corporate Governance. Retrieved April 29, 2023, from

<https://corpgov.law.harvard.edu/2020/11/08/the-comeback-of-hostile-takeovers/>

Loureiro, G., & Silva, S. C. (2022). The wealth effects of takeover bids regulation in the European Union. *European Financial Management*. <https://doi.org/10.1111/eufm.12383>

Pound, J. D. (1987). The Effects of Antitakeover Amendments on Takeover Activity: Some Direct Evidence. *The Journal of Law and Economics*, 30(2), 353–367.

<https://doi.org/10.1086/467140>

Powell, R., Prendergast, S., & Sharma, R. (2022). The impact of economic nationalism in Europe on the returns to rivals of cross-border M&A bids. *Journal of Business Finance & Accounting*, 49(9–10), 1784–1829. <https://doi.org/10.1111/jbfa.12598>

Shivdasani, A. (1993). Board composition, ownership structure, and hostile takeovers. *Journal of Accounting and Economics*, 16(1–3), 167–198.

[https://doi.org/10.1016/0165-4101\(93\)90009-5](https://doi.org/10.1016/0165-4101(93)90009-5)

Shleifer, A., & Vishny, R. W. (1986). Large Shareholders and Corporate Control. *Journal of Political Economy*, 94(3, Part 1), 461–488. <https://doi.org/10.1086/261385>

Siegel, J. I., Licht, A. N., & Schwartz, S. H. (2011). Egalitarianism and international investment. *Journal of Financial Economics*, 102(3), 621–642.

<https://doi.org/10.1016/j.jfineco.2011.05.010>

Li, A. J. (1997). The Meaning of Item Four of Schedule 13D of the Securities Exchange Act of 1934: A New Framework and Analysis. *The Business Lawyer*, 52(3), 851–884.

<http://www.jstor.org/stable/40687731>

Varian, H. R. (1988). Symposium on Takeovers. *Journal of Economic Perspectives*, 2(1), 3–5. <https://doi.org/10.1257/jep.2.1.3>

Volkema, R. J. (2004). Demographic, cultural, and economic predictors of perceived ethicality of negotiation behavior. *Journal of Business Research*, 57(1), 69–78.

[https://doi.org/10.1016/s0148-2963\(02\)00286-2](https://doi.org/10.1016/s0148-2963(02)00286-2)

Zhou, N., & Guillén, M. F. (2019). Institutional complementarities and corporate governance: The case of hostile takeover attempts. *Corporate Governance: An International Review*, 27(2), 82–97. <https://doi.org/10.1111/corg.12263>

Monographs (Books) as a source

Auerbach, A. J. (1988). *Mergers and Acquisitions*. University of Chicago Press.

Grinblatt, M., & Titman, S. (2002). Solutions manual to accompany *Financial markets and corporate strategy*. In McGraw-Hill/Irwin eBooks. <http://ci.nii.ac.jp/ncid/BA67630348>

La Grange Mace, M. (1986). *Directors, Myth and Reality*. Harvard Business Review Press.

McMillan, J. R., & Schumacher, S. (2005). *Research in Education: Evidence Based Inquiry*. <http://ci.nii.ac.jp/ncid/BB05581546>

Miller, M. H. (1977). Debt and Taxes. *Journal of Finance*, 32(2), 261. <https://doi.org/10.2307/2326758>

Patton, M. Q. (2002). Qualitative research & evaluation methods. In SAGE Publications eBooks (Issue 1). <http://ci.nii.ac.jp/ncid/BA55243300>

Robinson, A. B. (2003). *Transforming Congregational Culture*. Wm. B. Eerdmans Publishing.

Ruback, R. S. (1987). *An Overview of Takeover Defenses*. NBER. <http://www.nber.org/chapters/c5821>

Sarker, S., & Lee, A. S. (1998). Using a positivist case research methodology to test a theory about IT-enabled business process redesign. In *International Conference on Information Systems* (pp. 237–252). <https://doi.org/10.5555/353053.353075>

Siggelkow, N. (2007). Persuasion With Case Studies. *Academy of Management Journal*, 50(1), 20–24. <https://doi.org/10.5465/amj.2007.24160882>

Singh, R. (1998). Takeover Bidding with Toeholds: The Case of the Owner's Curse. *Review of Financial Studies*, 11(4), 679–704. <https://doi.org/10.1093/rfs/11.4.679>

Smart, S. B., & Zutter, C. J. (2003). Control as a motivation for underpricing: a comparison of dual and single-class IPOs. *Journal of Financial Economics*, 69(1), 85–110. [https://doi.org/10.1016/s0304-405x\(03\)00109-0](https://doi.org/10.1016/s0304-405x(03)00109-0)

Sokolyk, T. (2011). The effects of antitakeover provisions on acquisition targets. *Journal of Corporate Finance*, 17(3), 612–627. <https://doi.org/10.1016/j.jcorpfin.2010.10.005>

Trompenaars, F., & Hampden-Turner, C. (2011). *Riding the Waves of Culture: Understanding Diversity in Global Business*. Nicholas Brealey International.

