



# 2010 Public M&A Trends and Highlights

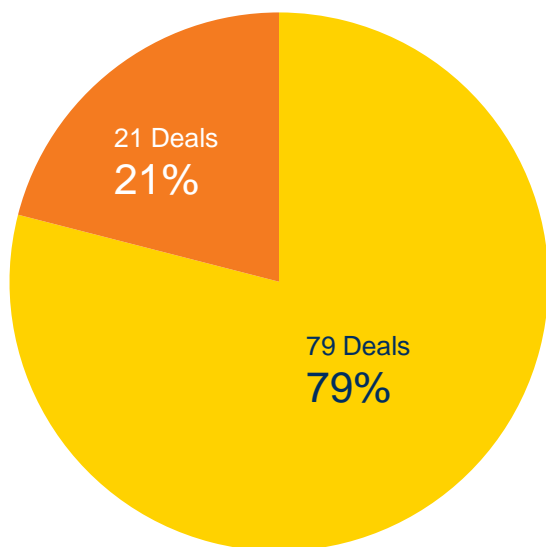
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*PLCWhat's Market*



# Number of Deals

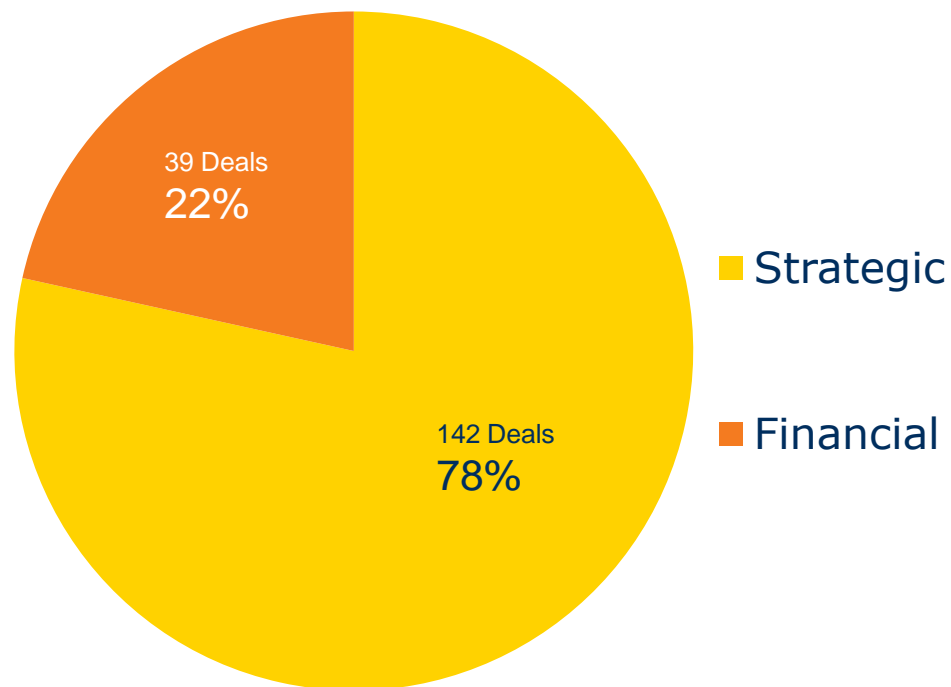
2009



100 Total Deals

31 deals (31%) were structured as front-end tender offers.

