

Eight Lessons the Paramount–Warner Bros. Deal Teaches Us About Modern Corporate Law



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The \$110+ billion acquisition of Warner Bros. Discovery by Paramount Skydance Corporation is more than just a headline-grabbing media consolidation. It is a case study in how modern corporate law operates under pressure. From hostile takeover tactics to fiduciary duties and antitrust scrutiny, the deal offers a rich set of lessons for corporate lawyers, executives, and law students alike.

1. The Comeback of the Hostile Takeover

One of the most striking features of this deal was its evolution from a negotiated transaction into something resembling a hostile takeover. Paramount initially launched an all-cash tender offer directly to shareholders, bypassing Warner Bros.' board. When the board resisted and favored a competing bid from Netflix, Paramount threatened to use proxy fights and litigation to gain leverage.

Corporate Law Takeaway:

Hostile takeovers are no relics of the 1980s. They remain viable tools, especially in industries undergoing rapid consolidation. Boards must be prepared to respond using defensive mechanisms while still complying with fiduciary obligations.

2. Fiduciary Duties: Price vs. Certainty

Warner Bros.' board initially rejected Paramount's higher offer in favor of Netflix's lower bid due to deal certainty and financing credibility. Paramount ultimately prevailed only after increasing its offer to ~\$110 billion, strengthening financing (including a personal guarantee from a major backer), and matching contractual protections like termination fees.

Corporate Law Takeaway:

Boards are not obligated to accept the highest bid. They must choose the best overall transaction based on financing certainty, regulatory risk, execution risk and other factors. This reflects the core principle of fiduciary duty, which is to maximize shareholder value, not just price.

3. Deal Engineering Matters as Much as Valuation

This transaction demonstrates that structure can make or break a deal. Paramount used an all-cash tender offer to appeal to shareholders. It added a "ticking fee" to compensate for delays. It matched or exceeded breakup fees and reversed termination fees. It secured billions in equity guarantees and debt commitments.

Corporate Law Takeaway:

In modern M&A, the winner is often not the highest bidder but rather the party with the most credible and executable structure.

4. The Power of Competitive Bidding (and Deal Revlon Mode)

The Warner Bros. sale process evolved into a multi-bidder auction involving Paramount and Netflix. Once the company effectively put itself "in play," the board entered what corporate lawyers would recognize as Revlon mode, a duty to maximize immediate shareholder value through an auction-like process.

Corporate Law Takeaway:

Competitive bidding drives up valuation, forces transparency in deal terms and strengthens the board's legal defensibility.

5. Antitrust Is Central, No Longer Peripheral

The deal drew immediate attention from regulators and lawmakers concerned about media consolidation and streaming dominance. Paramount even argued its deal would face less antitrust scrutiny than a Netflix combination, which could have controlled ~40%+ of the streaming market.

Corporate Law Takeaway:

Antitrust risk is now a core deal variable, not a post-signing issue. In fact, antitrust influences which bidder wins, how

deals are structured, and whether transactions close at all.

6. Financing Is a Legal Strategy

A major turning point in the deal was Paramount securing a multi-billion-dollar personal guarantee to backstop financing. This directly addressed the board's earlier concerns that the offer was "illusory."

Corporate Law Takeaway:

Financing is not just a financial issue; it is a legal credibility signal that can determine board approval, shareholder support, and litigation outcomes.

7. The Evolution of the Leveraged Buyout (LBO)

The deal also highlights how the leveraged buyout (LBO) has evolved. Traditionally, LBOs rely heavily on debt secured by the target's assets, with private equity sponsors aiming to maximize returns through high leverage. Here, however, the structure was more hybrid than classic. Paramount combined strategic acquisition goals with selective use of leverage, while relying heavily on equity backstops and guarantees to increase deal certainty.

Corporate Law Takeaway:

Modern LBOs are less about maximizing leverage and more about balancing financing with credibility. In competitive M&A, a slightly less efficient, but more certain, capital structure can be the difference between winning and losing the deal.

8. Litigation and Pressure Tactics Are Part of the Playbook

Paramount did not just negotiate; it litigated and applied pressure. It demanded information about competing deals, threatened shareholder action, and got ready for a proxy contest.

Corporate Law Takeaway:

Modern M&A is as much about strategy and leverage as it is about contracts. Litigation now is often utilized as a negotiation tool. It is no longer just a last resort.

Final Thought: Modern Corporate Law Is Strategic, Not Just Mechanical

The Paramount–Warner Bros. deal highlights a shift in corporate law. M&A lawyers are no longer just deal documenters. They are strategists shaping outcomes. Legal design (e.g., fees, guarantees, structure) is now a competitive advantage.

This deal underscores a simple but powerful truth: modern corporate law does not just govern transactions; it determines who wins them.

For practitioners, especially those in M&A or corporate advisory, the message is clear: mastering doctrine is not enough. Understanding strategy, incentives, and deal dynamics is what separates good corporate lawyers from indispensable ones.

For questions about the topics and issues outlined in this blog post, please contact Priscilla Bonsu (pbonsu@lippes.com), associate on the firm's corporate practice team.

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