Volkema, R. J. (2001). Demographic, cultural, and economic predictors of perceived ethicality of negotiation behavior: a nine-country analysis. *Proceedings - Academy of Management*, 2001(1), A1–A6. <https://doi.org/10.5465/apbpp.2001.6133845>

Walsh, J. J., & Kosnik, R. D. (1993). Corporate raiders and their disciplinary role in the market for corporate control. *Academy of Management Journal*, 36(4), 671–700. <https://doi.org/10.2307/256755>

Yin, R. K. (1984). *Case Study Research: Design and Methods*. <https://cds.cern.ch/record/1171670>

Yin, R. K. (2002). *Case Study Research: Design and Methods*, 3rd Edition. <https://www.amazon.com/Case-Study-Research-Methods-Applied/dp/0761925538>

Government Sources and Regulations

8-K. (n.d.). <https://www.sec.gov/Archives/edgar/data/1418091/000119312522107462/d296740d8k.htm>

Changes in shareholdings. (n.d.). Finansinspektionen. <https://www.fi.se/en/markets/reporting/changes-in-shareholdings/>

Effecting a Takeover | United States | Global Public M&A Guide | Baker McKenzie Resource Hub. (n.d.). <https://resourcehub.bakermckenzie.com/en/resources/global-public-ma-guide/north-america/united-states/topics/effecting-a-takeover>

Catan, E. M., & Kahan, M. (2016). The law and finance of antitakeover statutes. *Stanford Law Review*, 68, 629–680. http://www.stanfordlawreview.org/wp-content/uploads/sites/3/2016/03/68_Stan._L._Rev._629_-_Catan_and_Kahan.pdf

EUR-Lex - 32004L0025 - EN - EUR-Lex. (n.d.). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32004L0025>

EX-2.1. (n.d.).

<https://www.sec.gov/Archives/edgar/data/1418091/000119312522120461/d310843dex21.htm>

Major shareholding notifications. (n.d.). Finansinspektionen.

<https://www.fi.se/en/markets/investors/major-shareholding-notifications/>

Securities Exchange Act Amendment, 1968 (Full Disclosure of Corporate Equity Ownership): P.L. 90-439, 82 Stat. 454, July 29, 1968. (1968).

The Williams Act: a truly "modern" assessment. (n.d.). (n.d.). Harvard Law Corporate Governance. Retrieved May 8, 2023, from

<https://corpgov.law.harvard.edu/wp-content/uploads/2011/10/The-Williams-Act-A-Truly-Modern-Assessment.pdf>

Articles in the popular press (weekly Magazines and daily Newspapers):

Aliaj, O., Murphy, H., Gara, A., & Fontanella-Khan, J. (2022). Elon Musk says he is terminating \$44bn Twitter deal. Financial Times.

<https://www.ft.com/content/30a85550-0586-4b99-8763-609dd7e45508>

Bond, S. (2022). "Love Me Tender" and poison pills: Unpacking the Elon Musk-Twitter saga. NPR.

<https://www.npr.org/2022/04/19/1093408513/twitter-elon-musk-explainer-investors-shareholders>

Bradshaw, T. (2022). Twitter admits overstating audience figures for 3 years. Financial Times. <https://www.ft.com/content/3184a769-4288-44e8-abea-300d27c1aa95>

Conger, K., & De La Merced, M. J. (2020). Twitter Reaches Deal With Activist Fund That Wanted Jack Dorsey Out. The New York Times.

<https://www.nytimes.com/2020/03/09/technology/twitter-silver-lake-investment.html>

Duffy, C. (2022). Twitter's board put up a defense mechanism against Elon Musk. Here's what he could do next. CNN.

<https://edition.cnn.com/2022/04/18/tech/elon-musk-twitter-board-next-steps/index.html>

Dwoskin, E., & Oremus, W. (2021). In a surprise tweet, Twitter CEO Jack Dorsey said he's stepping down. Washington Post.

<https://www.washingtonpost.com/technology/2021/11/29/dorsey-steps-down-twitter/>

Elder, B. (2022). Musk's conveniently timed \$46.5bn Twitter tilt. Financial Times.

<https://www.ft.com/content/d7babce1-7275-4a13-acc0-442ffe4dc6b6>

Elon Musk refuses Twitter board seat after becoming company's largest shareholder. (2022). [Video]. NBC News. <https://www.nbcnews.com/media/elon-musk-turns-seat-twitters-board-investing-enough-in-vite-rcna23808>

Gaprindashvili, G. (2016). A Brief History of Twitter's Valuation. PitchBook. <https://pitchbook.com/news/articles/a-brief-history-of-twitters-valuation>

Isaac, M., & Hirsch, L. (2022). Elon Musk and Twitter Reach Deal for Sale. The New York Times. <https://www.nytimes.com/live/2022/04/25/business/elon-musk-twitter>

Isidore, C. (2022). Elon Musk will have to pay three fired Twitter executives nearly \$200 million. CNN. <https://edition.cnn.com/2022/10/28/tech/elon-musk-twitter-golden-parachutes/index.html>

Jeong, A., & Ovide, S. (2022). Top Twitter executives set to get \$120 million in golden parachutes. Washington Post. <https://www.washingtonpost.com/business/2022/10/29/twitter-executives-payouts-musk/>

Jolly, J. (2022). Twitter bosses entitled to \$120m in 'golden parachute' payouts. The Guardian. <https://www.theguardian.com/business/2022/oct/28/twitter-bosses-120m-dollars-payout-elon-musk>

Murphy, H., & Fontanella-Khan, J. (2022). Why is Elon Musk really putting his Twitter deal 'on hold'? Financial Times. <https://www.ft.com/content/6b84ddc6-63c8-4c4a-b1ff-582ac6a9f83c>