2010

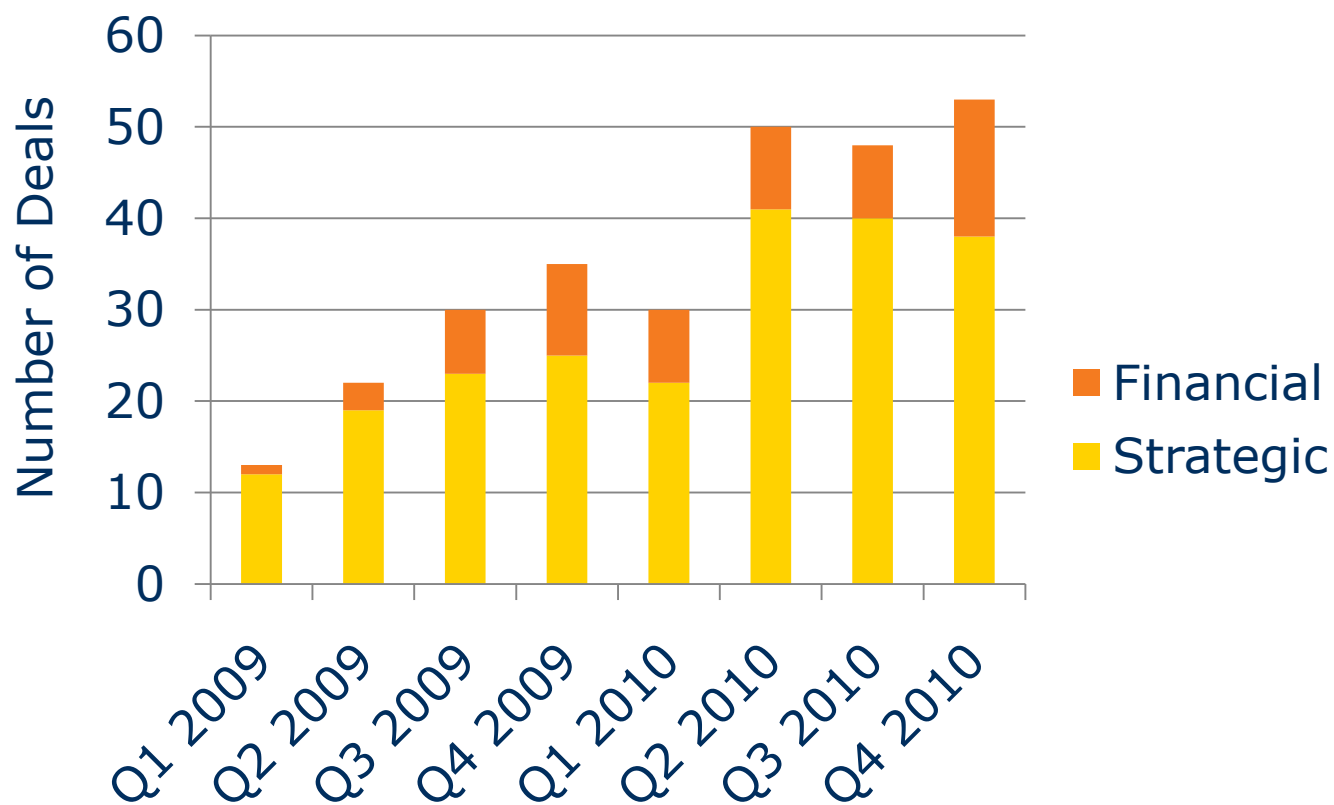


181 Total Deals

48 deals (27%) were structured as front-end tender offers.



## Deal Volume per Quarter from Q1 2009





## Largest Strategic Deals

Deal Parties / Signing Date	Industry Sector	Deal Value	Consideration
CenturyTel, Inc. and Qwest Communications International Inc. merger ( <i>April 21, 2010</i> )	Telecommunications	\$22.4 billion (on date signed)	All stock (exchange ratio: 0.1664)
Schlumberger Limited and Smith International, Inc. merger ( <i>February 21, 2010</i> )	Oil and gas	\$11 billion (on date signed)	All stock (exchange ratio: 0.6966)
Enterprise Products Partners L.P. and Enterprise GP Holdings L.P. merger ( <i>September 3, 2010</i> )	Oil and gas	\$9.1 billion (on date signed)	All equity (exchange ratio: 1.5)
Caterpillar Inc. and Bucyrus International, Inc. merger ( <i>November 14, 2010</i> )	Manufacturing and machinery	\$8.6 billion	All cash (\$92.00/share)
FirstEnergy Corp. and Allegheny Energy, Inc. merger ( <i>February 10, 2010</i> )	Utilities	\$8.5 billion (on date signed)	All stock (exchange ratio: 0.667)



