

A Study on the Balance of Enterprise Strategy and Employee Rights from the Perspective of Commercial Law

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Abstract: In a modern and diverse society, moral evaluation is diverse, while legal norms are clear and unique, backed by public power, which can serve as a benchmark for evaluating company behavior and a basis for enforcement. Encouraging commercial entities to engage in trade and pursue maximum benefits in institutional design has a clear private law nature. This article conducts research on the balance between corporate strategy and employee rights from the perspective of commercial law. The value of commercial law lies in ensuring the profitability of merchants or enterprises, so the goals pursued by commercial law are profitability, efficiency, safety, and minimizing risk costs as much as possible. The general principles of fairness, justice, integrity, and other legal principles are supplemented to constrain the company's behavior and ensure that the company bears social responsibility towards its employees. The transferee of a company's merger and acquisition should summarize the labor relationship of the transferee. From the perspective of commercial law, adopt administrative actions that limit or minimize the harm to employees' rights and interests, and make the harm caused by administrative actions compatible with the pursued administrative purpose.

1. Introduction

In the modern commercial society ruled by law, it is still of great practical significance to advocate companies to voluntarily assume the moral responsibility of "protecting employees' rights and interests". Earl Warren, the former chief justice of the United States Supreme Court, once pointed out that in a civilized society, the boat of law floats on the ocean of morality. Not only does the law take moral responsibility as a prerequisite, but the law holds that people's activities are only subject to morality in many fields, not completely subject to the law. In the case of voluntary moral responsibility, the company can make a choice according to its own will, which can avoid the compliance cost brought to the company by the mandatory provisions of the law and the law enforcement cost caused by the enforcement of public power[1]. In modern pluralistic society, moral evaluation is pluralistic, while legal norms are clear and unique, backed by public power, which can serve as the criterion for evaluating company behavior and the basis for enforcement[2]. Therefore, the protection of employees' rights and interests in company mergers and acquisitions should first be implemented as legal rules, and the general principles of the rule of law such as fairness, justice, honesty and credit are the supplements to the specific legal rules for protecting employees' rights and interests[3]. China's current legal system of foreign-funded enterprises is

complex in level and chaotic in system, with complicated contents and frequent contradictions, which has been the focus of discussion and the basic consensus of all sectors of society for many years. However, due to the different starting points and thinking angles, commentators have given different answers to how to sort out, adjust and reconstruct the legal system of foreign-funded enterprises[4]. In the system design, it encourages business subjects to carry out trade and pursue the maximization of interests, which has obvious private law nature. The value of commercial law is to ensure that businessmen or enterprises make profits, so the goal pursued by commercial law is to make profits, be efficient, be safe and reduce the risk cost as much as possible. In this regard, this paper studies the balance between enterprise strategy and employees' rights and interests from the perspective of commercial law, which is critical to social stability to some extent. The solution to this problem is to restrict the company's behavior with specific legal rules and supplemented by general principles of rule of law such as fairness, justice and honesty, so as to ensure that the company undertakes social responsibilities to employees. The transferee of company mergers and acquisitions should summarize the labor relations of the transferee[5]. At the same time, the principle of balance and coordination requires us to be kind to entrepreneurs while protecting the interests of employees, and to protect the interests of companies in a balanced way, allowing companies to implement consolidation and dismissal after mergers and acquisitions, so as to maintain their autonomy in production and operation and the market-oriented allocation mechanism of labor resources[6-7].

2. A Study on the Balance of Enterprise Strategy and Employee Rights from the Perspective of Commercial Law

2.1. Analysis of Employee Equity Balance in Enterprise Strategy

There are three aspects to be addressed in corporate strategy: enterprises should understand their own development status and capabilities; Enterprises should understand their goals; Enterprises should also understand their own action plans. Therefore, strategy can be defined as the entire process of a company coordinating the interests of all parties based on its own capabilities to achieve its long-term goals[8]. From this definition, it can be seen that strategy includes three elements, namely goals, interests, and capabilities. This article analyzes the balance between corporate strategy and employee rights from the perspective of commercial law. Commercial law is a general term for regulating commercial relations, encompassing multiple laws. Currently, commercial law in China mainly focuses on regulating commercial organizations, such as the Company Law, Partnership Enterprise Law, Sole proprietorship Enterprise Law, "Three Capital" Enterprise Law, Bankruptcy Law, Negotiable Instruments Law, Banking Law, Securities Law, Insurance Law, and so on. The changes in company organization and the transfer of operational control power allow new operators to use their discretion in business matters to substantially change labor relations or conditions, ranging from termination or termination of labor relations to inheritance of labor relations by surviving companies and changes in employees' employers[9]. At the same time, it may also involve a series of issues such as changes in employee positions, salary increases or decreases, and employment stability. In reality, there are also cases where conflicts arise due to company mergers and acquisitions not properly addressing the protection of employee rights, seriously endangering social stability, such as the widely concerned Hebei Baoding Yimian Group merger and acquisition case[10]. In commercial law, how to protect employee rights and interests in company mergers and acquisitions is a major theoretical and practical issue, as well as a major challenge. Due to the voluntary assumption of social responsibility by the company, it is possible to make autonomous and discretionary decisions based on its own will, which can avoid the compliance and enforcement costs brought about by the legal provisions of social responsibility.

