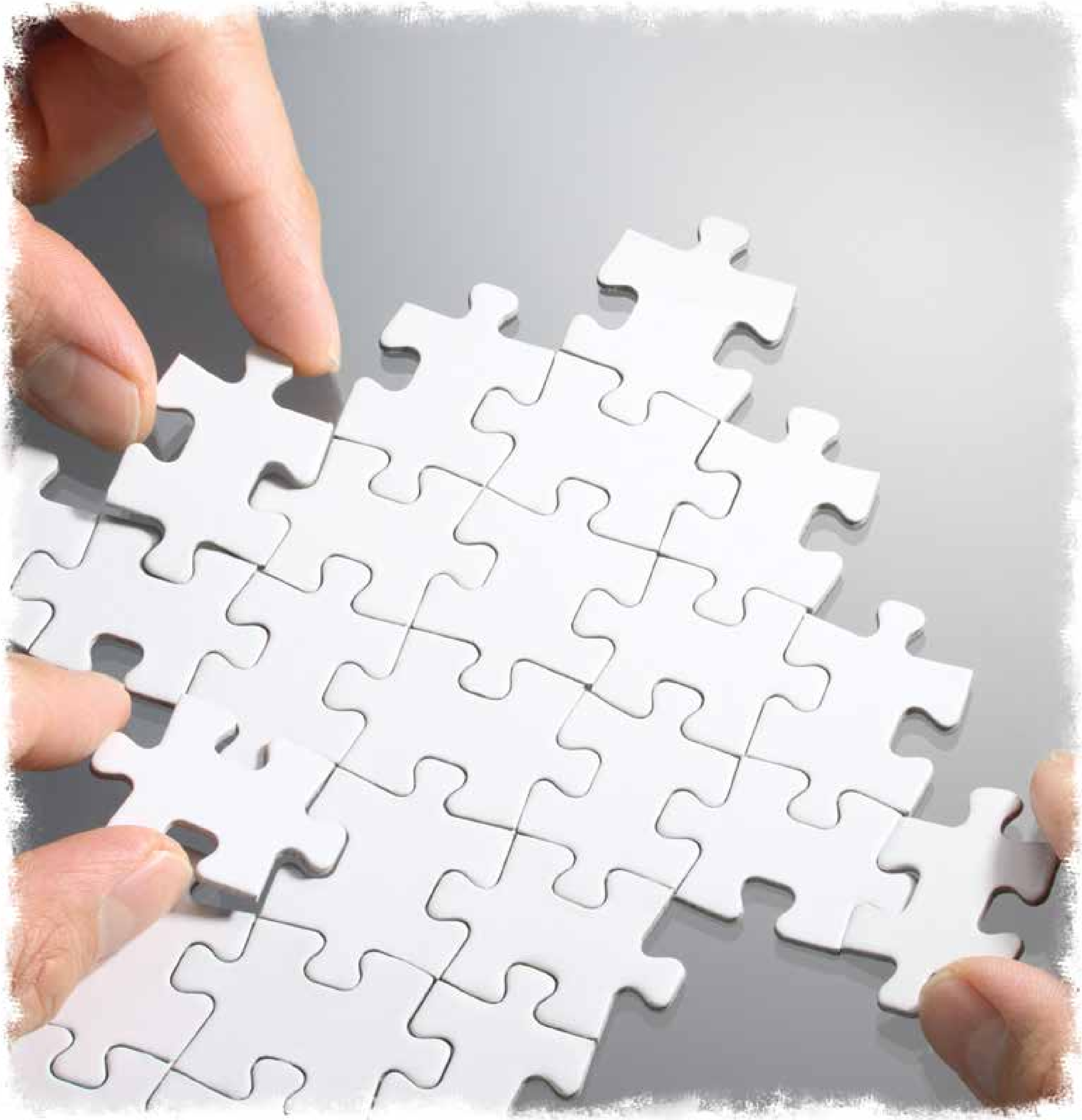

TOP 10 AUSTRALIAN PUBLIC M&A PREDICTIONS FOR 2015

DLA PIPER

2014 was another busy year for DLA Piper's M&A Team and for the fifth consecutive year, we earned the number one ranking globally for overall deal volume (Mergermarket).

In this article, our Australian team look ahead and make their top ten predictions for public M&A in 2015. We also reflect on the accuracy of our 2014 predictions.

TOP 10 PREDICTIONS FOR 2015

1. RETURN OF THE MEGA DEAL

The mega deal is back. The shift in strategic direction by companies worldwide from one of organic growth with core business focus to higher risk strategies of diversification will likely create further opportunities for significant transformative deals as high-performing Australian assets continue to attract interest. Look out for big deals in the IT/technology, agribusiness and media spaces in particular, as well as consolidation in the oil and gas/resources sector as a result of the falling commodity prices.

