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Mindtree's Independent Directors must guide investors

Mindtree has become an acquisition target and L&T the 'hostile' acquirer. As Mindtree's promoters have openly opposed L&T's acquisition bid, Mindtree's Independent Directors must provide objective guidance to the company's shareholders on whether L&T's open offer is in the company's long-term interest.

Larsen & Toubro Limited (L&T) has signed a share purchase agreement with the Café Coffee Day group (V G Siddhartha and Coffee Day Enterprises Limited) to acquire 20.32% in Mindtree Limited at a price of Rs. 980 per share (less than 2% premium over the closing market price on 18 March 2019) for an aggregate consideration of Rs. 32.69 bn. L&T will also acquire another 15% from the market at a price not exceeding Rs. 980 per share and then make an open offer to acquire 31% from the market at Rs. 980 per share, with the view of establishing control (with a 66% holding).

Although L&T has specifically stated that Mindtree will remain an independent entity, the transaction is being opposed by Mindtree's promoters. Mindtree's board is set to meet tomorrow to discuss a possible buyback – but a buyback is now moot.

L&T's acquisition of equity from the Café Coffee Day group, and the subsequent open offer does not require a shareholder vote – from neither Mindtree's shareholders nor L&T's shareholders. Mindtree's shareholders need to decide whether to participate in the open offer and thereby support a change in control.

Investors may not be in a position to understand all the nuances of the decision. Therefore, IiAS believes the Independent Directors of Mindtree must provide guidance to the company's shareholders on whether shareholders should take up L&T's open offer. It is not necessary that Mindtree's Independent Directors tow the line with the company's promoters: they may have a different view. For example, in 2014, Essar Energy plc's committee of independent directors had opposed the delisting offer made by the Ruias.

The argument of business synergies and impact of takeovers and mergers can be numerically assessed in most cases. However, the battle here is one of corporate culture and work ethos. Corporate culture is a fundamental basis for corporate governance and therefore a concern over its change is a valid issue. Having said so, a change in corporate culture may not necessarily be detrimental to employees or the company's growth prospects. At the same time, a services business is essentially driven by its people. If Mindtree's leadership and key employees leave (taking some clients with them) following the takeover, it could have damaging consequences for the business. None are better placed to take a dispassionate call than the independent directors, who should know the company best.

Given the nuances of these issues, IiAS believes Mindtree's board – essentially the independent directors are best placed to articulate its stand on the several soft issues that characterise this transaction.

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