Mergers and Acquisitions in the Era of Globalization: The Ghanaian Experience

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The purpose of this paper was to examine the current wave of mergers and acquisitions (M&As) in Ghana, its drivers and implications for the economy. The study was qualitatively designed via means of an interview guide to elicit information on the 'ex-ant' motives of M&As. Other data were obtained from various sources covering the period 1994 to 2015. The study finds and concludes that M&A activities have occurred in various sectors of the Ghanaian economy. It also became evident that growth, survival and management's interest in building empires for themselves have been the main drivers of these merger activities.

INTRODUCTION

Mergers and acquisitions (M&A) activities in recent times are close to breaking new records and have gained significant momentum over time (see figures in appendices A & B). Since 1994, there has been a surging wave in merger activities around the world. Cases making international headlines are those of Vodafone's merger with Mannesman in 1999 (transaction worth 172.2 billion $), America Online's merger with Time Warner in 2000 (transaction worth 112.1 billion $) and BHP Billiton's merger with Rio Tinto in 2008 (transaction worth 147.4 billion $). Other recent ones comprise French's BNP Paribas SA's takeover of Polish rival BGZ in 2013 (deal worth 4.52 billion zlotys, equivalent to 1.41 billion $) and Online Casino Poker Firm 888's recently won bid for larger rival Bwin Digital Entertainment in 2015 (deal worth almost 900 million pounds, equivalent to 1.4 billion $) (Reuters). How about Ghana? Mention can be made of Guinness Ghana Breweries merger with Ghana Breweries in 2004, AngloGold's merger with Ashanti Goldfields in 2004, Societe General's acquisition of Social Security Bank in 2004, UT Holdings acquisition of BPI Bank in 2008, and Ecobank Ghana's acquisition of The Trust Bank in 2012 (Ghana News Report, 2014). These are just a few examples of the biggest M&A transactions worldwide and in Ghana.

M&A activities have been identified to occur in waves (Roberts *et al*., 2003; Lipton, 2006) and the current wave is radically changing the corporate landscape not only worldwide, but in Ghana as well. Driven by the philosophy of survival, growth and shareholder value, they form a new economic, social and cultural environment (Duksaite & Tamosiuniene, 2009). A cursory examination of history of M&As

reveal that there have been five clear waves since the end of the nineteenth century. The first four recorded ones were mostly an American phenomenon. The first wave: the railroad wave which occurred between 1890 - 1910 was fuelled by the completion of the transcontinental railway system that linked cities across the entire US for the first time. It was followed by the automobile wave, which was generated by the expansion in the general availability of automobiles in the 1920s and early 1930s. Thereafter, the conglomerate wave followed (between 1955 and 1970) which was characterised by the spread of managerial efficiency and the use internal capital markets to allocate resources. By the 1980s to the early 1990s, deregulation of numerous sectors and relaxed anti-merger and merger-control legislation ushered in the fourth wave called the mega merger wave (Roberts *et al*., 2003).

The last wave, by far the largest and also the first with an international dimension (the globalization wave), has been taking place since the mid-90s and is motivated by the combined effects of innovation and deregulation (Andrade *et al*., 2001). This fifth wave of mergers has seen companies exposed to global competition; with many of the old trade barriers weakened or disappearing altogether. In many countries, public utilities which hitherto had been under the control of state corporations have had to undergo privatisation, and global competition has generated pressures for further deregulation in many areas. The net result has been a blurring of traditional trade boundaries and sectors which further puts pressure on companies to change. Companies generally have to reduce costs and produce higher-quality, more customer-oriented products. These factors combine to produce a generally favourable environment for M&As. The fifth wave is still on-going and many countries around the world are experiencing their fair share of this wave of which Ghana is no exception.

The globalization wave of M&As has been the subject of study and empirical testing among many researchers in many different countries including the US, UK, Australia, New Zealand, Canada, and Continental Europe. However, the Ghanaian experience is unknown. Besides, studies conducted to examine the motives why companies engage in mergers have produced results that are at best inconclusive and at worst, viewed as systematically detrimental (Dickerson *et al*., 1997). This is what motivated the researchers to add our voice to the debate by exploring the Ghanaian experience of M&As for further evidence which the researchers believed would produce some intersting insights considering Ghana' geo-political and socio-economic setting. This paper thus sought to explore the current wave of M&As that has swept its way into Ghana, its drivers as well as implications for the economy at large. The study's primary objective was to identify M&A activities that have been going on in Ghana since 1994 to present and also examine their motives and drivers. The study also examines the regulatory framework of M&As in Ghana with the view to identifying the impetus for M&As, challenges and prospects of M&As for the economy at large. The researchers chose to study the phenomenon of M&A from 1994 since it marks the dawn of the globalization wave of mergers.

The significance of the study is that Ghanaian businesses will be able to survive in the short-run and will be able to grow and exist for longer periods if there is a better understanding of M&As being an alternative strategic tool in this current global era, for companies to stay competitive, survive and grow. The second section contains literature review which examines relevant concepts and theories on the issues and gives some insights on empirical works in the area of study. Section three is on the design and methodology used for the study. Section four contains the results and discussion of key findings while section five has conclusions and recommendations.

LITERATURE REVIEW

Conceptual and Theoretical Literature Review

DePamphilis (2003), Scott (2003) and Gaughan (2007) all opine that, a merger is a combination of two companies in which only one company survives and the merged company ceases to exist, whereby the acquiring company assumes the assets and liabilities of the merged company. We define a merger as an arrangement whereby the asset of two companies become vested in, or under the control of, one company. The term 'acquisition' is used when one company takes a controlling ownership interest in another firm, a legal subsidiary of another firm, or selected assets of another firm such as a manufacturing

facility (DePamphilis, 2003). In other words, an acquisition is the purchase of an asset such as a plant, a division, or even an entire company (Scott, 2003). The main difference between a merger and an acquisition lies in the way in which the combination of the two companies is brought about.