# Largest Financial/PE Deals

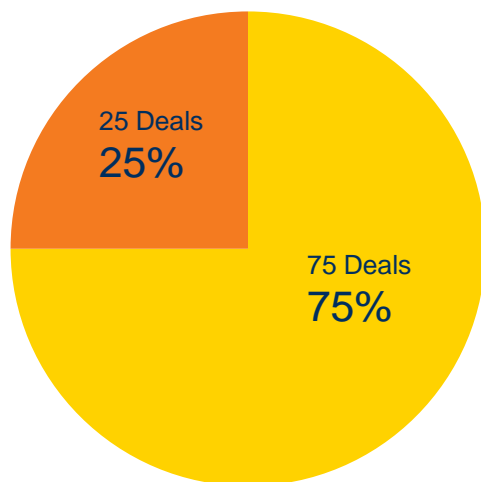
Deal Parties / Signing Date	Industry Sector	Deal Value	Consideration
KKR/Vestar Capital/Centerview Partners and Del Monte Foods Company merger ( <i>November 24, 2010</i> )	Food and beverage	\$5.3 billion	All cash (\$19.00/share)
Blackstone and Dynegy Inc. merger ( <i>August 13, 2010</i> )	Utilities	\$4.7 billion*	All cash (\$5.00/share)
Icahn Enterprises L.P. tender offer for Dynegy Inc. ( <i>December 15, 2010</i> )	Utilities	\$4.62 billion*	All cash (\$5.50/share)
3G Capital tender offer for Burger King Holdings, Inc. ( <i>September 2, 2010</i> )	Food and beverage	\$4.0 billion	All cash (\$24.00/share)
The Carlyle Group and CommScope, Inc. merger ( <i>October 26, 2010</i> )	Telecommunications	\$3.9 billion	All cash (\$31.50/share)
The Carlyle Group and NBTY, Inc. merger ( <i>July 15, 2010</i> )	Pharmaceuticals and biotechnology	\$3.8 billion	All cash (\$55.00/share)

\* Both deals include approximately \$3.95 billion in assumed debt but the Icahn Enterprise deal value is net of cash.



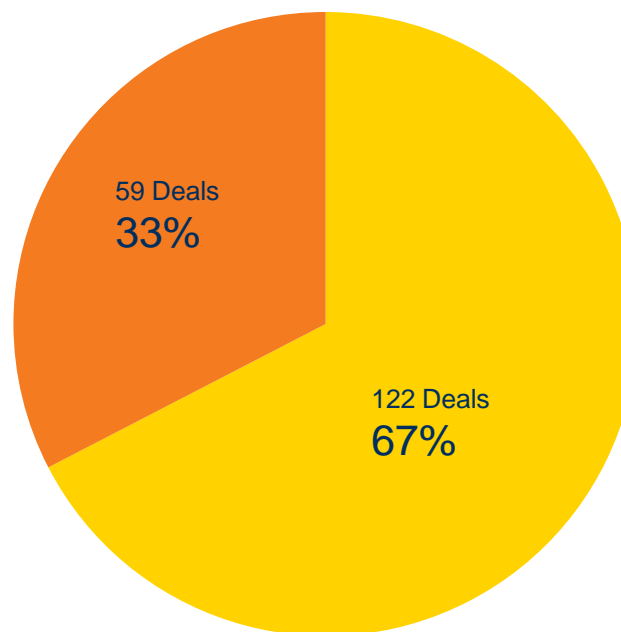
# Debt vs. Non-debt Financed Transactions

