CHAPTER
9

Commercial and Corporate Deals

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Introduction

Firms negotiate continuously. Every day, buyers and sellers agree prices, volumes and delivery dates; purchasing departments renew contracts with suppliers; sales teams negotiate with distributors and retailers. Less often, but with far larger stakes, firms negotiate over the ownership of other firms: they buy, sell, merge, form joint ventures and enter alliances. The two kinds of negotiation differ in scale and frequency, but they rest on the same foundations: a surplus to be divided, interests to be uncovered, power depending on alternatives, and contracts unable to foresee everything.

This chapter applies the tools of Part II to these negotiations. Section 9.1 examines how prices and supplies are negotiated, from one-off purchases to long-term supply relationships, and introduces a tool for deciding which suppliers deserve a partnership and which a tender. Section 9.2 asks who holds power along the value chain, why large retailers and platforms often dominate their suppliers and how law has begun to limit that power. Section 9.3 turns to corporate deals, the purchase and combination of companies, and explains how valuation, due diligence and the structure of a deal shape the negotiation between buyer and seller. Section 9.4 asks why so many deals fail after they have been signed, whether through regulatory challenge, disputes between the partners or problems of integration.

The chapter draws on every element of the first pillar of the framework, **profit**: the goals of Chapter 6, the preparation of Chapter 7 and the creation and claiming of value of Chapter 8. It also prepares the ground for the second pillar, **power**, since the outcome of commercial negotiations depends heavily on market structure and on the alternatives of each side. The Deal File follows the largest proposed merger in the history of American grocery retailing, which was blocked

by the courts in December 2024 and has since become a lawsuit between the former partners. The case shows how the terms negotiated in a merger agreement continue to shape the parties' fortunes long after the deal itself has died.

DEAL FILE

Kroger and Albertsons, from Merger to Lawsuit

In October 2022 Kroger, the largest supermarket company in the United States, agreed to buy its rival Albertsons at an enterprise value of about US$24.6 billion, including Albertsons' net debt. Together the two chains operated 4,996 stores and employed more than 710,000 people in 48 states and the District of Columbia, with a particularly heavy overlap in the western states (Kroger, 2022a). The companies argued that the combination would allow them to compete more effectively with Walmart, the country's largest grocery seller, and with Costco and Amazon.

The merger agreement anticipated a long regulatory review. The parties expected to sell stores in order to obtain approval, and agreed that Kroger would pay Albertsons a termination fee of US$600 million, about 2.5 per cent of the deal's value, if the agreement was terminated at its outside date with every condition satisfied except clearance under the competition laws (Kroger, 2022b). Kroger was also obliged, as Albertsons later described the agreement, to use its "best efforts" to secure regulatory approval (Albertsons Companies, 2025). To satisfy regulators, the companies proposed in April 2024 to sell 579 stores to C&S Wholesale Grocers for about US$2.9 billion (Kroger, 2024).

From regulators to the courts. In February 2024 the Federal Trade Commission (FTC), joined by nine states, sued to stop the merger. It argued that the merger would raise grocery prices and, by reducing competition for workers, would weaken the position of the unions negotiating grocery workers' wages, benefits and working conditions. On 10 December 2024 the federal court in Oregon granted the FTC's request for a preliminary injunction halting the merger (Federal Trade Commission, 2024), and on the same day a state court in Washington ruled against the merger under the state's consumer-protection law.

From partners to adversaries. Albertsons then terminated the agreement and sued Kroger in the Delaware Court of Chancery for wilful breach of the merger agreement and breach of the covenant of good faith and fair dealing, arguing that Kroger had failed to use its "best efforts" to secure regulatory approval. It sought damages to be determined at trial, in addition to the termination fee of US$600 million that, in its view, Kroger was already obliged to pay. Kroger replied that Albertsons' notice of termination was not effective and no fee was owed, because Albertsons had itself failed to comply with its covenants; in March 2025 it filed