In a merger there is usually a process of negotiation between the two companies prior to the combination taking place. However, in an acquisition, the negotiation process does not necessarily take place. In most cases the acquirer acquires the target by buying its shares. The acquirer buys shares from the target's shareholders up to a point where it becomes the owner. Achieving ownership may require purchase of all of the target shares or a majority of them (see IFRS 3 – *Business Combinations*).

Acquisitions can be friendly or hostile. In the case of a friendly acquisition, the target is willing to be acquired. The target may view the acquisition as an opportunity to develop into new areas and use the resources offered by the acquirer. This happens particularly in the case of small successful companies that wish to develop and expand but are held back by a lack of capital (Roberts *et al*., 2003). The smaller company may actively seek out a larger partner willing to provide the necessary investment. In this scenario the acquisition is sometimes referred to as a friendly or agreed acquisition. Alternatively, the acquisition may be hostile. In this case the target is opposed to the acquisition, yet the acquirer manages to buy large amounts of the target's shares on the open market in a dawn raid (i.e. open market purchase of shares done as quickly as possible in a short time). Hostile acquisitions are sometimes referred to as hostile takeovers (Roberts *et al*., 2003).

Although technically different, the distinction in the meanings of 'merger,' 'acquisition' and 'takeover' may not really matter, since the net result is often the same: two companies (or more) that had separate ownership are now operating under the same roof, usually to obtain some strategic or financial objective. Besides, it is common practice in the literature to use the terms 'merger', 'acquisition', 'takeover', and 'M&A' synonymously and as such these terminologies are used synonymously and interchangeably in this paper. It is also worthy to note that M&As may be grouped into three types: horizontal (M&As of firms operating on same or similar product lines), vertical (M&As of firms along the value chain), or conglomerate (M&As of firms operating on different product lines).

In order to address the objectives of this study, which are to identify M&A activities going on in Ghana, their drivers (motives) and implications for the economy at large, we must consider the applicability of various merger theories and overview the literature put forward to explain mergers in general. Economists and other researchers have propounded several competing theories of M&As based on the actual or perceived motives for M&As. Due to the existence of some empirical findings, which suggest that mergers fail to enhance the value of firms (Pazarskis *et al*., 2006; Akben-Selcuk & Altiok-Yilmaz, 2011) whereas other studies show contrary evidences (Ramaswamy & Waegelein, 2003; Lau *et al*., 2008; Ismail *et al*., 2010), we have chosen to present our discussion of merger theories under two broad schools of thought – the value-enhancing, efficiency school of thought, and non-value enhancing, redistribution school of thought. We adopt a similar approach in our analysis.

Value Enhancing/Efficiency Theories

The value enhancing school asserts that M&As occur, broadly, because mergers create synergies (i.e. something extra gets added to the new organisation formed) between the acquirer and the target, and synergies, in turn, enhances the value of the firm (Hitt *et al*., 2001). The *efficiency theory* suggests that mergers will only occur when they are expected to generate adequate realizable synergies to make the deal beneficial to both parties. The symmetric expectation of gains is what results in a proposal and acceptance of a friendly acquisition. Hence, efficiency theory predicts value creation, with positive returns to both the acquirer and the target in a merger deal, as evidenced by Banerjee and Eckard (1998) and Klein (2001).

Taking cues from Weitzel and McCarthy (2011), we distinguish between 'operative synergies' or 'efficiency gains' achieved through economies of scale and scope, and 'allocative synergies' or 'collusive synergies' resultant from increased market power and an improved ability to extract consumer surplus, in order to comment on the value creation in M&A. Most of the current literature on the subject conclude that operating synergies gained through economies of scale and scope are the most significant source of

gain (see e.g., Houston *et al*., 2001; Mukherjee *et al*., 2004; Devos *et al*., 2008; Gattoufi *et al*., 2009), although they do also maintain that *market power theory* remains a valid merger motive.

Allocative synergies is said to offer the firm positive and significant private benefits because, all things being equal, firms with greater market power charge higher prices and earn greater margins through the appropriation of consumer surplus. In fact, a number of studies find increased profits and decreased sales after many mergers (Prager, 1992; Kim & Singal, 1993; Sapienza, 2002; Ramaswamy & Waegelein, 2003; Cefis *et al*., 2008; Ismail *et al*., 2010) – a finding which has been interpreted by many as evidence of increasing market power and allocative synergy gains (see e.g., Gugler *et al*., 2003). On country level, results of these post-merger studies suggest that the US., the UK., Continental Europe, Australia, New Zealand and Canada exhibit similar patterns regarding the increase in profits and decrease in sales, a possible indication of allocative synergy being a motive for which firms in these jurisdictions engage in mergers.

Beyond synergistic benefits, the *theory of corporate control* provides a third justification why mergers must create value in an efficient market. This theory suggests that there is always another firm or management team willing to acquire an underperforming firm perceived to have great prospects but which have failed to capitalize on the opportunities to improve the performance of its assets (Larsson & Wallenberg, 2002; Weston *et al*., 2004). This leads the acquirer to offer a higher value for the target's assets in excess of the target's prevailing stock price in order to acquire the right to manage the firm until they themselves are replaced by another team that discovers an even higher value for its assets (Larsson & Wallenberg, 2002).

Non-Value Enhancing/Agency/Redistribution Theories

The impact of M&As on firm performance remains, at best, inconclusive, and, at worst, systematically detrimental (Dickerson *et al*., 1997). It has been suggested that mergers fail to enhance value, with somewhere between 60 and 80 per cent classified as 'failures' (Puranam & Singh, 1999). A number of non-value enhancing theories have been put forward to explain this phenomenon. Weitzel and McCarthy (2011) divides these theories into two groups: the first assumes that the bidder's management are guided by 'bounded rationality,' and thus mistakes made and losses incurred are mainly due to informational constraints despite what are generally value-increasing intentions. The second assumes rational but self-serving managers, who maximise a private utility function, which at least fails to positively affect firm value (Seth *et al*., 2000; Nguyen *et al*., 2012).

