

investment appeal become increasingly aware of the need to establish long-term relations (Investor Relations, IR) with portfolio managers, with buy-side and sell-side analysts.

One of the key components of such work is the so-called voluntary disclosure, the list of formats of which includes more than 150 varieties. We compared activity of 40 Russian and 40 British companies in this field, which suggests that Russian major companies lag behind British major companies as concerns the frequency of voluntary disclosures. Meanwhile, the activity of use of voluntary disclosures by medium and small companies is much the same in Russia and the U. K.

Drafting of the annual report (the presentation version), publication of the financial IR release, posting of the financial calendar and the interactive chart of share prices on the website are the most popular formats for Russian and British majors alike. Unlike with Russian major companies, their British peers make an active use of modern interactive formats of IR work. A number of disclosure formats are used by major companies only; for instance, medium- and small-capitalization companies do not have social reports, the investor's and the analyst's directories, bulletins for investors, and interactive data rooms.

Chapter VIII.

CORPORATE CONFLICTS IN MODERN RUSSIA

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Despite the significant progress in corporate legislation in recent years, minority shareholders in Russia still face major difficulties in defending their rights. The law enforcement being lax, majority shareholders are still able to appropriate and abuse the rights of minority shareholders.

High value of control leads to conflicts among large shareholders (blockholders) in companies without a majority owner. Such conflicts do not necessarily destroy shareholder value though. Existence of several blockholders of comparable size may be even useful for small shareholders because large owners are interested in restricting each other's opportunistic behavior and seek to win support of minority shareholders in fighting for control. Meanwhile, hostile takeovers involving illegal or semi-legal instruments are still a problem, despite introduction of a number of "anti-raider" laws and the outcomes of a few criminal cases that resulted in the raiders' imprisonment.

A specific feature of Russia is conflicts between minority shareholders and top management/board of directors of state-owned companies (SOEs). These conflicts root

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from the absence of clear managerial objectives, insufficient market discipline, distorted incentives for the officials that have control over SOEs, and corruption.

1. Minority Shareholder Vs Majority Shareholder Conflicts in Private Companies

Even though corporate governance improved in large companies significantly over the last 10 to 12 years, controlling owners still make recourse to different expropriation methods with respect to minority shareholders and derogate from their rights. The typical examples of large shareholders' malfeasances are related party transactions that are disadvantageous for the company, non-fulfillment of a mandatory buyout offer, unfair asset valuation during a reorganization, merger or squeeze-out, dilution of the minority shareholders' share during equity issues, ousting their representatives from the board of directors.

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The global financial and economic crisis revealed weakness of the Russian corporate governance institutions and triggered the controlling owners' withdrawal of their cash from companies and repudiation of payment obligations to minority shareholders. Non-fulfillment of a mandatory buyout offer upon crossing the threshold of 30% voting shares has become a relatively new type of "misbehavior" because this provision was only introduced in Russian law in 2006.

Though minority shareholders seek to resist the controlling shareholders' opportunism in courts, their efforts are often fruitless. There is the Investor Protection Association (IPA) that coordinates minority shareholders' efforts aimed at protecting their rights in Russia. On the one hand, IPA members managed to defend their rights in several conflicts and to have their representatives elected to boards of directors in a number of companies. On the other hand, the range of investors represented by IPA is rather narrow (about 25 members currently). Moreover, IPA's capabilities are greatly limited due to the general problems in Russian corporate governance and law enforcement, including the shortage of qualified independent directors in boards of directors and susceptibility of courts to controlling owners' influence.

2. Minority Shareholders Vs State-owned Companies

A separate Russia-specific aspect is conflicts between minority shareholders and the management/board of directors in state-controlled companies (SOEs). This is a serious problem if one considers the scope of the state involvement in the Russian economy.

There are a number of major problems in corporate governance of Russian state-owned companies. The first one is that the governmental goals are not necessarily subordinated to the maximization of the shareholders' equity. For instance, fulfillment of social or political goals, to the detriment of their business interests, may be imposed on SOEs. Lack of clear-cut objectives leads to 'dilution' of incentives for managers. Moreover, the managerial incentives may be weakened by the reduced risks of bankruptcy (managers expect the state to bail the company out if it becomes insolvent) and by implicit protection from competition. The final problem is that the State is an "abstract" shareholder. Even though the ultimate beneficiaries of the state-owned stake are Russian citizens, the real control is in the hands of state officials, who are to a large extent unaccountable to the former. In addition, these officials neither have equity shares in SOEs, nor any other direct performance-based incentives. Thus, their decisions may be driven by political considerations or desire to extract private benefits; even if they are benevolent, given their low accountability, they are likely to make mistakes.