Table 9.1

Kroger and Albertsons at a glance

Parties	Kroger; Albertsons; the US Federal Trade Commission and several states; C&S Wholesale Grocers, as proposed buyer of divested stores; trade unions representing grocery workers
At stake	A merger worth US$24.6 billion; competition in grocery retailing; prices for shoppers and bargaining power over workers; a termination fee and claims for damages
Timeline	Agreement signed in October 2022; FTC lawsuit in February 2024; expanded divestiture plan in April 2024; merger blocked by a federal court on 10 December 2024; agreement terminated by Albertsons, which sued Kroger, in December 2024; Kroger's counterclaims in March 2025; trial scheduled for October 2026
Status in 2026	Before the Delaware Court of Chancery: Albertsons seeks damages to be determined at trial in addition to the termination fee of US$600 million; Kroger argues that Albertsons failed to comply with its own covenants, so no fee is owed

Note. Author, based on Albertsons Companies (2025), Federal Trade Commission (2024) and Kroger (2022a, 2022b, 2024).

counterclaims. Trial was scheduled to begin in October 2026, almost two years after the merger collapsed (Albertsons Companies, 2025).

Questions to keep in mind. Why did two firms which had negotiated a merger for months end up in court against each other? What did each side gain from the terms it negotiated, such as the efforts clause and the termination fee, and what did those terms cost it later? Why did the regulators and the courts reject the remedy that the companies had designed? And what does the case teach about negotiating the parts of a deal concerned with failure? The chapter answers these questions in turn.

9.1 How Are Prices and Supplies Negotiated?

Buying and Selling

The most frequent business negotiations concern the terms on which goods and services are bought and sold. Price is the most visible term, but rarely the only one. Volume, quality, delivery, payment terms, warranties, service, exclusivity and the length of the contract all affect the value of the deal to each side, and Chapter 8 showed that negotiating them together, rather than one at a time, is the main way of creating value. A purchasing manager focusing only on the unit price may obtain a discount at the cost of longer delivery times, lower quality or a supplier unable to invest in the relationship.

The **total cost of ownership** is a useful corrective. It adds to the purchase price all the other costs that a buyer bears over the life of a purchase: transport, storage, installation, training, maintenance, the cost of defects and the cost of switching to another supplier later. A supplier whose price is higher but whose total cost is lower is the better choice, and a seller that can show its lower total cost has a powerful argument at the table.

Tender or Partnership?

Not every supplier deserves the same approach. Kraljic (1983) proposed classifying purchases along two dimensions: their importance to the buyer's profit and the risk of supply, which depends on how many suppliers exist and how easily they could be replaced. The result is a matrix of four categories, each calling for a different negotiating strategy, as Table 9.2 shows.

Table 9.2

The Kraljic matrix and negotiation strategy

Category	Profit impact	Supply risk	Typical examples	Negotiation strategy
Non-critical items	Low	Low	Office supplies, cleaning	Standardise, automate and simplify; minimise effort
Leverage items	High	Low	Packaging, standard components	Use competition: tenders, auctions and hard distributive bargaining
Bottleneck items	Low	High	Specialised spare parts, rare inputs	Secure supply; reduce dependence; accept higher prices if necessary
Strategic items	High	High	Key components, critical technology	Build partnerships; create value jointly; share information and risk

Note. Author, based on Kraljic (1983).

The matrix connects directly to the tools of earlier chapters. For leverage items, the buyer's alternatives are strong, so distributive tactics and competitive tenders work well. For strategic items, both sides make specific investments, so the hold-up problem of Chapter 2 arises and the safeguards of long-term contracts and partnerships become essential. The automated negotiation tool used by Walmart, described in Chapter 7, was applied to non-critical and leverage items, where clear targets and many alternatives make negotiation easy to automate.

Auctions, Tenders and Negotiation

For leverage items, and for many sales of companies, buyers and sellers must decide whether to negotiate with one counterpart or to run a competition among several. Bulow and Klemperer (1996) compared the two approaches and reached a striking conclusion: under fairly general conditions, a seller obtains more by running a simple auction with one additional serious bidder than by negotiating the best possible terms with a smaller number of buyers. Competition, in other words, is often worth more than negotiating skill, because it forces bidders to reveal how much they value what is on offer.