Within the first category, the *theory of managerial hubris* (Roll, 1986; Hui-Ko-Chen *et al*., 2013) suggests that managers may have good intentions in increasing their firm's value but, being over-confident; they over-estimate their abilities to create synergies. Over-confidence increases the probability of overpaying (Hayward & Hambrick, 1997; Malmendier & Tate, 2008), and may leave the winning bidder in the situation of a winner's-curse (a phenomenon which occurs in common value auctions with incomplete information where the highest bidder would have overpaid for the auction), which increases the chances of failure (Dong *et al*, 2006). Empirically speaking, Berkovitch and Narayanan (1993) find strong evidence of hubris in US takeovers, and in the European context, Goergen and Renneboog (2004) find that about one third of the large takeovers in the 1990s suffered from some form of hubris.

On the counter side, Jensen's (1986) *theory of managerial discretion* claims that it is not over-confidence that drives unproductive acquisitions, but rather the presence of excess liquidity, or free cash flow (FCF). The theory suggests that firms whose internal funds are in excess of the investments required to fund positive net present value projects are more likely to engage in large-scale strategic actions with less analysis than their cash-strapped peers. High levels of liquidity increase managerial discretion, making it increasingly possible for managers to choose poor acquisitions when they run out of good ones, as a way of redistributing excess liquidity (Martynova & Renneboog, 2008). Evidently, as the degree of managerial discretion increases with FCF, so too, does the opportunity for managers to pursue self-serving acquisitions (Jensen, 2005) which is in fact what destroys shareholder value.

Another parallel competing theory, which can be used to explain unsuccessful mergers, is the *theory of managerial entrenchment* (Shleifer & Vishny, 1989). According to this theory, unsuccessful mergers

occur because managers primarily make investments that minimise the risk of replacement. It suggests that managers pursue projects not in an effort to maximise enterprise value, but in an effort to entrench themselves by increasing their individual value to the firm. With a view to entrench management, managers will, accordingly, make manager-specific investments that make it more costly for shareholders to replace them (Chava *et al*., 2010). Invariably, value will be reduced because free resources are invested in manager-specific assets rather than in a shareholder value-maximising alternative. While entrenchment theory primarily explains the process of how managers position themselves to achieve these objectives, the *theory of empire-building* and other related, well-tested theories provide both the motivations and evidence behind these objectives (Marris, 1963; Black, 1989).

Empirical Literature Review

Empirically, studies conducted to investigate and examine M&As, their motives, as well as their effects and implications for economies are quite extensive. Larsson and Wallenberg (2002) found out from their investigation of theoretical as well empirical material that the motives of M&As were of two sorts: either explicit or implicit. According to them, the explicit motives are the reasons actually given by company management, while the implicit motives refer to reasons that can be suspected but are not confirmed by the management. They further categorised the explicit motives to comprise: synergy, diversification, stagnation, and internationalisation. On the other hand, the implicit motives comprised: hubris and replacing management. They however argued that economic motive lay beneath each and every decision a profit-seeking firm makes and could be regarded as an indirect motive of M&As.

Besides Larsson and Wallenberg (2002), Duksaite and Tamosiuniene (2009) also divided the motives for M&As into primary and secondary motives. They analyse that the primary reason for companies to participate in M&A transactions is for growth. They identified secondary motives as synergy, access to intangible assets, diversification, horizontal and vertical integration, changes in markets and technology, improved management, tax benefits, cost reductions, extension of research and development capacities, and so on, which they explain all arise from the companies' primary motive to grow. They conclude that most of the motivations that feature for M&As serve as a means of reshaping competitive advantage within their respective industries.

Furthermore, a study of M&As that lived profitably ever after – and those that met with less happy endings – by Gadiesh *et al*. (2002), yielded some interesting findings. Among them was the conclusion that the motivations behind all merger transactions, large or small, unions of equals or outright takeovers, can be clustered into six distinct strategic categories, namely: active investing, growing scale, building adjacencies, broadening scope, redefining the business and redefining an industry. These researchers identified M&A as a key strategic alternative for mangers and business leaders in a dynamic global environment. They asserted that mergers may be the truest test of great leaders.

In addition, some other studies attempt to examine the motives of M&As based on their effects and outcomes. Although motives are mostly considered 'ex-ante,' and effects 'ex-post,' some believe that examining the 'ex-post' outcomes of M&As, nonetheless, could give one an inkling as to what motives might have spurred the merger in the first place. After all, the end result might be what justifies the means. For example, a merger searching for market power (motive) might not carry out higher prices (effect) because rival firms might increase production in response to the decrease in the merged firm's output, ending up with lower profits (effect). A notable study which can be mentioned in this light is Gugler, *et al*., (2003) which examined the motives of M&As from a performance outcome point of view.

Gugler *et al*. (2003) used profitability and sales as their measure of performance. They identified from the literature, two main motives of mergers as: efficiency and market power; and conjectured that if profits and sales increase, efficiency was the driver of the merger, while if profits increase and sales decrease, market power was the driver of the merger. They split their sample into large and small firms. For large firms, they find that, five years after the acquisition, 43 percent of the merged firms revealed a 'merger fail' (a loss in profit). Efficiency is found to be the motive in 29 percent of the sample and market power in 28 percent of the sample. For the small firms' sample, they found that 35 percent of the firms revealed the efficiency motive and 20 percent, the market power motive. Several other studies (such as

events studies which uses share prices, accounting studies which uses profits or cashflows and case-by-case studies; for e.g. Crooke *et al*., 1999) have considered merger motives based on the effect of the merger on performance as measured by the accounting profit (see for e.g. Musvasva, 2013; Oduro & Agyei, 2013) or the share prices of firms (see for example Jensen & Ruback, 1983; Amewu, 2014) or both (see for e.g. Akben-Selcuk & Altiok-Yilmaz, 2011). The results of these studies indicate that, if company performance increases, there is evidence that the merger created either market power or efficiency gains, otherwise the merger failed to create value.