Murphy, H., Gara, A., & Fontanella-Khan, J. (2022). Twitter accepts Elon Musk's \$44bn takeover offer. Financial Times. <https://www.ft.com/content/79e3bc48-96ef-4e62-b30b-d3ddb45d7a2f>

Platt, E., Gara, A., Indap, S., & Fontanella-Khan, J. (2022). Elon Musk could pay \$1bn if Twitter deal falls through. Financial Times. <https://www.ft.com/content/a82e0d26-77ed-48fc-9521-dd2ca44ac803>

Matt O'Brien. (2022). Twitter board of directors adopt 'poison pill' defense against Musk takeover bid. PBS NewsHour. <https://www.pbs.org/newshour/economy/twitter-board-of-directors-adopt-poison-pill-defense-against-musk-takeover-bid>

Waters, R., Platt, E., Gara, A., & Fontanella-Khan, J. (2022). From punchline to deal in under 2 weeks: how Elon Musk won his Twitter prize. Financial Times.
<https://www.ft.com/content/427218b5-f6c7-4287-b493-2bd299081b1c>

9. Appendices

Appendix A - Description of Takeover Defenses

Poison pill – A poison pill, also known as a shareholder rights plan, serves as a defensive tactic against hostile takeovers. It works by setting a trigger based on stock ownership, and if a shareholder exceeds this trigger, their stake in the company is diluted, making the acquisition more costly. For example, if a company sets the trigger at 15%, the poison pill is activated when a shareholder surpasses this threshold. In such cases, existing shareholders are granted the right to purchase stocks at a discounted price, diluting the control of the hostile bidder and making it more expensive to complete the takeover. It could also serve as a tool to compel the acquirer to negotiate with the target's board for a buyout price. It's important to note that exceptions exist, such as when an existing shareholder holds a higher stake in the company compared to the new acquirer, or when the increase in ownership crossing the threshold is a result of the company's deliberate actions.

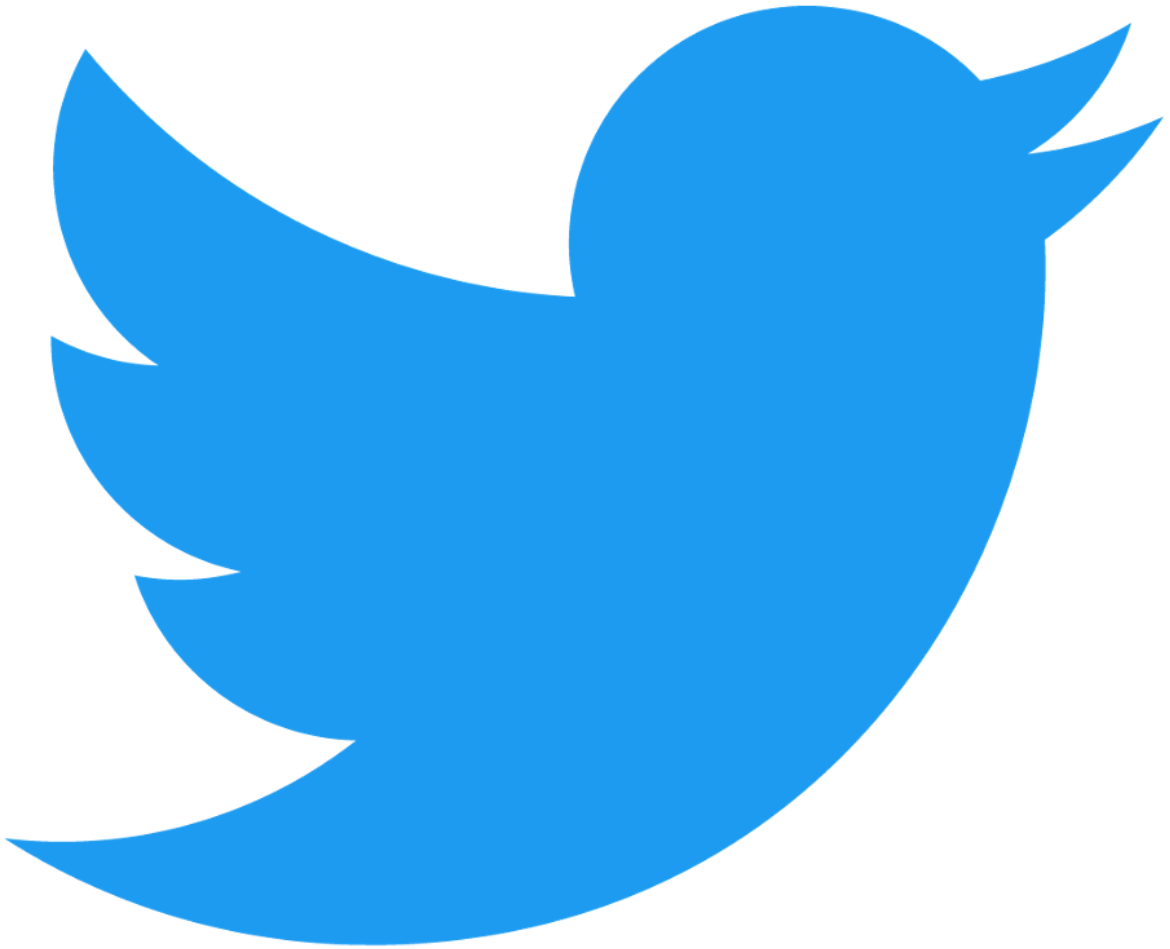
Supermajority vote - The super-majority vote requires a substantial majority, typically ranging from 67% to 90% of voting shareholders to approve important decisions like mergers and acquisitions, executive changes, hiring an investment bank for an IPO, or going private. While this may make decision-making more difficult, the support garnered from such intense deliberations increases the long-term sustainability of the chosen path, as it has stronger backing from a larger number of team members. As a takeover defense tactic, getting the buy-in of a substantial majority may be difficult and eventually make the conclusion of the acquisition impossible.