Auctions and tenders take several forms. In an **open ascending auction**, bidders raise their offers until only one remains; in a **sealed-bid tender**, each submits a single offer without knowing the others'; in a **reverse auction**, used widely in purchasing, suppliers bid prices down rather than up. Electronic platforms have made reverse auctions cheap to run, and many large buyers use them for standard components, transport and packaging.

Competitive procedures have limits. They work best when the product can be specified precisely, when several qualified bidders exist and when price is the main issue. When quality, innovation or the relationship matters, a tender focused on price may select the supplier least able to deliver, and a supplier winning on an unsustainably low price will look for ways to recover its margin later. Bidders in auctions also face the risk of the **winner's curse**: the winner is the bidder that valued the item most highly, and therefore the one most likely to have overestimated it, a problem examined in Chapter 12. Public buyers face additional rules. In Poland, as in other EU member states, contracts above certain values must be awarded through procedures set out in public procurement law, which since 2021 has encouraged buyers to consider quality, life-cycle costs and social criteria as well as price. Many negotiations therefore combine both approaches: a competitive stage that narrows the field and reveals prices, followed by negotiation with the preferred bidders over the remaining terms.

Relational Contracting

For strategic purchases, firms often move beyond the price negotiation to what Macneil (1980) called **relational contracting**: agreements in which the formal contract is only part of the relationship, and the parties rely on shared norms, mutual expectations and the prospect of future dealings to fill the gaps. Dyer and Singh (1998), discussed in Chapter 6, showed that such relationships can create competitive advantage through specific investments, knowledge sharing and complementary resources. Japanese carmakers' partnerships with their suppliers are a classic example, often contrasted with the more adversarial approach once common among American carmakers.

Relational contracts change the nature of negotiation. Instead of a single bargain over price, the parties negotiate rules for sharing cost savings, procedures for adjusting prices when costs change and mechanisms for resolving disputes. These are integrative negotiations over the design of a relationship, and they depend on trust, a theme that Chapter 16 develops.

KEY MOVE

Classify each purchase before you negotiate it. Use competition where you have many alternatives, and invest in partnership where you and the supplier depend on each other.

9.2 Who Holds Power in the Value Chain?

Concentration and Dependence

A value chain links the firms that together turn raw materials into products sold to final customers: farmers and miners, manufacturers, wholesalers, retailers and platforms. The surplus that the chain creates must be divided among them, and the division depends largely on bargaining power. Porter (2008), introduced in Chapter 2, showed that the power of buyers and suppliers depends on concentration, switching costs, the importance of the product and the threat of integration.

In many modern value chains, power has shifted towards the end closest to the consumer. Large supermarket chains decide which products reach their shelves and on what terms; online platforms control access to millions of customers; a handful of firms buy most of the output of many agricultural and industrial sectors. A small supplier selling a large share of its output to one retailer, while representing a tiny share of that retailer's purchases, negotiates from weakness: its alternative to agreement is poor, while the retailer's is strong. Chapter 11 analyses this asymmetry of dependence in detail.

The Deal File shows the same logic from the other side. The FTC's concern was that a merged Kroger and Albertsons would face less competition in selling to shoppers and in hiring workers. Its argument about the unions is a reminder that power in a value chain runs in several directions: a firm growing larger may gain power not only over its customers and suppliers but also over its employees.

Law as a Counterweight

Governments have increasingly intervened to limit the abuse of buying power. In the European Union, Directive 2019/633 on unfair trading practices in the

agricultural and food supply chain prohibits large buyers from imposing certain terms on smaller suppliers, such as payment later than 30 days for perishable products, cancellation of orders at short notice and unilateral changes to the terms of supply. Poland had already adopted, in 2016, a law against the unfair use of contractual advantage in the trade in agricultural and food products, which is enforced by its competition authority, the Office of Competition and Consumer Protection (UOKiK). Such laws change the negotiating position of weaker suppliers by removing certain demands from the table altogether, and they provide a route to a third party when negotiation fails, as Chapter 5 described.

The author's research on business approaches to economic development discusses how the position of smaller firms in national and international value chains affects their ability to grow and to share in the gains from trade (Kumar, 2026c).

KEY MOVE

Map the value chain before you negotiate: who depends on whom, who could replace whom and which laws limit what the stronger side may demand. Your power lies in your alternatives and in the rules protecting you.