However, voluntary social responsibility is mainly implemented through the consciousness of the company and the supervision of public opinion. In this diverse society, moral evaluation may be diverse, while legal rules are determined and unique, with mandatory nature. From the perspective of commercial law, adopt administrative actions that limit or minimize the harm to employees' rights and interests, and make the harm caused by administrative actions compatible with the pursued administrative purpose.

2.2. The Boundary of Corporate Social Responsibility Theory

The core concept of commercial law is "efficiency first" and insisting on "profit", but "efficiency first" does not mean "efficiency first" and insisting on profit does not mean "profit-seeking". We can't force enterprises to bear excessive employee protection standards and responsibilities through commercial law, otherwise it will destroy the laws of the labor market itself, increase the company's operating costs and worsen the investment environment of enterprises. While protecting the rights and interests of employees, we should also be kind to the company and shareholders. From a dialectical point of view, without entrepreneurs, there will be no employees. Companies and employees are twin brothers and a community of interests. The administrative counterpart participates in the exercise of the administrative power, restrains and restricts the administrative power through specific legal procedures such as informing, explaining reasons, hearing, prescription, etc., and supervises the administrative power to balance and restrain the wanton expansion of the administrative power. Therefore, when applying the theory of corporate social responsibility to employees' rights and interests in corporate mergers and acquisitions, we should balance and coordinate the distribution of interests between companies and employees. The principle of balance and coordination is like a goddess of peace, holding the interests of shareholders and companies on the one hand and the rights and interests of employees on the other, and combining them artistically to construct a harmonious merger and acquisition environment and internal working environment. It is necessary to comprehensively construct and further position corporate social responsibility through all relevant laws, including commercial law. In particular, it is necessary to regulate enterprises in the field of commercial law that pays attention to efficiency and trade, balance their profit goals and social responsibilities, promote enterprises to consciously assume social responsibilities, and strengthen the value orientation of commercial law. In administrative licensing, those who can achieve management purposes by means of private autonomy, industry self-discipline, market regulation, post supervision, etc. are no longer required to set licensing regulations, and the provisions of lighter administrative punishment, reconciliation and gradual refinement of execution procedures are all manifestations of the modesty of administrative procedures.

3. Improvement of Enterprise Strategy and Employee Equity Balance in the Field of Commercial Law

3.1. Pre prevention rules for corporate strategy and employee rights protection

In addition to emphasizing "efficiency first" and "profit making", socialist commercial law must also endow enterprises with the basic responsibility of "promoting the country" and "promoting morality". Corporate social responsibility should be demonstrated through legal forms, and at least it is required that enterprises fully consider the interests of all "stakeholders" in decision-making and maintaining transaction safety and fairness. However, prior prevention is mainly achieved by granting employees the right to know and make decisions regarding company mergers and acquisitions. The right to know refers to the fact that employers must inform employees in advance

about company mergers and acquisitions transactions. In order to achieve the vision of freedom, democracy, and happy development between the state and individual citizens, people establish a social contract and establish a state to achieve and satisfy it. Based on respecting and protecting human rights, the state should treat every citizen with a mentality of respect, tolerance, and humility. Humility not only reflects the value of human rights, but also reflects the spirit of humility. The cautious attitude of the country to admit and correct mistakes. The right to participate in decision-making refers to the right of employees to participate in decision-making matters related to company mergers and acquisitions. For example, the current legislation in the Netherlands stipulates that employees can participate in company management by establishing enterprise committees and participating in supervisory boards. As shown in Figure 1, signing a labor contract is one of the necessary processes for joining a company. Some job seekers feel that the enterprise's labor contract must meet national standards and sign their own name without even looking at it. However, this poses many risks. If there are some clauses in the contract that do not comply with the Labor Contract Law, it will greatly affect the personal interests of job seekers. During the signing process, special attention should be paid to whether the labor contract has the necessary provisions stipulated in the Labor Contract Law, and whether there are missing provisions regarding the obligations of the employer and the rights of workers.