Classified boards - Classified boards, also known as staggered boards, are provisions in a company's charter where directors are elected in classes, and a group of them are successively replaced during annual general shareholders meetings. As a takeover defense strategy, a bidder needs to acquire a significant block of shares and establish their own proxy directors over two consecutive years (if a third of the board is replaced annually) to gain the necessary majority support for their bid. This lengthy and uncertain process significantly delays hostile takeovers, making it difficult and costly for bidders to acquire firms with classified boards.

Unequal voting rights - Unequal voting provisions, commonly found in firms with multiple class shares, separate voting rights from cash flow rights. This structure is more prevalent in founder-led companies, where the founders' involvement is considered crucial to the company's management and success. Unequal voting rights can also arise from shares with limited or no voting rights. These provisions empower controlling shareholders and management to maintain control of the company, fostering potential growth and allowing resistance against short-term market pressures for corporate control. Multiple share class structures insulate management from takeover threats and incentivise long-term investments, particularly in research and development projects. In such firms, managers benefit from the support of long-term-oriented owners who prioritise sustainable growth over short-term gains pursued by transient institutional shareholders.

Golden parachute - Golden parachutes are compensations to company employees (usually executives) if their contracts are terminated during a corporate restructuring activity, for example in the case of an acquisition. Golden parachutes typically include one or a combination of severance pay, retirement benefits, continued enrolment in pension plans, stock options, bonuses, and paid health insurance. As the frequency of merger activities increased between 1980 and 1990, companies increased the inclusion of golden parachute clauses in employment contracts to retain highly qualified employees. They were specifically aimed at ensuring shareholders don't lose out on beneficial M&A deals and to protect executives from the uncertainty of being fired in the wake of the corporate takeover wave of the 1980s (Fiss, 2016). While the inclusion of golden parachute clauses incentivised employees, it also served as a defense mechanism against hostile takeovers as it could make the acquisition too expensive thereby discouraging the acquirer from continuing the takeover.

Appendix B - Twitter's Logo



Source: Twitter's website

Appendix C - Description of Twitter at IPO in 2013

Twitter is a globally recognized platform that revolutionized content creation and distribution, empowering individuals to engage in real-time public self-expression and conversations. Through its innovative approach, Twitter made content creation and distribution accessible to everyone, enabling voices from around the world to be instantly heard without any filtering.

Tweets, the messages on the Twitter platform, are limited to 140 characters, which encourages quick and concise content creation. This limitation ensures that content remains consistent across the platform and optimised for mobile devices. The fast-paced exchange of information through tweets gives Twitter its unique "live" quality. Additionally, users can follow and be followed by thousands or even millions of other users without requiring a reciprocal relationship, expanding their reach to a broad audience.

Twitter boasts millions of users worldwide, including influential individuals and organisations such as world leaders, celebrities, athletes, journalists, sports teams, media outlets, and brands. These users collectively generate around 500 million tweets per day.

One of the key features of Twitter is its public nature, which allows the reach of its content to extend beyond the platform itself. Media outlets distribute tweets to enhance their own content, making it more timely, relevant, and comprehensive. In fact, tweets have been featured on over one million third-party websites, resulting in billions of online impressions.

Twitter provides an efficient and engaging means for people to stay informed about their interests, discover real-time events, and interact directly with others. The platform facilitates the rapid creation and distribution of ideas and information on both local and global scales. Users can quickly browse through tweets and explore content in greater depth through attached links, photos, media, and various applications. As a result, Twitter has become the go-to platform for real-time digital experiences during various events, whether planned (such as sports events and television shows) or unplanned (such as natural disasters and political revolutions). People can communicate with each other as these events unfold, creating powerful shared experiences.

Twitter's impact has been evident in numerous notable instances. For example, President Obama famously used the platform to announce his victory in the 2012 U.S. presidential election, generating millions of views and widespread offline distribution through print and broadcast media. In another instance, an ordinary resident in Abbottabad, Pakistan unknowingly reported the raid on Osama Bin Laden's compound on Twitter hours before traditional news outlets caught wind of the event. During the earthquake and tsunami in Japan, Twitter served as a vital source for people seeking information about the disaster, finding loved ones, and monitoring the subsequent nuclear crisis. Twitter goes beyond traditional broadcast mediums by connecting audiences, enabling timely content distribution, and fostering shared experiences.