2009



100 Total Deals

2010



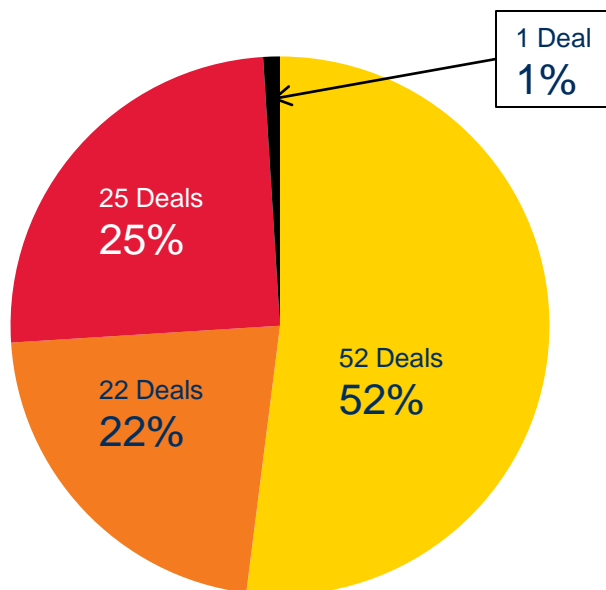
181 Total Deals

- Non-debt
- Debt-financed



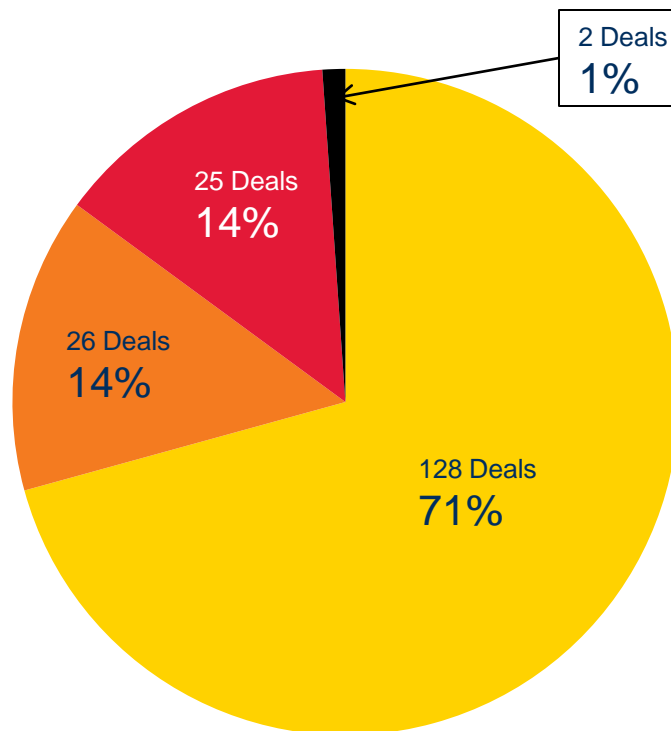