9.3 How Are Companies Bought and Joined?

Valuation and the Bargaining Range

When one firm buys another, the price is the outcome of a negotiation, and the bargaining range is set by each side's valuation. The seller's limit is the value of the firm to its current owners, as an independent business or in a sale to another buyer. The buyer's limit is the value of the firm to the buyer, which includes the **synergies** the buyer expects from combining the two businesses: lower costs, higher revenues, shared technology or greater market power. The difference between the price paid and the value of the target as an independent business is the **acquisition premium**.

Synergies make a deal possible, but they also make it contentious. The seller argues that the buyer should share them, since they would not exist without the target; the buyer argues that it alone will create them, and it bears the risk of their failing to materialise. Research suggests that buyers often overestimate synergies and overpay. Roll (1986) proposed the **hubris hypothesis**: managers who win a competitive auction for a target may do so because they have overestimated its value, a form of the *winner's curse* that Chapter 12 examines. The Albertsons

claim illustrates the stakes: the premium that Kroger had agreed to pay, which Albertsons now seeks as damages, amounted to several billion dollars.

Due Diligence and Information

Before committing to a price, a buyer investigates the target through **due diligence**: the examination of its accounts, contracts, liabilities, legal disputes, employees, technology and compliance with regulations. Due diligence reduces the information asymmetry described by Akerlof (1970) and discussed in Chapter 2: the seller knows far more about its business than the buyer does. The negotiation over access to information is itself significant. The seller wants to reveal enough to justify its price without exposing weaknesses that would lower it; the buyer wants to see everything before committing.

Structuring the Deal

Much of the value in a corporate deal is created or claimed through its structure rather than its price. Table 9.3 summarises the main terms that buyers and sellers negotiate.

Table 9.3

Key terms in the structure of an acquisition

Term	What it does	Whose interest it mainly protects
Form of payment (cash or shares)	Cash gives the seller certainty; shares let it share in future gains and risks	Depends on each side's view of the future
Earn-out	Links part of the price to future performance (Chapter 8)	Bridges different forecasts
Representations and warranties	Statements of fact about the target, with compensation if they prove false	Buyer
Material adverse change clause	Allows the buyer to withdraw if the target's business deteriorates seriously before completion	Buyer
Efforts clause	Defines how hard the buyer must work to obtain regulatory approval, for example by selling assets	Seller
Reverse termination fee	Compensates the seller if the deal fails for reasons such as regulatory refusal	Seller
Break fee	Compensates the buyer if the seller accepts a rival offer	Buyer
Outside date	Sets the date after which either side may walk away	Both

The Deal File shows how two of these terms, the efforts clause and the reverse termination fee, allocated the risk that regulators would block the deal. Albertsons obtained Kroger's commitment to use its best efforts to win approval and a fee of US$600 million if the deal failed for want of clearance under the competition laws; Kroger accepted a fee that was modest relative to the size of the deal. Three practical lessons follow for future negotiators: define efforts obligations precisely, for example by naming the assets to be sold and the criteria for an acceptable buyer; seek a higher termination fee where regulatory risk is high; and involve competition lawyers early.

Joint Ventures, Alliances, Licensing and Franchising

Not every combination requires a full acquisition. In a **joint venture**, two or more firms create a new entity that they own together; in a **strategic alliance**, they cooperate without creating a new company; in **licensing**, one firm allows another to use its technology or brand in return for royalties; in **franchising**, it licenses a whole business format. Each is a negotiated structure that shares control, risk and returns in a different way. The joint venture between Starbucks and Boyu Capital in China, described in Chapter 6, combined a sale of control with a licence of the brand.

These structures raise their own negotiating problems: how to divide control when ownership is shared, how to resolve deadlocks between partners, how to value the contributions of each side, how to protect technology and brands, and how the partners can exit. Joint ventures between firms from different countries add the cultural and institutional differences examined in Chapter 18. The author's companion textbook analyses the choice among these modes of entry by multinational firms in detail (Kumar, 2026a).

KEY MOVE

Negotiate the structure as hard as the price. Terms that allocate risk, such as efforts clauses, termination fees and earn-outs, often decide who really bears the cost when things go wrong.