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Despite certain successes, minority shareholders usually lose in fighting with SOEs. However, the last twelve years saw some interesting examples where mass media proved to be potentially efficient as a tool of struggle in these conflicts. For instance, in the late 1990's – early 2000's, Bill Browder, Head of the Hermitage Capital Foundation, made a wide recourse to publications in Western mass media to pressurize managers, controlling shareholders and officials. Such strategy proved to be rather effective, though, closer to the mid-2000's, Mr. Browder began to peter out, and late in 2005, he was prohibited to enter Russia, without giving reasons why. Another activist, Alexey Navalny, who

has become very widely known recently, uses his Internet blog to publish his own investigations on abuses in state-owned companies. Navalny's blog counts dozens of thousands of subscribers now and is de facto a mass media. Official mass media monitor the blog themselves and broadcast the activist's messages. Whereas the principal targeted audience for Browder was the foreign investment community, Navalny seeks to draw public response inside Russia, by positioning himself as a public activist and fighter against corruption. He stakes on the fact that all Russian nationals are beneficiaries of state-owned companies, so corruption in these companies affects each citizen's well-being. Even though Navalny has not yet succeeded in obtaining a significant direct result in the SOEs he attacks, the potential effect of his work may be very significant because it draws public attention to corruption and other problems in SOEs. (66)

3. Conflicts between Large Non-Controlling Shareholders

Control over assets being very valuable in Russia, the ownership structure with two or more large shareholders, of which each is not a controlling one, is inevitably prone to the risk of conflict among them. It is, perhaps, for this particular reason that such companies are rather sparse as compared with companies with the sole control. When wars among large shareholders begin they usually become widely publicized because the belligerent parties are well equipped with tools and are motivated to carry out large-scale PR campaigns.

Notably, these shareholders' wars often last for many years. One may wonder what prevents the conflicting parties from agreeing on the buyout of one party's stake by the other, thus avoiding war-related expenses? But, firstly, significant funds must be raised for such a buyout. Secondly, with substantial amount of cash received from selling a large stake, it is not often easy to find a new attractive investment opportunity because there are virtually no vacant 'niches' in the market. Thirdly, there is a problem associated with information asymmetry. As the sole control is very valuable for each of the conflicting parties, but the adversary does

not know it for sure, reaching agreement on the price that would satisfy both parties is very difficult. Fourthly, the inability to reach agreement may be caused by reputational considerations because a sale of a stake to the opponent may be perceived in business and political circles as a defeat at war and a sign of weakness. Conflicting parties often appeal to the state, requesting it to back up their particular standpoint. However, in practice, governmental authorities prefer to stand aside, being 'equally aloof' from the conflict participants.

There is a widespread opinion that a conflict among major shareholders adversely affects a company's key indicators and its performance. Having analyzed the conflicts at VimpelCom and Norilsk Nickel, we did not find evidence of any long-term adverse impact produced by the conflicts on the companies' operating performance and market value. Therefore, conflicts among major shareholders cannot be regarded as the exclusively adverse phenomenon only. (67)

4. Conclusion

Even though the corporate and securities legislation has improved, corporate conflicts are still more frequent in Russia than in developed nations. They arise out of severe conflicts of interests and related abuses on the part of large shareholders, managers or officials. Weak law enforcement and, in particular, large-scale corruption are the principal obstacles to progress in corporate governance of Russian companies. Attempts at improving legislation will have a limited effect, if these problems are not resolved. The government needs to improve corporate governance in state-owned companies. For this purpose, it is crucial to clearly define the strategy and objectives for each state-owned company that cannot be privatized, to make them as transparent as possible and to link the managerial remuneration to the achievement of these objectives. Independent directors in SOEs should play a key role in the strategy development and ensuring its implementation in the most transparent mode. These efforts are likely to greatly reduce tension in relations between minority shareholders and SOEs' management.