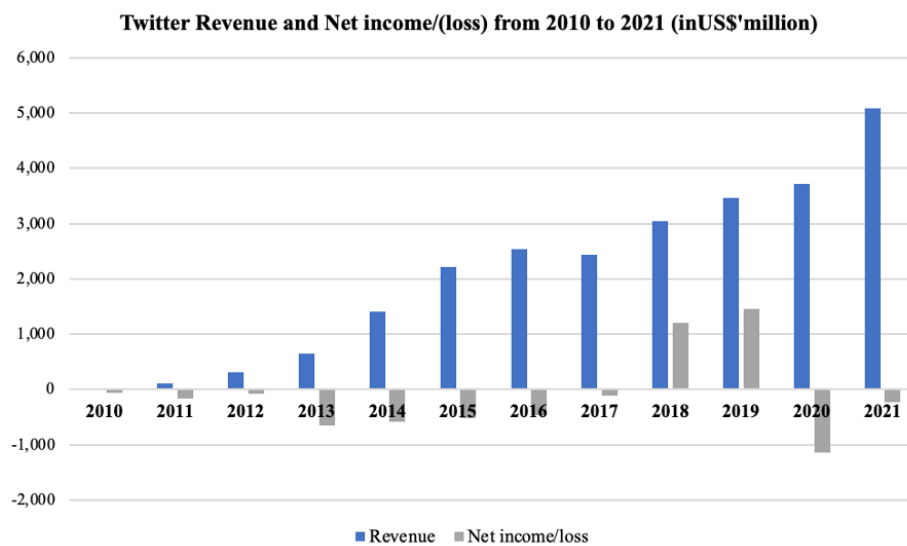
Overall, Twitter's ability to bring people together, facilitate content discovery, and provide a platform for immediate contributions has made it an invaluable tool for individuals and organisations worldwide.

Source: Twitter's SEC IPO Filing

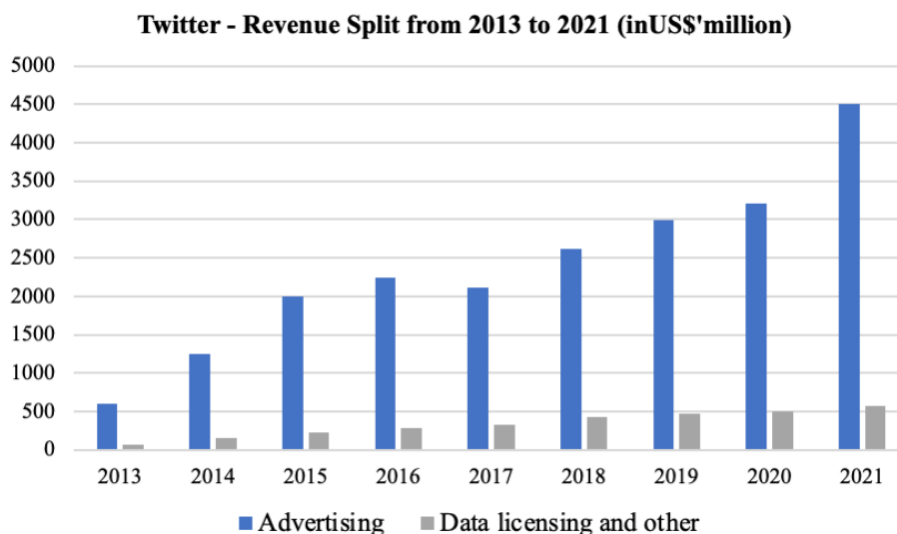
Appendix D - Twitter's Financial Performance

From 2017 until 2021, Twitter recorded steady growth in its revenue from \$2 billion to \$5 billion. Although the company recorded profit in 2018 and 2019, in 2020 the company returned to its loss-making status. Increased cost in 2020 and 2021 was mainly attributed to research and development costs as well as litigation costs.

In 2021, SEC filings revealed that the fees received by the company's directors amounted to \$2.9million which did not include payment to CEO Parag Agrawal and former chief Jack Dorsey.