DEAL SNAPSHOT

Tapestry and Capri, 2023 and 2024

In August 2023 Tapestry, owner of Coach and Kate Spade, agreed to buy Capri Holdings, owner of Michael Kors, Versace and Jimmy Choo. The FTC sued to block the deal, arguing that "accessible luxury" handbags formed a distinct market in which the two companies competed closely, and on 24 October 2024 the federal court in Manhattan granted a preliminary injunction (*FTC v. Tapestry, Inc.*, 2024). About three weeks later the companies agreed to terminate the merger, explaining that the outcome of the legal process was uncertain and unlikely to be resolved by the outside date of their agreement, 10 February 2025. Tapestry's board approved an additional share buyback of US$2 billion (Tapestry, 2024). The episode illustrates how the outside date, a term negotiated at signing, can determine the end of a deal when regulators intervene.

9.4 Why Do Deals Fail after Signing?

Three Sources of Failure

Signing an agreement is not the end of a corporate negotiation. Many deals fail before completion, and many that are completed fail to deliver the value expected of them. Christensen and his colleagues (2011) noted that studies commonly put the failure rate of acquisitions between 70 and 90 per cent, depending on how failure is measured. Three sources of failure stand out.

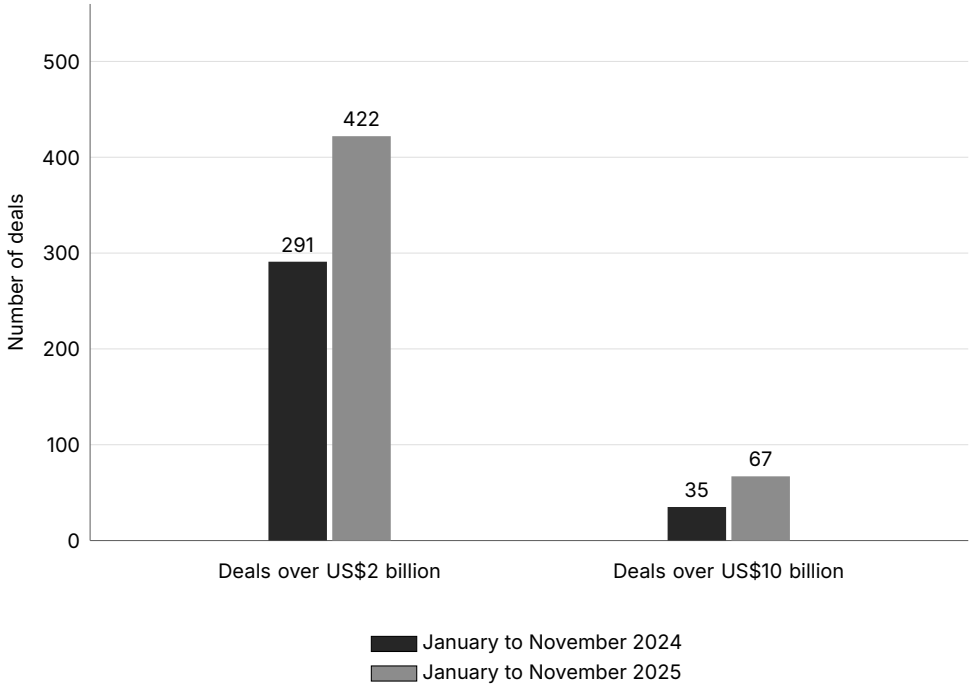
The first is **regulatory challenge**. Competition authorities may block a deal or demand remedies, such as the sale of businesses, that reduce its value. As the Deal File and the case of Microsoft and Activision in Chapter 8 show, the negotiation with regulators can be as important as the negotiation between the parties. Regulatory risk has grown as the size of deals has risen. Figure 9.1 shows that in the first eleven months of 2025 the number of deals worth more than US$10 billion almost doubled compared with the same period of 2024.

The second source of failure is **disputes between the partners**. When circumstances change between signing and completion, a party no longer wanting the deal may look for ways to escape it, and the other may accuse it of bad faith. The case of Kroger and Albertsons shows how quickly partners can become adversaries, and how the terms of the agreement, drafted to allocate risk, become the basis of litigation.