From the foregoing, it has become clear from the literature that there are several competing, non-exclusive motives of M&As, all of which may be categorised severally. Motis (2007) does a good job analysing and summarising a broad list of merger motives proposed in the literature. In tandem with our chosen framework for analysing merger theories, he classified the broad list of rationales proposed as merger motives in two main groups, which in his view reflects 'the effective claimant of the merger gain' (p.26). The first group includes drivers that increase shareholder value, whereas the second includes a list of rationales that go in the interest of the management.

Under the shareholder gains class, Motis (2007) identifies: efficiency gains, synergy gains, real cost savings, financial or redistributive cost savings, enhancement of market power, pre-emptive or defensive motive and disciplinary takeovers as the main drivers of M&As. On the other side of the continuum; the managerial gains class, otherwise known as the agency rationale class, Motis (2007) identifies the merger motives of: empire building, hubris, and risk spreading or diversification.

In summary, it has become evident that a broad list of merger motives which may be categorised as 'value enhancing' or 'non-value enhancing' motives are well explained and supported by theory and empirical evidence. We also found out from our review that, event studies, accounting studies as well as case-by-case studies (with or without simulation) have been proposed and prominently used in the literature as the measurement criteria to investigate for merger motives, gains and effects (see for e.g. Motis, 2007). Although somewhat immeasurable, interviews of merger participants (or actors), and media evaluation as to what degree employees of merged companies are satisfied with the situation (see Larsson & Wallenberg, 2002) were also identified as criteria for investigating merger motives. These reviews provide a sound background and framework from which our current study is structured.

DATA AND METHODOLOGY

The study is exploratory in nature. Its design aims to unearth the state of affairs regarding M&A activities in Ghana since the dawn of the globalization wave, from 1994 (Andrade *et al*., 2001); the motives and impetus for M&As as well as the implications of these on the economy of Ghana. Preliminary search (of newspapers, internet databases, and other media outlets with information on M&As in Ghana) was carried out to identify various M&A activities that have been going on in Ghana since 1994 to December 2015. The data was collected for this period because it reveals the current globalization era of M&As. The study was then qualitatively designed via means of an interview guide, developed based on review of theories and empirical works on M&As in general, and merger motives in particular, to elicit relevant information from key merger personnel on the 'ex-ante' motives, drivers and impetus for M&A activities in Ghana. These merger personnel comprised: board members from the acquiring firms as well as the target firms, where possible, and industry regulatory body representatives who participate in M&A deals. We also included prominent journalists and media analysts who write articles on merger deals as well as academic researchers who have published paper(s) on M&As in Ghana whom we could readily identify and contact. Data was sought from these key merger personnel because they were directly involved in their merger deals and as such could furnish us first-hand with their reasons for embarking on their mergers. Moreover, as identified by Larsson and Wallenberg (2002), although somewhat immeasurable, interviews of merger participants (or actors), and media evaluation as to what degree employees of merged companies are satisfied with the situation were also identified as criteria for investigating merger motives. Other pieces of relevant information about proposed and completed merger-deals as well as reasons put forward for those deals were obtained from newspapers, company

websites and internet databases, manuals and deal-documents of the surveyed companies which had been identified to have undertaken a merger or acquisition within the survey period. We found it most appropriate to gather data from these sources for the study for two main reasons: (1) because the study is qualitative and exploratory in nature and as such a wide array of information is often necessary for any meaningful assessments, and (2) because this approach for a study of this nature is widely supported in the merger literature (see for e.g. Larsson & Wallenberg, 2002).

Before doing the interviews, main and follow-up questions were carefully prepared. We had done some research both theoretically and empirically, so we used the knowledge gained as a starting point. We also ensured that we kept focused on our objectives when constructing the questions. Thereby we asked questions whose answers would help us fulfil the purpose of our study. The respondents were all offered anonymity.

We chose to divide the questions according to the disposition of our theoretical and empirical reviews. The first group of questions were related to mergers in general, followed by questions about motives of M&As. The questions were sent to the respondents some days beforehand, in order to make it possible for them to prepare for the interview, thus hopefully give more detailed and well-reasoned answers. The intention was to let the respondents talk relatively freely around the questions, while we used the interview guide to keep track of the answers as well as to steer the interview in a suitable direction. The essence of our partnership for this study was really felt during the interview sessions. As one of us asked the questions, the other carefully jotted down notable points. An advantage with interviews that are rather free is that the answers might be more nuanced and exhaustive, but that also implies a reduced possibility to perform quantitative analyses. However, since this study does not contain any quantitative elements, this was not perceived as an obstacle. The interviews took place at each respondent's working place and the sessions lasted for approximately one hour.

FINDINGS AND DISCUSSIONS

We observed from our theoretical and empirical reviews that the motives of mergers could be grouped into two categories: value enhancing and non-value enhancing (as shown in table 1), although not all studies reviewed classified them as we have done.

TABLE 1: MERGER MOTİVES FROM LİTERATURE

Value Enhancing Motives	Non-Value Enhancing Motives
• Efficiency and synergy • Real cost savings • Financial or redistributive cost savings • Enhancement of market power • Preemptive or defensive • Disciplinary takeovers	• Hubris • Empire building • Risk spreading or diversification • Stagnation and internationalisation

Source: Authors' adaptation of findings from theoretical and empirical literature

We set out to present our findings from the interviews and analysis thereof of merger motives under these two themes.

The Value Enhancing School

The value-enhancing school identifies efficiency gains from synergies, cost savings, market power, pre-emptive and replacement of less performing management as the main motives for engaging in M&A activities.

One corporate interviewee from our interviews argued that sustained periods of prosperity often result in low interest rates as well as high values on the stock market which incentivises companies to expand

via debt. He stated that, 'Low interest rates tempt companies to take huge loans, with which to carry through mergers and acquisitions, after having paid off previous investments.' This interviewee attributed the current influx of South African companies' mergers with Ghanaian firms to the low interest rates regime in South Africa coupled with glowing economic prospects in the Ghanaian market. He added that low interest rates present some form of cost savings.

Another corporate interviewee stated,

It has become increasingly important for us to expand by buying local companies in other parts of the world, the purpose being that this procedure is often both cheaper and more secure than building up a new business from scratch. Besides, we do not necessarily have to pay cash for our acquisitions. We only exchange shares.