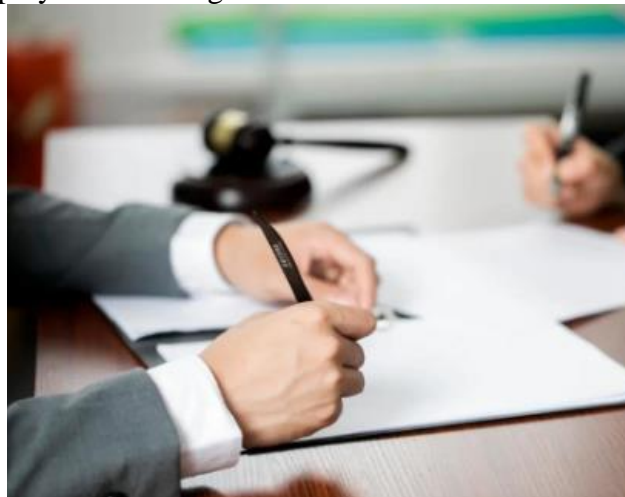


Figure 1: Signing a labor contract

In order to cope with the inspection, some units have prepared a fake contract with low salary and another real contract with high salary on the grounds that they can pay less taxes. When a labor dispute occurs, if the amount of economic compensation or compensation is involved, it is likely to be calculated according to the low-paid holiday contract. Moreover, we should also note that the seemingly underpaid individual tax, in fact, the payment base of five insurances and one gold has also become lower, resulting in the damage of actual rights and interests. In this regard, graduates must be cautious. If the company employs more than 35 workers, it must set up an enterprise Committee; The enterprise committee has the right to obtain information about economic, financial and social reforms. From the perspective of commercial law, the company is required to act fairly and honestly and protect employees' basic working rights in the process of merger and acquisition. At the same time, we should also respect the company's necessary business autonomy and allow the merged company to make certain adjustments to the existing labor relations according to business restructuring, but the adjustments must conform to the procedures prescribed by law and give employees certain relief rights.

3.2. Corporate strategy and post event relief for employee rights protection

Post relief is mainly achieved through the inheritance of labor relations. The conditions under which labor relations can be inherited vary among major developed countries under the rule of law. Moreover, for the four types of corporate mergers and acquisitions defined above, the legal effects of each transaction type are different, and the impact on the legal personality of the participating companies is also different. Company merger includes new merger and absorption merger, so after the company undergoes a new merger or absorption merger, the labor relations of its employees are generally inherited by the final transferee, and it is a legally mandatory inheritance, and all parties involved have no right of objection. It is precisely the principle of respecting and protecting human rights that has derived the principle of protecting the rights and interests of the relative party in administrative law, which inevitably requires the government's administrative actions to have a humble character. As the legal procedure followed by the implementation of administrative power, administrative procedures should also have a certain degree of restraint. The humility and tolerance shown by the government, which controls violent machines and public resources, towards administrative counterparts is also a manifestation of a friendly and harmonious relationship. The principle of proportionality itself is a manifestation of the spirit of administrative humility, and is proposed for comparison and arbitrary discretion. The principle of proportionality, also known as the principle of prohibiting excessive harm or the principle of minimizing harm, refers to the fact that when administrative agencies take administrative actions, they should comprehensively weigh the relevant public interests and personal rights, protect the labor rights and interests of employees in the acquisition of company assets. It is not only related to the livelihood of workers, but also to social harmony. It is necessary to ensure that the rules of labor relations inheritance are also applicable to the acquisition of company assets. Starting from the interests of the enterprise, the labor rights and interests of employees cannot be fully protected. Because, in the event that the transferee explicitly refuses to inherit the labor relationship, the employee can only continue to maintain the labor relationship with the transferor, and the transferor can terminate the labor relationship on the grounds of dissolution or conversion.

4. Conclusions

To sum up, this paper studies enterprise strategy and employee rights and interests balance from the perspective of commercial law. Commercial law respects businessmen's freedom of business and promotes trade prosperity. However, socialist commercial law should also make enterprises bear corresponding social responsibilities. To eliminate the misunderstanding that enterprises bear social responsibilities and affect economic interests, the perfection and revision of commercial law need to pay attention to the particularity of businessmen and commercial trade. The law should strike a balance between the protection of employees' interests and the interests of the company, so as to prevent the coercive means of the law from destroying the operating mechanism and market rules of the enterprise. Therefore, the transferee should be allowed to implement layoffs according to the needs of business changes and organizational adjustment. Under the conditions stipulated in Article 41, paragraph 3, of China's Labor Contract Law and Article 19 of the Regulations for the Implementation of the Labor Contract Law, employees should be allowed to be laid off. In judicial practice, the above five principles put forward by the British Labor Appeal Court can be used for reference as a criterion to judge whether it is necessary to sort out dismissal, so as to balance and coordinate the protection of employees' labor rights and interests with the economic efficiency of enterprises. In order to ensure the actual effect of the company accepting the original labor contract after the merger, the transferee shall continue to abide by the labor conditions stipulated in the labor contract concluded between the transferor and the employee after the transfer is completed until the

labor contract is terminated or expires.

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