The third source of failure is **integration**. Even when a deal is completed, the combined firm must merge systems, structures and cultures. Differences in management style, decision-making and values can destroy much of the value the deal was expected to create. Many of the negotiations that matter most take place

Figure 9.1

Number of large mergers and acquisitions worldwide, January to November 2024 and 2025



Note. Author, based on MUFG (2025), citing Dealogic data to 30 November 2025. The total value of global mergers and acquisitions in the same period rose from US$3.2 trillion in 2024 to US$4.5 trillion in 2025.

after completion, between the managers and employees of the two firms, and they require the skills of persuasion and cultural understanding developed in Part IV.

Integration itself is a long series of negotiations. Managers of the two firms must agree on which systems, brands, sites and people to keep; trade unions and works councils may have a legal right to be consulted, as Chapter 10 explains; and customers and suppliers of both firms will seek to renegotiate their terms with a larger counterpart. Buyers who plan these negotiations before completion, and involve the target's managers in them, tend to preserve more of the value they have paid for than those treating integration as a technical exercise to be completed after the deal.

DEAL SNAPSHOT

Mars and Kellanova, 2024 and 2025

On 14 August 2024 Mars, the privately owned maker of Snickers and M&M's, agreed to buy Kellanova, maker of Pringles and Cheez-It. The European Commission was the last authority to decide. On 8 December 2025 it granted unconditional approval, the last of the 28 regulatory approvals and clearances that the deal required, and the companies expected to complete the acquisition on 11 December (Kellanova, 2025). A process lasting about sixteen months from signing illustrates the time and uncertainty that regulatory approval adds to large deals, even when it ends without conditions, and explains why outside dates and termination fees are among the most carefully negotiated terms of any merger agreement.

KEY MOVE

Negotiate for failure as carefully as for success. Ask what will happen if regulators object, if circumstances change or if the partner loses interest, and write the answers into the agreement.

BACK TO THE DEAL FILE

Reading the Kroger and Albertsons Dispute

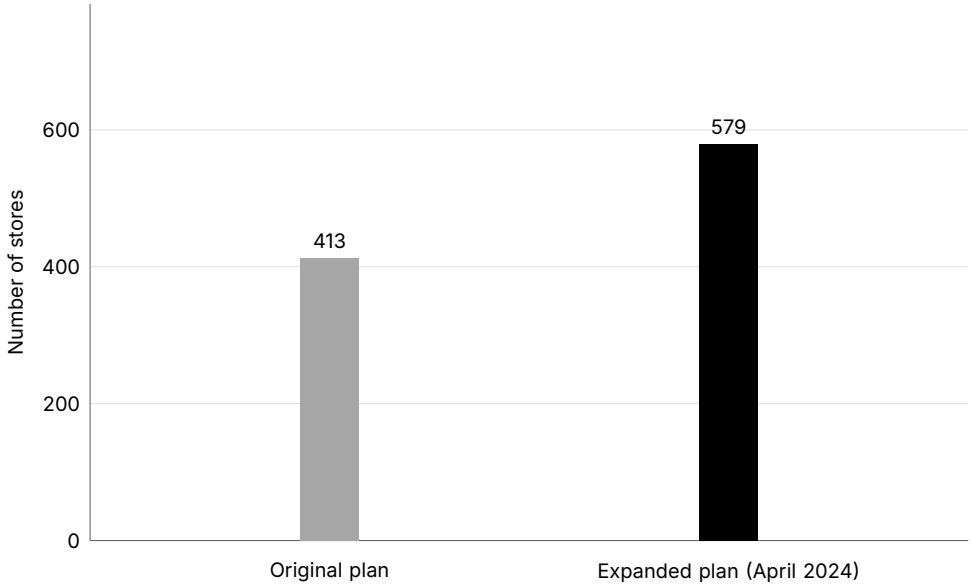
The tools of this chapter explain both the design of the merger agreement and its unravelling.

The deal rested on a contested view of market power. Kroger and Albertsons argued that they competed with Walmart, Costco and Amazon in a broad grocery market; the FTC and the courts saw them as each other's closest rivals in many local markets and as major employers of unionised workers. The disagreement about market definition, a theme of Chapter 2, decided the regulatory outcome.