# Type of Consideration

2009



100 Total Deals

2010

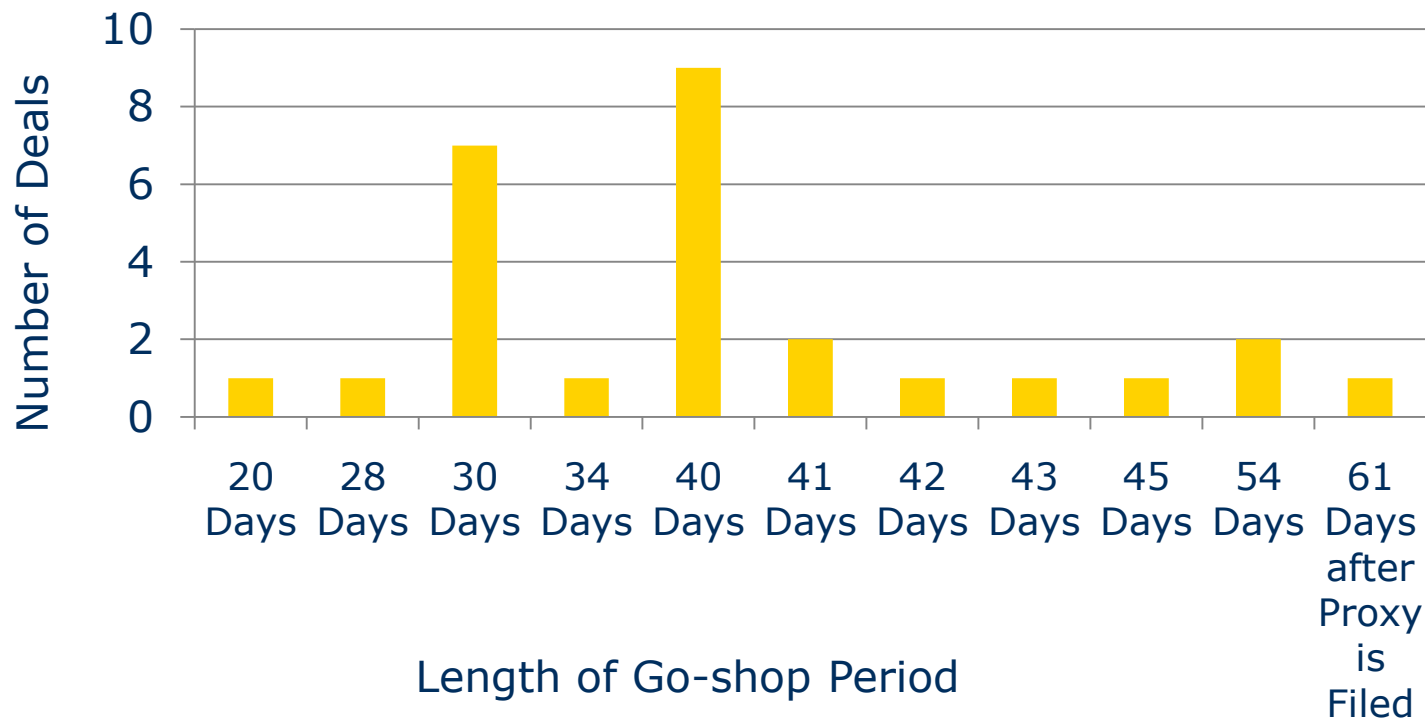


181 Total Deals

- All Cash
- All Stock
- Cash and/or Stock
- Cash, Stock and/or CVRs