A journalist who spoke to us, commenting on the phenomenon of mergers in the banking industry of Ghana attributed it mainly to the increase in minimum capital requirement of banks to GH¢100 million which has served to create larger banks with huge capital base or balance sheet to finance 'major deals.' This journalist perceives the capacity of a bank to be able to finance major deals as an efficiency gain from an M&A.

However, some other commentators and academics which we interviewed, have questioned the appropriateness of regulators' actions engineering merger activities as opposed to such merger activities being carried out as a response to market forces, which they argue, actually, leads to value creation. One scholar we spoke with pointed out that, although regulators actions are sometimes needed to instil sanity in some markets, when it comes to mergers, 'free market forces often does a better job at helping create value for firms.'

A respondent from a recently merged bank noted that, 'One of the motivations for us merging with another bank was that we did not have to pay for the merger. We only had to exchange shares with each other.' Generally, stocks with high values motivate managers to merge with other firms simply by exchanging shares with each other. Merging firms of reasonably equal sizes frequently employ this, since they do not need to pay with actual money. This to them is a form of cost savings.

Non Value-Enhancing School

The non-value-enhancing school identifies empire building, hubris, risk spreading, stagnation and internationalisation as motivations for companies engaging in mergers.

Observe some comments made by some of our respondents in our interviews:

'The church tower must be built very high.'

'Banking business is all about scale.'

'If you must drink, then you should drink deep, or else, taste not.'

'It pays to write your signature on the business.'

'Everybody is doing it. We don't want to be left out, so had had to follow suit.'

'We wanted to test our management skills in a completely new industry, and so engaging in a merger provided us with that avenue.'

These are some of the statements made by some of our corporate interviewees on the motives that drove them to undertake M&A activities. As one can observe from the above quotes, quite a number of the motives as proposed by the non-value-enhancing school seem to be prevalent among merger players in the Ghanaian terrain. Quite interestingly, many of these respondents ascribed success of their merger to achievement of their motive of entrenching themselves or building empires for themselves. Many of these respondents appeared 'overly satisfied' with their management skills demonstrated in the completion of their merger deals – a possible indication of 'hubris' underneath those mergers.

Oduro and Agyei's (2013), study which examined the effects of mergers on the performance of listed firms in Ghana, and found M&As to have significantly negative effects on firm profitability may lend some credence to the fact that M&A activities in Ghana may have other motives other than profit enhancements. That notwithstanding, it might be worthy to note here that, efficiency gains (value enhancements) from mergers might take quite some time to become evident, as acknowledged by some

empiricists (see for e.g. Roller *et al*., 2006), and as such care should be taken when analysing the results of studies such as that of Oduro and Agyei (2013).

The Ghanaian Experience of M&As

Conventional wisdom has long suggested that Ghana would never be a hotbed of M&A activity, given the ultra-conservative nature and intensely proprietary culture of its first few generations of successful entrepreneurs. That myth has been debunked in recent years as the M&A deal-making market has come to life with a series of successful deals as well as some protracted unsuccessful attempts. In Ghana, business combination which also implies M&As and defined by IFRS 3 as "a transaction or event in which an acquirer obtains control of one or more businesses (be they assets or an integrated set of activities capable of being conducted and managed to provide returns for owners takes various forms namely:

- Acquisition of shares;
- Creation of joint ventures;
- Acquisition of business assets;
- Merger of two or more companies into one of the existing companies;
- Merger of two or more companies into a new entity set up for that purpose;
- Amalgamation or arrangement with court approval;
- Creation of new holding companies for existing entities; and
- Acquisition of state-owned entities or assets from the government under its divestiture programme in accordance with PNDC Law 326.

In any of the above cases specified, M&A may be implied. Unless proven otherwise, in so far as ownership (a bundle of rights that gives an entity a controlling interest in another entity) or control of the entities involved in a business combination vest in the new entity (or its board of directors), an M&A is implicit. The terminology 'merger' and 'acquisition,' are usually synonymously used for business combinations in Ghana as in other jurisdictions. Perhaps, a defining and observable feature that distinguishes the two terminologies may be the name that results after the business combination. More often than not, when the business combination was a merger, the names of the merging firms are somewhat fully or partly represented in the newly coined name of the merged firm. In the case of an acquisition business combination, the acquirer's name often remains the resultant name of the merged firm, or an entirely new name is coined for the merged firm.

A survey of various newspapers, relevant internet databases containing M&A information, and first-hand information obtained from some key corporate individuals who have been involved in a merger or acquisition deal in Ghana reveal that, there has been over 20 M&A deals undertaken in Ghana since 1994 to date. Perhaps, the first merger deal undertaken in Ghana at the dawn of the globalization wave was between SSB Bank and National Savings and Credit Bank in 1994. These banks which were both jointly owned by the Government and Bank of Ghana merged in 1994 as part of restructuring of the banking system; the consideration being the issue by SSB of new shares representing 7.6 per cent of its issued shares. The following year, the Government of Ghana divested its 21 per cent stake in the bank and it was converted to a public limited liability company as part of its preparations towards the company's initial public offer (IPO). The company subsequently listed on the Ghana Stock Exchange (GSE) on 13 October 1995 (Societe Generale, 2015). Table 2 summarises the list of M&A deals, categorised by industry, as well as strategic investments undertaken in Ghana from 1994 to 2015. Strategic investments as referred to here are are significant investments made in respective firms, which normally do not get captioned as a merger or an acquisition but which in our view are capable of being converted and conducted as M&As.