2. COMPETITIVE BIDS

In 2014, around 25% of announced deals attracted multiple bidders. We expect this percentage to increase in 2015 as bidders compete for a decreasing pool of strong performing assets. Interested bidders will need to have a well-conceived deal strategy to enable them to efficiently respond to unwanted approaches by other bidders and unfavourable conduct by activist shareholders. A good example was Allan Gray's attempt to block the Roc Oil/Horizon merger.

3. CASH IS STILL KING

Cash is still king. Of the competitive bid scenarios we saw in 2014, initial suitors offering scrip were in most cases trumped with an all cash offer, such as the Roc Oil deal. We predict that bidders will look to take advantage of stronger balance sheets by offering cash consideration to improve their chances of coming out of the competitive auction process triumphant. The continuing volatility of the international capital markets will continue to weigh against the attractiveness of scrip consideration.

4. JOINT BIDS

There were a number of high-profile joint bids in 2014 such as Wilmar International and First Pacific's bid for Goodman Fielder and Kohlberg Kravis Roberts and Pacific Equity Partners proposal for SAI Global. We expect to see an increase in joint bids in 2015 from bidders whose interests align. Notwithstanding high asset valuations, bidders will likely adopt creative and "out of the box" measures to obtain and share upside in acquiring joint control of strategic assets.

5. STAKE-BUILDING DEVICES

As first mover advantage declines, bidders will look to increase deal certainty through securing shareholder support early on in the bid process. We expect to see a range of creative deal-protection devices structured to take into consideration the competitive deal environment.

6. SCRUTINY OF DEAL PROTECTION DEVICES

Deal protection devices will necessarily remain standard practice in the competitive public M&A environment. These devices, which will be increasingly creatively structured to protect against bidder risk and in many cases unseen and untested, will naturally attract greater regulatory scrutiny.

7. CHINESE M&A PIPELINE

The Chinese Government has relaxed its approach towards approving outward investment. The Australian Government will also later this year afford Chinese investors the same concessions afforded to Korean and Japanese investors. These changes to the regulatory environment will encourage Chinese inbound investment in Australia and in particular, we expect Chinese investors to drive foreign inbound mid-market deal activity.

8. INCREASED FOREIGN INBOUND INVESTMENT

The Australian M&A market will reap the benefits of an improved US economy and weaker Australian dollar in the form of renewed US investor interest in Australian assets. The reported widespread US investor interest in Network Ten is indicative of this. The Australian Government has also significantly increased the monetary thresholds for which Japanese and Korean investors are required to get approval to invest in Australian assets (to bring them in line with those concessions currently afforded to US and NZ investors). We expect this will lead to a rebound in foreign inbound investment from Japan and for Korean investors to redirect their significant M&A appetite towards Australian assets.

9. TRUTH IN TAKEOVERS STATEMENTS

The truth in "takeover statements" will feature prominently as stakeholders try to generate and maintain momentum for their bid. However, there is a limit to what can be done to procure such statements. Overstepping these boundaries may result in Takeovers Panel intervention, as was the case in *Ambassador Oil and Gas Limited*.

10. REVERSE BEAR HUGS & TACTICAL DISCLOSURE

Although not required, target boards have traditionally disclosed initial highly conditional non-binding indicative proposals, which previously opened it up to "bear hugs". This has changed in recent times in light of ASX guidance indicating that such disclosure is not required. Despite this, we expect target boards will revert back to disclosing proposals for strategic reasons, including to avoid getting shareholders off-side and to force the bidder's and other interested bidder's hands.

REFLECTION ON OUR 2014 PREDICTIONS

This time last year, we made 10 M&A predictions for 2014, nine of which we feel came to fruition during 2014. A number of these trends will continue in 2015. These are:

- Re-emergence of significant transformative deals;
- Continued increase in foreign inbound investment;
- Strategic mergers;
- Use of scrip and other creative consideration;
- Decline of first mover advantage;
- Softening of the bear hug;
- Shareholder activism;
- Stalling of takeover reform; and
- Scrutiny of deal protection devices.

Our only prediction which we feel did not eventuate was the use of equity swaps which, although used, did not feature prominently in 2014.

CONCLUSION

Whilst the M&A outlook remains uncertain, with professional advice and intelligent insight, we believe that 2015 can provide an attractive and lucrative M&A market for our clients.

If you have any questions or queries about an M&A transaction, market trends or strategies, please contact David Ryan, Lyndon Masters, Mark Burger or your established DLA Piper corporate lawyer.

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