## Go-shops

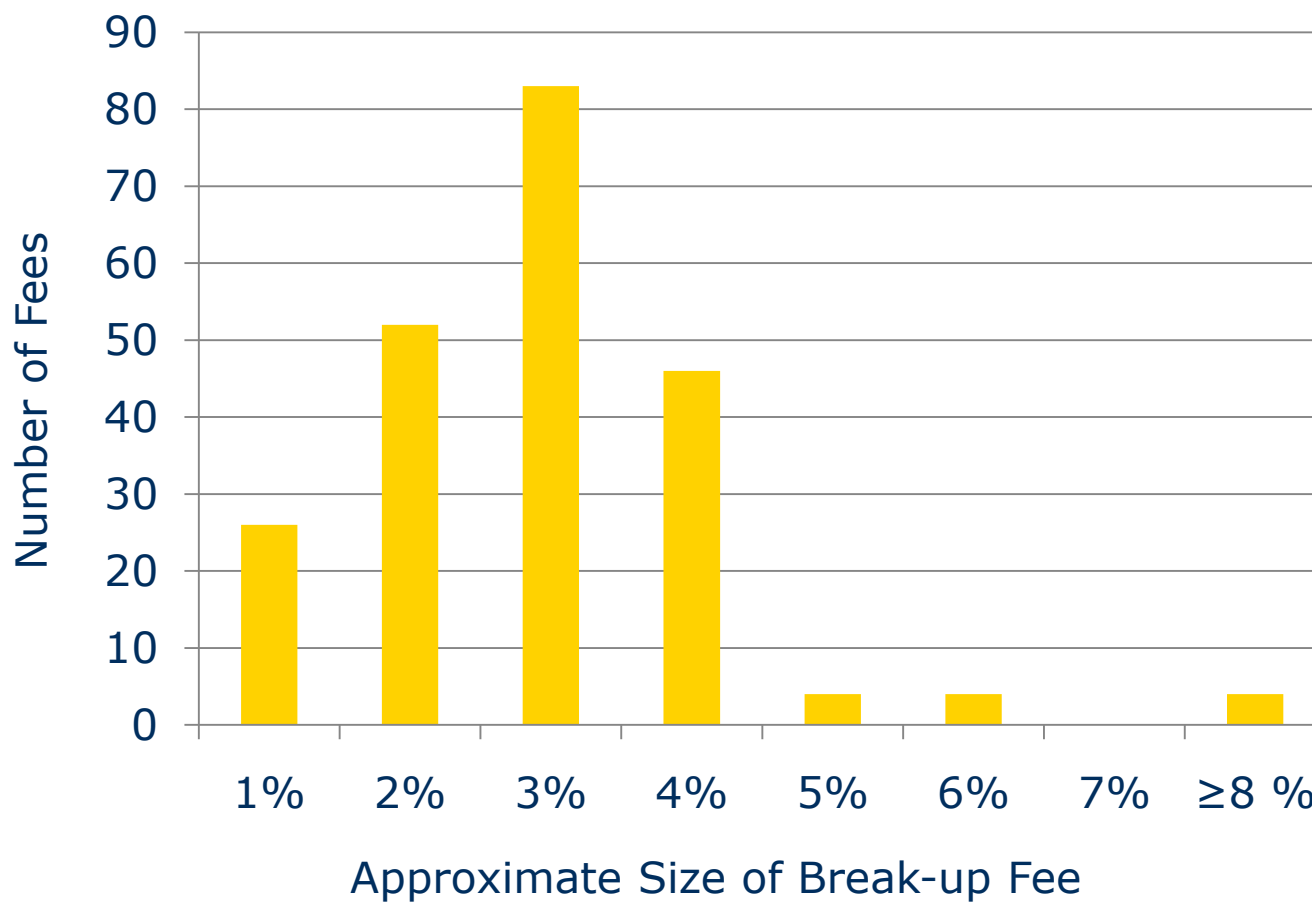


27 deals (15%) in 2010 contained a go-shop provision, nine with strategic buyers and 18 with financial buyers.