TABLE 2: MAJOR M&AS AND STRATEGIC INVESTMENTS IN GHANA FROM 1994-2015

NO	ACQUIRER COMPANY	TARGET COMPANY	YEAR OF MERGER/ ACQUISITION	NAME AFTER MERGER/ ACQUISITION
Banking Industry				
1	UT Holdings	BPI Bank	2008	UT Bank
2	Ecobank Gh. Ltd.	The Trust Bank	2012	Ecobank Gh. Ltd
3	Republic Bank of Trinidad and Tobago	HFC	2013	HFC
4	Fortis Equity Fund	Merchant Bank Ghana	2014	Universal Merchant Bank
5	Bank of Africa	Amalgamated bank	2011	Bank of Africa
6	Fidelity Bank	Pro Credit	2014	Fidelity Bank
7	Intercontinental Bank	City Savings and Loans	2006	Intercontinental Bank
8	Access bank	Intercontinental Bank	2012	Access Bank
9	Social Security Bank	National Savings and Credit Bank	1994	Social Security Bank
10	Societe Generale	Social Security Bank	2004	SG-SSB
11	First Bank of Nigeria	International Commercial Bank	2013	First Bank of Nigeria
Telecommunications Industry				
1	Areeba	Spacefon	2005	Areeba
2	MTN	Areeba (Investcom)	2006	MTN
3	Aitel	Zain	2010	Airtel
4	Vodafon	Ghana Telecom	2008	Vodafon
5	Expresso	Kasapa	2008	Expresso
Insurance Industry				
1	Prudential Plc	Express Life	2014	Prudential Plc
2	Old Mutual	Provident Life	2013	Old Mutual
Manufacturing Industry				
1	Guinness Ghana Co. Ltd.	Ghana Breweries	2004	Guinness Ghana Breweries Ltd.
2	Heineken N.V	ABC Breweries	1997	Ghana Breweries Ltd.
3	Ghana Breweries	Kumasi Breweries	1998	Ghana Breweries Ltd.
Mining Industry				
1	AngloGold	Ashanti Goldfield	2004	AngloGold Ashanti

Oil & Gas (Petroleum) Industry				
1	Total Petroleum	Total Ghana Ltd.	2006	Total Petroleum Ghana

STRATEGIC INVESTMENTS:

1	PMI Gold	Keegan Resources	2012	N/A
2	Abraaj	FanMilk International	2013	N/A
3	Wilmar Group	Benso Oil Palm Plantation	2011	N/A
4	UK's DPI	CAL Bank	2012	N/A
5	Nigeria's Kaderi Group	First Atlantic Bank	2011	N/A

Source: Authors' compilation from various media sources

Aside corporate mergers, the current wave of M&As in Ghana has also seen some state owned enterprises successfully privatised. These include: the Ghana Water Company which privatised its management to Aqua Vitens Rand Limited (AVRL) in 2009, the GIHOC Footwear, Bonsa Tyre Factory, Subri Industrial Plantation and GIHOC Glass Company. Possible ones in the pipeline include: the Electricity Company of Ghana (Star FM General News, 2015).

In the our quest to identify the drivers, challenges and prospects of more M&As sweeping their way into Ghana, we explored the regulatory framework for M&As in Ghana for some insights.

The Regulatory Framework of M&As in Ghana

In Ghana, there exist several laws and regulations governing business combinations. The Companies Act 1963 (Act 179) is the primary legislation governing business combinations in Ghana. The Companies Act provides for the schemes of arrangement and manner in which business combinations should be effected. These schemes found in sections 230 and 231 of the Companies Act are usually initiated on the basis of a shareholders' special resolution and consummated with or without court approval. Together, the Securities Industry Law 1993 (PNDCL 333), the Securities and Exchange Commission Regulations 2003 (LI 1728), the Securities Industry (Amendment) Act 2000 (Act 590) and the Securities Exchange Commission (SEC) Compliance Manual serve to govern and regulate trading in securities in publicly listed companies. The Takeovers and Mergers Code (the Takeover Code) was also promulgated which became effective from October 2008. Together with Ghana Stock Exchange's rules on Takeovers and Mergers, they provide for the obligations and procedures to be complied with during M&A activity involving a public company.

Specific sectoral legislations also regulate business combinations. These include: the Banking Act 2004 (Act 673) as amended, which regulates the banking industry; the National Communications Authority Act 2008 (Act 769) and the Regulations 2003 (LI 1719), which regulate the telecommunications industry; the Insurance Act 2006 (Act 724), which regulates the insurance industry; the Minerals and Mining Act 2006 (Act 703), which regulates the minerals and mining industry; the Petroleum (Exploration and Production) Law (PNDCL 84); and the Fisheries Act 2002 (Act 625).

Generally, commercial, trading and manufacturing concerns do not need any general approvals. The relevant ministries, such as trade and industry, have their regulations but do not directly supervise activity in the way that the Minerals Commission and the Bank of Ghana have statutory supervisory functions in mining and banking respectively.

In the banking sector, the Bank of Ghana is the controlling agency during amalgamations and acquisitions. The Bank of Ghana is responsible for granting licences and approval for such activity. Under

the Banking Act, a three-month notice to, and the written approval of, the Bank of Ghana is required in any acquisition or sale of more than 10 per cent of shares in a bank. In addition, under section 36 of the Act, the Bank of Ghana must approve any agreement or arrangement that would result in a change in the control of a bank or its holding company; or that would lead to the sale, disposal or transfer of the whole or part of the business of a bank; or the amalgamation or merger of a bank with another bank or institution; or the restructuring of a bank.

In the mining industry, strict approval procedures are required by the law. M&As by share transactions are tightly regulated. Section 14 of the Mining and Minerals Act 2006 (Act 703) provides that no mineral right or interest therein shall be transferred, assigned or dealt with in any other manner without the prior approval in writing of the sector minister.

Under the Fisheries Act 2002 (Act 625), any fishing craft operating in Ghana's coastal waters and rivers in connection with any fishing activity must be licensed. Pursuant to the Fisheries Act, licences granted under the Act are not transferable to another person without the permission of the Fisheries Commission. Thus, where a merger or an acquisition leads to the formation of a new company, a licence granted to a fishing vessel owned by the old company will not as a matter of course be transferred to the new company unless the permission of the Fisheries Commission has been obtained. There are also nationality restrictions that may affect the extent to which M&As are effected.