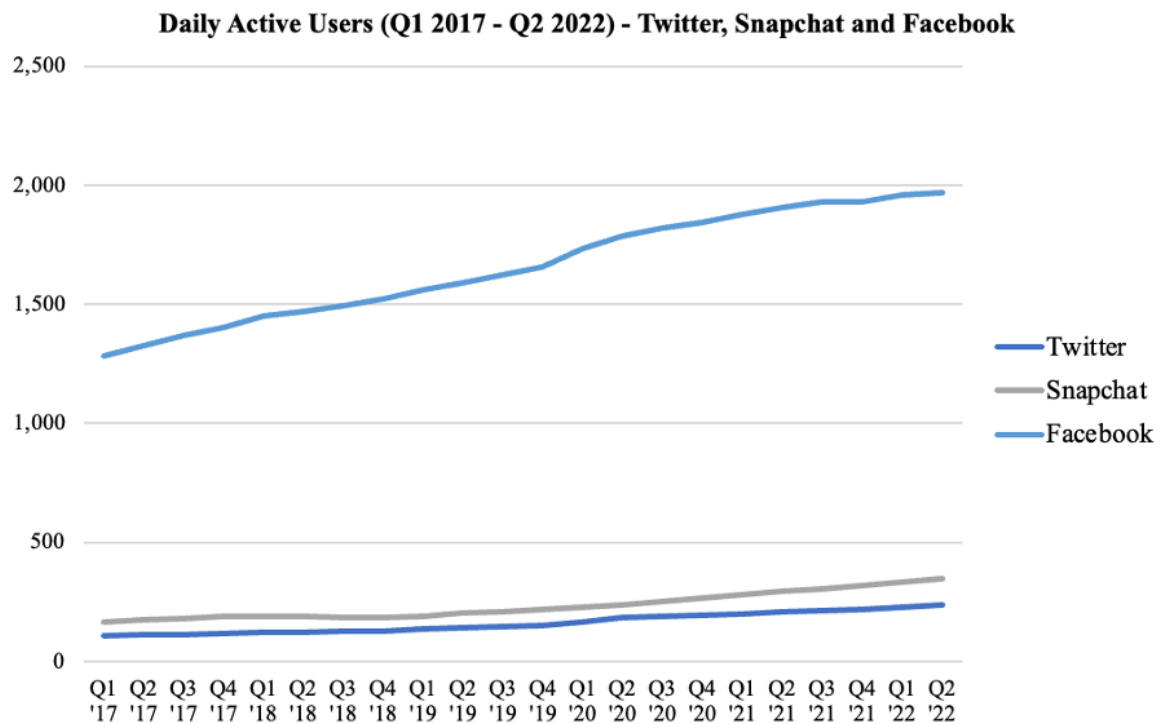


Source: Twitter's SEC Filing at IPO, Financial Statements (2013 - 2021) & Statista



Source: Statista

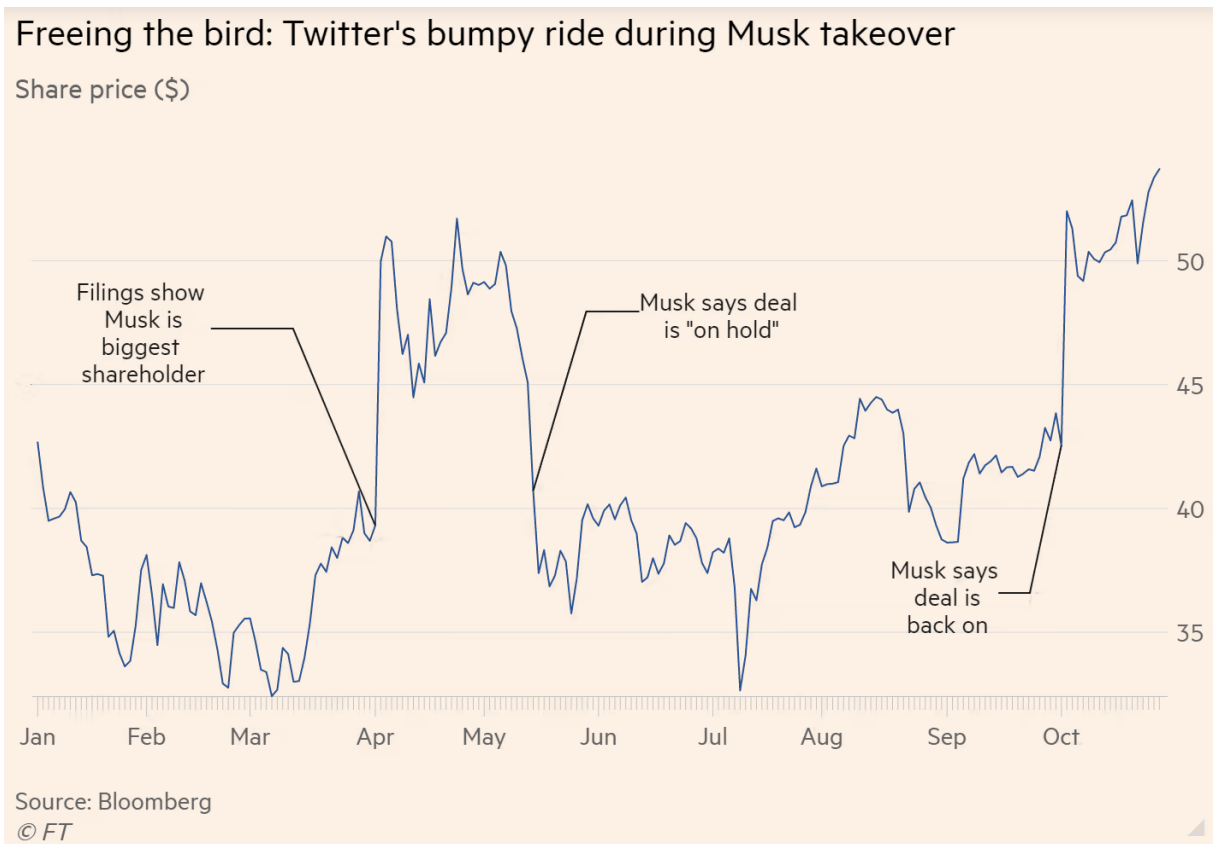
Appendix E - Daily Active Users of Twitter compared to other social media platforms



Here, the data for Twitter is monetizable Daily Active Users (mDAUs) while the data for Snapchat and Facebook is for Daily Active Users (DAUs).