The remedy did not convince. The companies offered to sell 579 stores to a single buyer, C&S Wholesale Grocers, after enlarging their original package by 166 stores, as Figure 9.2 shows. The court did not accept that the divestiture would restore the competition the merger would remove. A remedy designed to minimise the value given up by the merging firms was, in the eyes of the regulator, too small and too weak, a pattern also seen in the first remedies offered by Microsoft in Chapter 8.

Figure 9.2

Stores that Kroger and Albertsons proposed to sell to C&S Wholesale Grocers, original and expanded divestiture plans



Note. Author, based on Kroger (2024), which reported that the expanded plan of April 2024 added 166 stores to the original package, for a total of 579 stores and about US$2.9 billion in cash.

The agreement allocated regulatory risk, and that allocation became the dispute. The efforts clause and the termination fee of US$600 million were negotiated to share the risk of a regulatory veto. When the veto came, each side argued that the other had failed in its obligations. The efforts clause, drafted in general terms, left room for both interpretations.

The cost of failure is still being negotiated, now in court. Albertsons seeks the termination fee and further damages; Kroger argues that it owes nothing. The litigation is a continuation of the negotiation by other means, conducted in the shadow of the law described in Chapter 5, and a settlement before judgment remains possible.

The case teaches the value of specific terms. Had the agreement named the stores to be sold, the criteria for an acceptable buyer and the steps Kroger was required to take, there would have been less room for dispute. Precision in drafting is a form of preparation, and its absence is a form of risk.

MA EXTENSION

Who Bears Regulatory Risk?

In a merger agreement, the buyer and the target must decide who bears the risk that regulators will block the deal. A strong efforts clause, sometimes called "hell or high water", places the risk on the buyer, which must sell whatever assets regulators demand; a reverse termination fee compensates the target if the deal fails. Economic theory suggests that risk should be borne by the party better able to control or insure against it, and each term will be priced into the deal. Apply this reasoning to the Deal File. Was a best-efforts obligation combined with a fee of 2.5 per cent of the deal's value an efficient allocation of risk? How would a higher fee have changed Kroger's incentives during the regulatory review? What do the Kroger and Albertsons, Tapestry and Capri, and Mars and Kellanova cases suggest about how parties should negotiate these terms when regulatory policy is uncertain?

ETHICS CHECK

The FTC argued that a merged Kroger and Albertsons would gain leverage over the unions negotiating grocery workers' wages. Is it legitimate for a firm to seek a merger that increases its bargaining power over its employees, as long as it does not break the law? Should negotiators of mergers consider the interests of employees, suppliers and local communities who will be affected but are not parties to the agreement?

Pillar Scorecard

Table 9.4

Pillar Scorecard: Kroger and Albertsons, 2022 to 2026

Pillar	Importance in this case	Evidence
Profit	Very high	A merger worth US$24.6 billion, a termination fee of US$600 million and a claim for further damages were at stake
Power	Very high	Market power in local grocery markets and over workers decided the regulatory outcome; the merger agreement allocated the power to walk away
Persuasion	High	The companies failed to persuade regulators and courts that their remedy would preserve competition; each now seeks to persuade the court of the other's breach

Your Move

This is a constructed teaching case.

You are the chief executive of a Polish producer of dairy desserts and cheeses based near Olsztyn, with annual sales of €180 million, mainly in Poland and Germany. A large Indian food company proposes a joint venture to produce and sell your products in India. It would contribute a factory site, distribution to 300,000 shops and knowledge of local regulations; you would contribute recipes, production technology and your brand. The Indian company proposes to own 60 per cent of the joint venture and appoint the chief executive; the joint venture would pay you a royalty of 2 per cent of sales for the use of your brand, and disputes would be settled by the courts of Mumbai.

1. Using the Kraljic matrix and the discussion of value chains, assess the bargaining power of each partner. What does each depend on the other for?
2. Which terms in Table 9.3, adapted to a joint venture, would you seek to negotiate? Consider control, deadlock, protection of your technology and brand, and exit.
3. Propose an alternative structure, such as licensing or a different division of ownership, and compare it with the joint venture proposed.
4. How would you negotiate the dispute resolution clause, drawing on Chapter 5?