The Petroleum (Exploration and Production) Law 1984 (PNDCL 84) principally regulates the petroleum sector. For example, where a merger or acquisition results in the creation of a new company, any petroleum agreement cannot be assigned to the new company without the sector minister's consent. The consent of the minister is also required for the transfer of control of at least five per cent of the shares in a petroleum company. If the merger or acquisition leads to the original company ceasing operations, the Ghana National Petroleum Corporation (GNPC) shall have the first option in the purchase of its assets.

Under the regulations of the National Communications Authority (NCA) (LI 1719), if the transfers of shares in a licensed company would result in a change of control of the company and also cause that company to breach licence terms relating to its ownership structure, then the NCA must approve such a transfer.

M&A transaction agreements are typically governed by both the relevant laws in Ghana and any other laws that the parties to the agreement voluntarily choose. As regards cross border transactions, there are no specific laws and regulations that apply to these transactions. However, all such transactions may be treated as foreign investment transactions. Applicable laws and regulations that may affect such transactions include the Foreign Exchange Act 2006 (Act 723) and the Ghana Investment Promotion Centre (GIPC) Act 1994 (Act 478).

Tax benefits have been identified as one of the reasons why companies engage in M&As. The new Income Tax Act of 2015 (Act 896), provides for gains realised on the disposal of assets (now called gains on realisation of assets) to be included in business or investment income and taxed at the applicable income tax rate. Individuals may however, opt not to subsume the gain and pay at a rate of 15 per cent on the disposal. However, section 47 of the Income Tax Act exempts capital gains accruing to or derived by a company arising out of a merger, amalgamation or reorganisation of the company where there is a continuity of underlying ownership in the asset of at least 50 per cent. Therefore, to the extent that a company takes over 100 per cent of the assets of another, it would be exempt from capital gains tax.

The legislation governing labour and employee benefits is the Labour Act 2003 (Act 651). According to this law, if employees lose their jobs as a result of a business combination or suffer any diminution in their terms and conditions of employment, the target company would have to make redundancy payments to the workers.

With an overview of the regulatory framework governing M&As in Ghana, one can readily observe or envision the motivations, propects and possible challenges for M&A activities continuing in Ghana.

Motivations, Challenges and Prospects for M&As in Ghana

Results from the study's interviews as well as a cursory glance of available merger documents of the surveyed companies shows that growth and survival are cited as the main motivations for companies engaged in M&A activities, which growth experts believe is spurred by globalization and increasing emphasis on local content across sectors in the country. An executive corporate respondent from an acquirer telecommunications company cited growth into new and ripe markets as their primary motive for their acquisition of a Ghanaian telecom company. Many other ancillary reasons adduced, such as synergy, diversification, access to intangible assets, seemed to support primarily the growth motive. This finding is not surprising as the extant literature mostly cites growth as the main driver of M&As (see for e.g. Duksaite & Tamosiuniene, 2009). Citing the words of Mr. Randolph Rodrigues, a senior investment banker at Stanbic Bank, Ghana, 'the renewed quest for the institution of local content requirements across industries is expected to drive a wave of M&A activity, with larger foreign-owned enterprises seeking partnership opportunities with indigenous operations to continue to *grow* within the legal framework of their respective industries' (Ghana News Report, 2014).

Survival in terms of adequacy of capital to continue to operate and stay in business was identified as a complimentary motive for mergers in some heavily regulated industries such as the banking industry. Some respondents from recently merged banks attested to the survival motivation being the reason behind their mergers. One respondent bluntly stated, 'We wanted to stay in business so we had to merge to improve our capital base as required by Bank of Ghana.'

Besides the growth and survival motivation for companies engaged in M&A deals, management's interest in entrenching themselves and building empires for themselves were also identified as motivations for why some companies engage in M&As in Ghana. As commented by the CEO of the Ecobank Group, Mr. Albert Essien at the 14th MTN Business World Breakfast Meeting under the theme: 'Banking in Africa: Lessons from a top banker,' "banking has everything to do with scale." He explained that scale is what promotes big ticket transactions in the industry. He advocates for consolidations and mergers among banks as opposed to small niche banking business (Boadu, 2014). Asare-Peasah and Korsah-Nkansah (2015) while making reference to Republic Bank of Trinidad and Tobago's acquisition of HFC Bank in Ghana also opined that the future of global banking is motivated by "Big is Beautiful." Advocacy for scale banking may be indicative of management's quest to get entrenched and build empires for themselves without having regard for whether concentrating on certain small market niches better places them to match the needs of their clients and deliver the best value.

In spite of the growing pervasiveness of M&As across several industries in Ghana, we however found out that the regulatory framework governing M&As and procedural bottlenecks serve as a major challenge inhibiting some industries from engaging in M&A activities. Established laws within various industries serve to provide rules aimed at sanitizing dealings within the respective sectors. However, procedural bottlenecks seem to bedevil the processes one needs to go through. As one interviewee from the banking sector noted, 'There is often too much bureaucracy in merger processes and you need to go through chains of approval list which can take you several months before the agreed consolidation is finalised. Where the regulator appears to favour the deal, the processes are a bit fastracked, otherwise, it gets protracted.'

Another respondent from the mining industry also hinted that, stringent regulations in the industry coupled with uncertain prospects of mineral wealth in commercial quantities have inhibited merger activities in the industry. Apparently such procedural bottlenecks tend to slow down market activity and invariably the pace of M&As happening within these industries.

One other respondent from a failed merger deal indicated that although the target's board of directors had favoured the deal, the unwillingness of some key shareholders and other stakeholders (including the media) of the target company to the proposed merger served as an inhibitor to the successful completion of the deal. The acquirer utterly got discouraged with the protracted pace and eventually backed off the merger deal.

Furthermore, the political terrain of Ghana has been described by some as scaring foreign direct investment (FDI), which of course includes M&As.

All these notwithstanding, there are still great prospects and potential for merger deals to continue in Ghana. The banking industry of Ghana has experienced the most merger activity, and with Bank of Ghana coming out with streamlined guidelines on M&As for banks and financial institutions, the leeway is provided for the players to merge.