Source: Statista

Appendix F - Twitter Share Price in Response to Elon Musk



Appendix G - Timeline of Twitter Acquisition

March 25, 2022	Musk begins openly criticizing Twitter, polling his followers on whether they believe the company adheres to the principle of free speech.
April 4, 2022	A securities filing reveals Musk is Twitter's largest shareholder, with a 9.2% stake in the company. Musk is invited to join Twitter's board of directors.
April 10, 2022	Former Twitter CEO Parag Agrawal announces Musk declines the invitation to join Twitter's board of directors.
April 14, 2022	Musk makes an offer to purchase Twitter for \$43 billion, or \$54.20 per share, and take the company private
April 25, 2022	A filing with the United States Security and Exchange Commission reveals Twitter's board publicly and unanimously accepted Musk's buyout offer.
May 13, 2022	Musk puts the buyout deal on hold following reports that 5% of Twitter's daily active users are spam accounts.
June 6, 2022	In a letter from Musk's attorney sent to Twitter, Musk threatens to terminate his agreement. Musk alleges Twitter is refusing to comply with requests for data on the number of spam accounts.
June 8, 2022	Twitter's board complies with Musk's demands, agreeing to provide him with a "firehose" data stream of tweets.
July 8, 2022	Musk announces his intention to terminate the Twitter acquisition, claiming in a filing with the SEC that Twitter still refuses to comply with requests for data on bot accounts. Twitter's chairman, Bret Taylor, says that the board plans to pursue legal action to enforce the agreement.
July 12, 2022	Twitter formally launches a lawsuit against Musk in response to his backing out of the acquisition.
August 6, 2022	Musk challenges former Twitter CEO Parag Agrawal to a public debate about spam accounts and polls followers on whether they believe less than 5% of Twitter's daily active users are fake.
October 4, 2022	Musk submits a proposal to move forward with the acquisition at the originally agreed-upon price of \$44 billion (\$54.20 per share) on the condition that Twitter drops its lawsuit. In a tweet, Musk said acquiring Twitter is part of a larger goal to create an "everything" app called "X"

October 20, 2022	According to a report in The Washington Post, Musk is telling investors he plans to terminate nearly 75% of Twitter's staff.
October 26, 2022	Musk tweets a video of him carrying a kitchen sink into Twitter headquarters and changes his Twitter bio to "Chief Twit," signalling the buyout is near completion. Musk reportedly tells Twitter employees during his visit that layoffs will happen, though not at the previously reported scale.
October 27, 2022	Musk and Twitter close the deal, making Musk the new owner. Musk immediately fires Agrawal, chief financial officer (CFO) Ned Segal, Gadde, and general counsel Sean Edgett.

Source: Washington Post, 2022

Appendix H: Deal Financing and Deal Terms

Deal Financing

After Twitter's Board's defensive stance, Elon Musk filed the details of his financial commitments of \$46.5 billion for Twitter's acquisition on 21 April 2021. The deal financing plan put together by Morgan Stanley is made up of equity and debt:

Type of financing	Amount (\$ billion)
Term loan [∞]	6.5
Secured bridge loan [∞]	3
Unsecured bridge loan [∞]	3
Revolving facility [∞]	0.5
Margin loan secured against Musk's Tesla shares*	12.5
Equity	12.5

* This funding is provided by Morgan Stanley, Bank of America, Barclays, MUFG, BNP Paribas, Mizuho and Société Générale.

∞ The margin loan to fund a Twitter bid requires a pledge of nearly 59 million Tesla shares or about 85 per cent of Musk's total stake.

Given the short timeframe, Musk's bankers did not conduct the extensive due diligence that would be required for a deal of that size. Twitter's board accepted the offer after a board meeting that started late on Sunday and went through the night. Bret Taylor, Twitter chairman said, "The proposed transaction will deliver a substantial cash premium, and we believe it is the best path forward for Twitter's stockholders."

On 26 April 2022, Tesla shares slid more than 12 per cent the day after the Twitter deal was agreed wiping more than \$125 billion off its valuation. On 29 April 2022 and 10 August 2022, Musk sold Tesla's shares worth \$8.5 billion and \$6.9 billion which are assumed to be aimed at financing this deal.

In concluding the deal, the margin loans were abandoned, and the deal was financed as follows:

Type of financing	Source	Amount (\$)
Equity	Elon Musk and co-investors	33 billion
Debt	Banks	13 billion

Deal Terms

Some of the important deal terms are described below:

- **Termination fee:** Twitter is obligated to pay Musk \$ 1 billion if it refuses to conclude the deal for reasons including a higher bid from another buyer. Musk was also obligated to pay a reverse termination fee of \$ 1 billion if he failed to complete the deal. Twitter could also sue if Elon Musk is able to get commitments for the debt component of the bid but refuses to complete the transaction. However, Musk's monetary damages were capped at \$1 billion.
- **Non-disparagement clause:** The merger agreement also reveals that Musk's own tweets are bound by a non-disparagement clause to Twitter and its representatives.
- **Material adverse effect:** Musk was not permitted to walk away because of a deteriorating business environment, such as a drop in demand for advertising or because Twitter's shares have plunged.
- **Specific performance clause:** This "specific performance" clause could be cited by a judge to force Musk to complete the deal.

Source: SEC Filings

Appendix I: Interview Questions Template to Lawyers

A quick note: Please be advised that it would be appreciated if we could approach the questions at hand from the perspective of Twitter's buyout case. Thank you again for your time, highly appreciate it!

Key differences between Sweden and US

- How do the Swedish Takeover Act and the Williams Act protect minority shareholders in a takeover? What are the key provisions of these acts that are designed to ensure fair treatment of minority shareholders, and how are these provisions enforced? Can you provide examples of how these acts have been used to protect minority shareholders in the past, and any limitations or gaps in the regulatory framework that may still exist?
- What factors are taken into account in determining the fairness of a takeover bid, and how are these factors assessed and evaluated in both the Swedish takeover act and the Williams act? From your experience, how do the interests of minority shareholders factor into the determination of whether a bid is fair, and what recourse do they have if they believe that they have been treated unfairly? Can you provide examples of cases where the public opinion contested the fairness of a takeover bid in the US or Sweden.
- The Williams Act requires bidders have an obligation to disclose within ten days their identity, shareholdings, and intentions when they acquire 5 percent or more of the voting rights of the target firm. How do the Swedish Takeover Act, the takeovers bid directive and the Williams Act differ in terms of the disclosure requirements for the bidder?