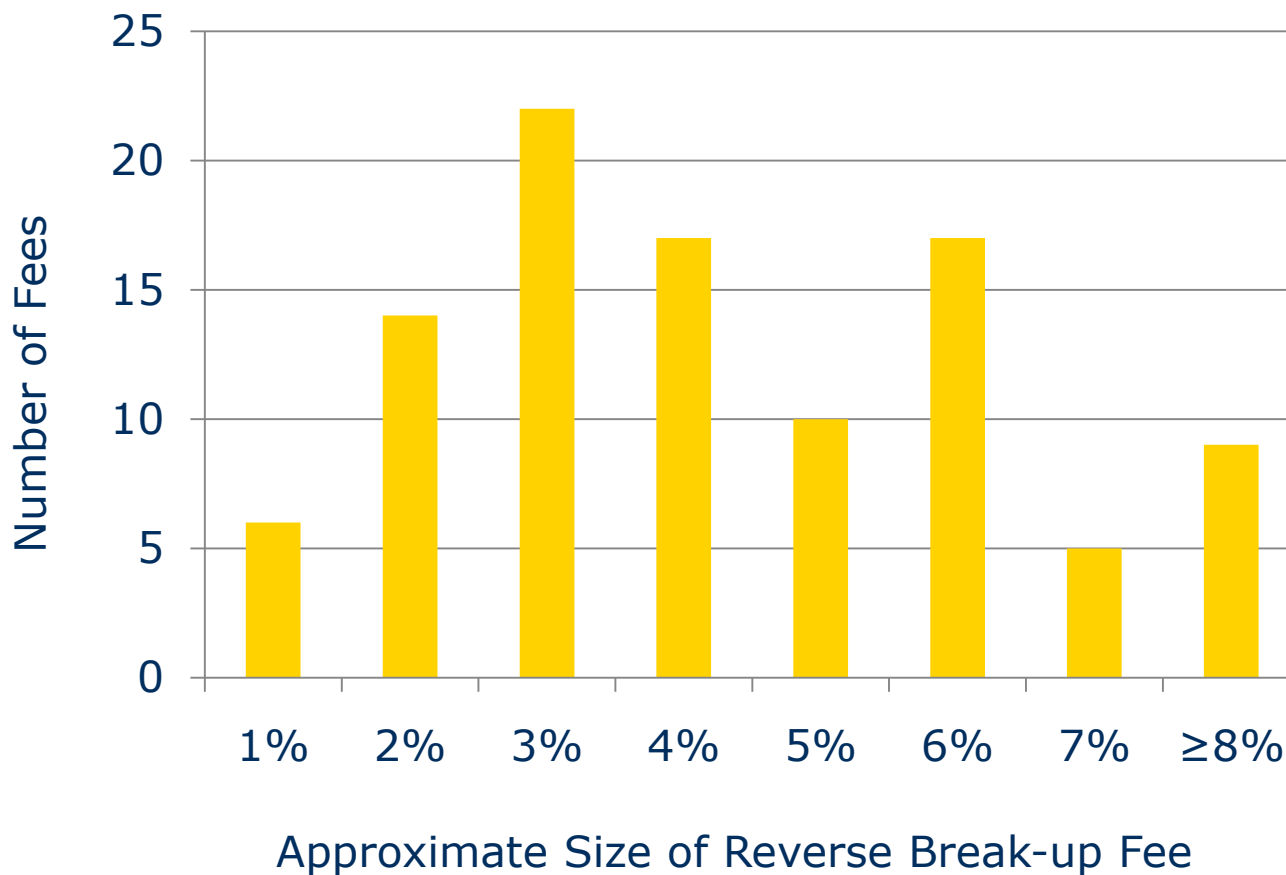
# Approximate Size of Break-up Fees



174 deals (96%) contained a break-up fee in 2010.



# Approximate Size of Reverse Break-up Fees





# Bidding Wars

## Major recent bidding wars:

- Hertz Global Holdings, Inc. and Avis Budget Group, Inc. for Dollar Thrifty Automotive Group, Inc.
  - Initial bid by Hertz at \$32.50/share (plus stock) on April 25, 2010
  - Winning bid by Hertz at \$43.60/share (plus stock at an unchanged exchange ratio) on September 10, 2010 (**34% premium over initial bid**)
- Dell Inc. and Hewlett Packard Company for 3PAR Inc.
  - Initial bid by Dell at \$18/share on August 15, 2010
  - Winning bid by HP at \$33/share on September 2, 2010 (**83% premium over initial bid**)
- Marlin Equity Partners and Gores Group for Phoenix Technologies Ltd.
  - Initial bid by Marlin at \$3.85/share on August 17, 2010
  - Winning bid by Marlin at \$4.20/share on November 3, 2010 (**9% premium over initial bid**)



