The Future of Corporate Takeovers in Europe

ECGI Session at the Federation of European Securities Exchanges' 6th European Financial Markets Convention

Brussels, 31 May 2002
Regulating Takeover Bids in Europe

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13th Directive’s Demise

- Initial draft 1989, agreement 2000
- Germany backed out: no level playing field
- Bolkestein: new proposal on basis of recommendations HLG
  - equitable price
  - squeeze-out
  - level playing field
Level playing field

- Three possible approaches:
  - leave it to the market, freedom of contract
  - permanent proportionality, one share one vote
  - middle ground: solution to allow take over bids to be successful across Europe
Key recommendations

• Disclosure of capital and control structures
• Shareholder decision-making
• Proportionality
• First phase: EGM to authorise defence
• Second phase: break-through if bidder after general bid has acquired 75% of risk-bearing capital
Criticism

- Freedom of contract/market force
- Multiple voting rights
- Concept of risk-bearing capital
- No level playing field: pyramids untouched
- Level playing field with the US