Conclusion

Commercial and corporate deals apply the principles of value creation and value claiming to the negotiations firms conduct most often and those which matter most. In buying and selling, the total cost of ownership and the Kraljic matrix help negotiators decide where to use competition and where to build partnership, and relational contracting allows parties to manage what formal contracts cannot foresee. Power along the value chain depends on concentration and dependence, and law increasingly limits what the strongest firms may demand. In corporate deals, valuation and synergies set the bargaining range, due diligence reduces the seller's advantage of information, and the structure of the deal, through earn-outs, warranties, efforts clauses, termination fees and outside dates, allocates risk between the parties. Many deals fail after signing, through regulatory challenge, disputes between partners or problems of integration, and the terms negotiated at signing then decide who bears the cost. The case of Kroger and Albertsons shows a negotiation which outlived the deal it was meant to create, moving from the boardroom to the courtroom. Chapter 10 turns to the

last of the major arenas of business negotiation examined in Part II: the negotiations between employers and workers, in which the division of value is most directly and most publicly contested.

Exercises

A. Objective Questions

1. The total cost of ownership includes:
   a) the purchase price and all other costs borne over the life of a purchase
   b) only the purchase price
   c) only transport costs
   d) the supplier's production cost

2. In the Kraljic matrix, items with high profit impact and low supply risk are:
   a) non-critical items
   b) strategic items
   c) bottleneck items
   d) leverage items

3. Relational contracting, as described by Macneil (1980), relies mainly on:
   a) detailed formal contracts only
   b) shared norms, mutual expectations and future dealings
   c) court enforcement
   d) one-off auctions

4. EU Directive 2019/633 on unfair trading practices protects:
   a) large retailers from suppliers
   b) consumers from high prices
   c) smaller suppliers in the agricultural and food supply chain from certain practices of large buyers
   d) banks from defaulting borrowers

5. Roll's (1986) hubris hypothesis suggests that acquirers:
   a) always pay too little
   b) may overpay because they overestimate the value of targets
   c) never use cash
   d) avoid competitive auctions

6. A reverse termination fee in a merger agreement mainly protects:
   a) the target, if the deal fails for reasons such as regulatory refusal
   b) the buyer
   c) the regulator
   d) the target's employees

7. Under the expanded divestiture plan of April 2024, the companies proposed to sell to c&s Wholesale Grocers:
   a) 250 stores
   b) 413 stores
   c) 579 stores
   d) 1,000 stores
8. According to Figure 9.1, the number of deals worth more than US$10 billion in January to November 2025, compared with the same period of 2024:
   a) fell by half
   b) remained the same
   c) increased tenfold
   d) almost doubled

B. Short-Answer Questions

1. Explain the concept of total cost of ownership and why it matters in purchasing negotiations.
2. Describe the four categories of the Kraljic matrix and the negotiation strategy suited to each.
3. Why has bargaining power in many value chains shifted towards retailers and platforms?
4. Explain how synergies affect the bargaining range in an acquisition.
5. What is due diligence, and how does it relate to information asymmetry?
6. Name four terms in the structure of an acquisition and explain whose interest each protects.
7. Identify three sources of failure in corporate deals, with an example of each.
8. According to Bulow and Klemperer (1996), why might a seller gain more from adding one bidder to an auction than from negotiating harder with the existing ones? When are competitive tenders a poor choice?

C. Long-Answer Questions

1. Analyse the dispute between Kroger and Albertsons as a negotiation that continued after the deal failed. How did the terms of the merger agreement shape the dispute, and how might they have been negotiated differently?
2. "In purchasing, the best negotiators know when not to bargain hard." Discuss with reference to the Kraljic matrix and relational contracting.
3. Compare the cases of Tapestry and Capri and of Mars and Kellanova. What determined the outcome of the regulatory review in each case, and what lessons do they offer for negotiating merger agreements?

4. Evaluate the role of law, such as the EU directive on unfair trading practices and Poland's legislation on contractual advantage, in rebalancing bargaining power in value chains.

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