# 3PAR Bidding War Timeline

- August 16, 2010
  - Dell agrees to acquire 3PAR for \$18/share in an all-cash tender offer. The merger agreement provides Dell with initial and last-look matching rights of three business days.
- August 23, 2010
  - HP submits a competing proposal to acquire 3PAR for \$24/share in an all-cash tender offer.
  - 3PAR board meets with its financial and legal advisors to discuss HP's acquisition proposal, later notifying Dell that HP's acquisition proposal may lead to a superior proposal and that it will engage in discussions with HP.
- August 25, 2010
  - 3PAR board determines that HP's offer is a superior proposal and notifies Dell that, subject to expiration of the three-business-day matching period, 3PAR intends to terminate the Dell agreement and enter into an agreement with HP.
  - Dell submits a proposal increasing the offer to \$24.30/share and increasing the break-up fee payable from \$53.5 to \$72 million.
- August 26, 2010
  - Dell and 3PAR enter into an amended merger agreement.
  - HP submits a revised proposal for \$27/share.
  - 3PAR board determines that HP's offer is a superior proposal and notifies Dell that, subject to expiration of the three-business-day matching period, it intends to terminate the Dell agreement.
  - Dell submits a revised proposal for \$27/share.
  - 3PAR board determines it is advisable to enter into, and executes, the second Dell amendment.
- August 27, 2010
  - HP submits a revised proposal for \$30/share, which the 3PAR board determines to be a superior proposal. 3PAR notifies Dell that it intends to terminate the second amended merger agreement following the three-business-day matching period.
- September 2, 2010
  - Dell submits a proposal to increase its offer to \$32/share, increase the break-up fee payable from \$72 million to \$92 million and adds a multi-year reseller agreement with Dell (which the 3PAR board determines to be unacceptable).
  - HP submits a revised proposal for \$33/share, which is determined to be a superior proposal.
  - Dell announces that it will not increase its previous offer.
  - HP and 3PAR enter into a definitive merger agreement for consideration of \$33/share.
- September 27, 2010
  - HP's acquisition of 3PAR is completed by short-form merger.



# Material Adverse Effect

## MAE triggers:

- Financial: *Endo Pharmaceuticals Holdings Inc. tender offer for Healthtronics, Inc.*: Target's expected revenues for the year ended December 31, 2010 being less than \$176 million
- Operational: *The Doctors Company and American Physicians Capital, Inc. merger*: loss of any permit of a Target subsidiary authorizing it to transact insurance in Illinois, Michigan, Ohio or New Mexico or any certificate of authority in any jurisdiction in which such insurer transacts insurance

## Specific events to be considered in determining MAE:

- *M&T Bank Corporation and Wilmington Trust Corporation merger*: changes in assets under management, the provision for loan losses, past due, criticized or nonperforming assets or tangible book value
- *Chevron Corporation and Atlas Energy, Inc. merger & Hess Corporation and American Oil & Gas Inc. merger*: changes in law related to hydraulic fracturing



## Material Adverse Effect (cont.)

### Target-friendly carve-outs:

- *Grifols, S.A. and Talecris Biotherapeutics Holdings Corp. merger*: the enactment and implementation of the Patient Protection and Affordable Care Act
- *Wellspring and OMNI Energy Services Corp. merger*: changes in industry conditions, including the effect of offshore drilling and production accidents on offshore and coastal gas exploration and production activities
- *SkyWest, Inc. and ExpressJet Holdings, Inc. merger & UAL Corporation and Continental Airlines, Inc. merger*: increases in the price of fuel, the outbreak of a pandemic or other widespread health crisis in North America
- *General Motors Holdings LLC and AmeriCredit Corp. merger*: changes resulting from or related to the enactment of the Dodd-Frank Wall Street Reform and Consumer Act, including compliance with any rules or regulations incorporated or promulgated thereunder
- *Blackstone and Polymer Group, Inc. merger*: the application of the "personal holding company" rules of the IRS Code to Target



# Closing Conditions

Examples of deals from 2010 with financial metric closing conditions:

## EBITDA closing condition:

- Blackstone and Polymer Group, Inc. merger
- ZelnickMedia and Alloy, Inc. merger

## Minimum closing cash condition:

- ZelnickMedia and Alloy, Inc. merger
- Attachmate Corporation and Novell, Inc. merger
- ASSA ABLOY Inc. and ActivIdentity Corporation merger
- Marlin Equity Partners and Phoenix Technologies Ltd. merger
- Microsemi Corporation tender offer for White Electronic Designs Corporation

## Debt/leverage ratio closing condition:

- Seawell Limited and Allis-Chalmers Energy Inc. merger
- Thomas H. Lee Partners and CKE Restaurants, Inc. merger



# Questions?

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