Negotiation tactics

- In your opinion, what are some of the potential benefits and drawbacks of implementing time constraints on public takeover bids as a way to deter hostile bids? How do these constraints impact the negotiating power of the target company and its shareholders, as well as the overall outcome of the takeover process?
- The board had previously employed a defense strategy referred to as a "poison pill" in order to prevent Elon Musk from acquiring additional Twitter shares. However, Mr. Taylor, Twitter's chairman, stated that this was not a measure to stop Musk from purchasing the company, but rather to regain control of the negotiation process for the board (The New York Times, 2022). From this statement, How does this strategy

impact the negotiation process between the acquiring party and the target company's board, and what role does it play in protecting shareholder interests?

- From research and experience, acquirers sometimes first acquire a toehold before launching a takeover bid. Research also posits that when a toehold has been acquired, the acquirer has a higher chance of a favourable acquisition. In your opinion, how does a toehold influence the success of the acquisition process and the premium paid?

Other relevant questions

- According to Gilberto & Silva, 2022, the main goal of TBD is to protect target minority shareholders from excessive anti-takeover provisions that serve managerial entrenchment and from aggressive bidders. Research shows that higher shareholder protection leads to more confidence in takeovers hence higher takeover attempts. Although Sweden is ranked no 2 in the level of shareholder protection there are fewer takeovers. How would you interpret this contradiction?
- Knowing that there are way more A/B shares used in Sweden, how does the use of A/B shares by companies impact the process and outcomes of hostile takeovers in Sweden and the US? What are the advantages and disadvantages of using A/B shares in the context of hostile takeovers?
- In your opinion, what are the most important factors that determine the success or failure of a hostile takeover bid?
- What advice would you give to companies that may be at risk of a hostile takeover bid?
- Are there indicators of more takeovers (hostile or otherwise) in the internet sector? Are big firms creating a monopoly in the market through acquisitions? Who may be the potential bidders and what are their goals?

Appendix J: Interview Questions Template to Research Analysts and Investment Bankers

A quick note: Please be advised that it would be appreciated if we could approach the questions at hand from the perspective of Twitter's buyout case. Thank you again for your time, highly appreciate it!

Questions

- There are no clear strategic or financial reasons for Elon Musk's acquisition of Twitter. How would this acquisition be classified and how does it influence the premium paid?
- Elon offered a premium of 38% and there were no other bidders in the process. Given Twitter's consistent loss-making situation following its IPO (except for 2018 and 2019), could the premium have been this high enough to deter other bidders in the process? Dimopoulos and Sacchetto (2014) stated that they found a 16% probability that, in successful single-bidder contests, an initial bidder deters the entry of a stronger rival.
- Aktas et al. (2018) concluded that on average, bidders in early announced deals pay a 12% higher premium based on the 4-week target share price prior to the announcement. What indicates early announcement in a takeover bid and what are the practical reasons why it may result in a higher premium? In Elon's bid for Twitter, can the announcement be deemed early? If yes or no, how did it influence the premium paid? How does this differ in the case of a bid by a strategic, financial, or another type of bidder? (negotiation tactics)
- According to Gilberto & Silva, 2022, the main goal of Takeover Bids Directive (TBD) is to protect target minority shareholders from excessive anti-takeover provisions that serve managerial entrenchment and from aggressive bidders. Research shows that higher shareholder protection leads to more confidence in takeovers hence higher takeover attempts. Although Sweden is ranked no 2 in the level of shareholder protection there are fewer takeovers. How would you interpret this contradiction?
- Knowing that there A/B shares are more common in Sweden, how does the use of A/B shares by companies impact the process and outcomes of hostile takeovers in Sweden and the US? What are the advantages and disadvantages of using A/B shares in the context of hostile takeovers?

- What are some common tactics used by bidders in hostile takeovers, and how are these tactics regulated in Sweden and the US?
- Can you describe a recent high-profile hostile takeover bid in Sweden, and how the regulatory framework impacted the outcome of that bid? (example Scandia)
- In your opinion, what are the most important factors that determine the success or failure of a hostile takeover bid?
- What advice would you give to companies that may be at risk of a hostile takeover bid?

Negotiation tactics

- In your opinion, what are some of the potential benefits and drawbacks of implementing time constraints on public takeover bids as a way to deter hostile bids? How do these constraints impact the negotiating power of the target company and its shareholders, as well as the overall outcome of the takeover process?
- The board had previously employed a defence strategy referred to as a "poison pill" in order to prevent Elon Musk from acquiring additional Twitter shares. However, Mr. Taylor, Twitter's chairman, stated that this was not a measure to stop Musk from purchasing the company, but rather to regain control of the negotiation process for the board (The New York Times, 2022). From this statement, How does this strategy impact the negotiation process between the acquiring party and the target company's board, and what role does it play in protecting shareholder interests?
- From research and experience, acquirers sometimes first acquire a toehold before launching a takeover bid. Research also posits that when a toehold has been acquired, the acquirer has a higher chance of a favourable acquisition. In your opinion, how does a toehold influence the success of the acquisition process and the premium paid?