Besides, the tax laws of the country which provides tax exemptions on capital gains accruing to or derived by a company arising out of a merger where there is continuity in undertaking of at least 50 per cent, presents M&A opportunities for companies seeking to realise capital gains from disposal of their assets. Furthermore, the growing size, depth and sophistication of Ghana's emerging economy are creating more opportunities for M&As. As these opportunities are taken, one can expect mergers to become increasingly common, and the structure of corporate Ghana to keep changing.

CONCLUSION

The current study has identified the globalization wave of M&As to have defied the rather conservative approach to doing business in Ghana and swept its way into the very fabric of Ghanaian business organisation and structuring. This current wave of M&As in Ghana is also gradually building momentum in various industries within the Ghanaian economy, including the banking, telecommunication and manufacturing sub sectors. The main drivers for this merger wave in Ghana are growth and survival within the global marketplace. Also, management's interest in building empires for themselves was identified as an ancillary motive. It is envisaged that M&As would become a key strategic thrust of the new business environment and as such governments, regulators and businesses would do well to position themselves to profit from M&As.

We recommend that regulatory bodies such as the BOG, the SEC, the GSE, the NCA, the Minerals Commission and the Fisheries Commission endeavour to streamline the processes necessary for M&As in their sectors to foster stronger industries. Again, a concerted and co-ordinated effort must be made to develop a reliable database to track mergers, acquisitions, disposals, other corporate transformations and share dealings in the country as well as those involving Ghanaian firms in cross-border deals. Databank Ghana Limited, with its track record of providing reliable financial and economic data on the Ghanaian business and economic lanscape since its establishment in 1990 comes prominently to mind in this regard, and could be brought on board to spearhead or facilitate such development. This is what Thompson Reuters, a leading provider of financial information in the United States have endeavoured to develop to track merger activities both within and cross-border involving US firms and others in which they have interest.

ENDNOTES

1. The authors (Steger and Kummer, 2007) obtained their data from various sources.
2. We refer to M&A figures of the US because they are readily available. However, M&As have been taking place all over the world but getting reliable data on them is quite difficult owing to the lack of country databases on M&As. Global M&A activity in 2015 hit an all-time highest of $4.28 trillion in value despite reduction in the number of deals from the previous year. (www.ibtimes.com/global-ma-activity).

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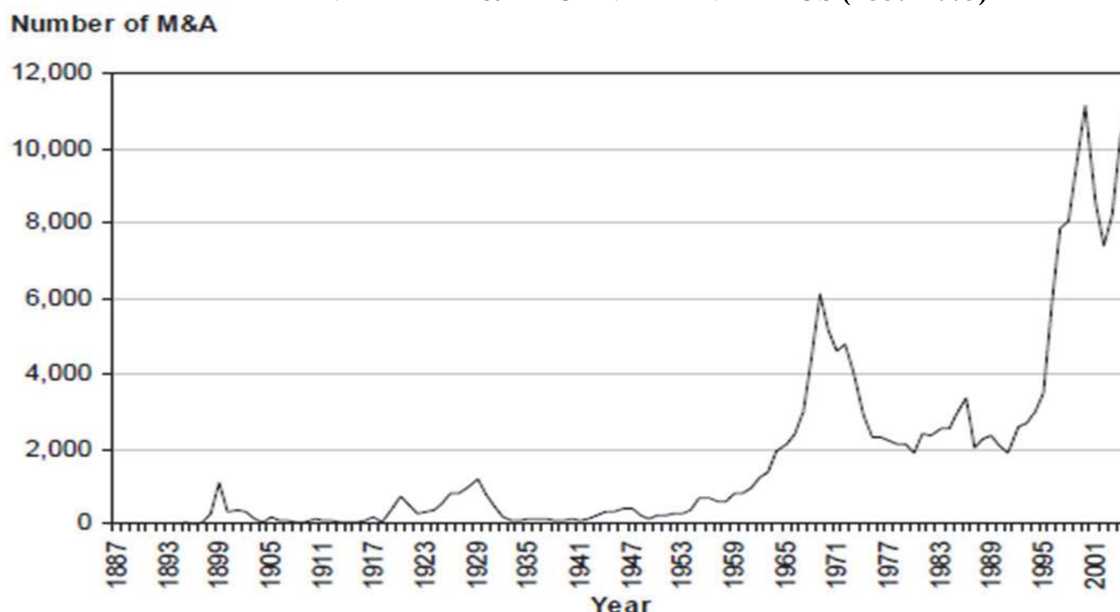
APPENDICES

APPENDIX A – M&A ACTIVITY IN THE US (1887-2005)



Source: Steger and Kummer, (2007)[1]

APPENDIX B – M&A ACTIVITY IN THE US (1985-2014E)[2]

Source: IMMA

APPENDIX C – STRUCTURED INTERVIEW GUIDE

General Questions

- How do you see the current wave of merger activity in the Ghanaian economy?
- Can you name some of the merger deals that have occurred in your industry over the last 20 years?
- Do you expect more merger activities in Ghana in the near future?
- Which sectors of the economy do you expect to see the most merger activities going on?
- To what extent do you think that media's speculations about presumptive merger partners for a certain company can affect possible mergers and that company's management?
- Is it possible for media hype of a proposed merger to aid as catalyst to the merger or help stop a proposed merger?

Motives of Mergers

- How do you get information about motives for a merger?
- What motives are commonly espoused by the media? Examples?
- What motives are given by companies' management? Examples?
- Is it possible that there are motives not expressed by the companies' management? Which? Examples?
- Are all these motives relevant in the current merger wave? Why or why not?
- Do you really think mergers are solutions to all of these company motives? How?
- How do you evaluate the success or otherwise of a merger deal?
- How satisfied are you with your company's merger?
- To what extent do companies influence each other to merge?
- Were you opposed to the merger, or did you encounter opposition in any way? How? Explain.
- In your view, how are mergers beneficial to the companies, industries and the economy as a whole?
- Are there any challenges companies encounter with merger activities? Examples?
- What specific regulations did your company have to comply with in the merger deal?
- What role did the regulators (if any) play in the merger?

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