Privatisation Processes: the Impact on Corporate Governance

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SUMMARY: 1. Separation of ownership from control - 2. The corporate control market - 3 - Reference models in privatisation processes - 4. Public company and state-controlled enterprise

1. Separation of Ownership from Control

According to the most widespread interpretation in the literature, an enterprise can be considered a *public company* if three fundamental conditions hold simultaneously:

- ownership is spread among a broad base of shareholders;
- whoever exercises control is the owner of a limited share, which may be nil, of the capital.
- there is a concrete possibility that others may take over control by acquiring property rights on the market from the broad base of smaller shareholders, even without the consent of whoever exercises control.

In the field of economics, the literature on property rights assigns a important role to ownership as a tool for value creation, because ownership crucially affects the possibility of achieving more efficient utilisation of resources. This is due to the fact that residual right of control and residual claims constitute significant incentives for correct utilisation of resources.

This is the conception underlying a stream of thought which represents the doctrinal hub of theories on the efficient allocation of control. For such theories are based on the presupposition that the allocation of ownership is relevant to the extent to which it represents a tool capable of improving resource management. This theoretical paradigm originally sprang from the intuitions of Coase, and subsequently, via contractualistic studies, evolved into the Grossman, Hart and Moore model, which in the 1980s formulated the new theory on efficient allocation of control.

The thesis embodied in thus paradigm, under the hypothesis that control and ownership of the firm coincide, demonstrates that the allocation of ownership, and therefore of control, is relevant and efficient if it is attributed to the agent whose actions have the greatest effect on the commodity. This in turn presupposes a positive relation between the behaviour of agents and the value of the firm[1].

The application of this scheme to the public company clearly requires adaptation, given that this type of corporate structure, a typical expression of managerial capitalism, generally presents a

[1] S. Grossman, O. Hart, *Corporate financial structure and managerial incentives*, in J.J. Mc Call (a cura di), *The economics of information and uncertainty*, Chicago, The University of Chicago Press, 1982; O. Hart, J. Moore, *Property rights and the nature of the firm*, in "Journal of political economy", n. 6, 1990.

separation between ownership and control that is achieved through specific mechanisms, rules and institutions.

Companies characterised by broad-based share ownership do not conform to the axiom that in order to obtain control - or rather the residual right of control - it is necessary and sufficient to have at one's disposal the ownership of the commodity, in this case the company itself: in other words, to have a majority of the voting rights in the highest decision-making organ. This is an apt description of the American public corporation, which attributes all power and corporate responsibility to a professional management team gathered together in the *Board of Directors* and subject to a type of self-censorship which, though severe, does not shift their responsibility beyond the professional sphere[2].

In effect, this leads to a situation which Jensen and Fama define as "specialisation of the direction of decisions", and to separation of decision-making from risk-taking. [3]. Such a situation has been investigated and analysed in a number of studies that have attempted to outline the conditions permitting the survival of organisations in which the agents of the decisions are uneffected by a substantial fraction of the wealth effects produced by their decisions[4].

These remarkable characteristics appear to be shared both by classical public enterprises and by the above-defined public company, or rather, by the model of state-owned enterprises and companies with a broad base of popular ownership. Alchian highlighted a problem of lower sense of accountability, or even absence of responsibility, among public decision-makers, attributable to the negligible influence of each decision, taken singly, on the level of individual utility. Such a phenomenon is likely to induce opportunistic behaviour that may not always be in line with the objectives of the organisation. In other words, it can be argued that under a collective ownership regime the repercussions of any choice measurable in economic terms on the decision-makers cannot be considered proportional to the responsibility of the decision-makers themselves[5].

The theory of property rights has fostered a critical approach to public ownership in general and, consequently, to the public enterprise, in as much as the latter is characterised by the absence of any subject holding the right to residual claims, which are defined as the difference between the value of production and income from productive factors. The public enterprise model to which the theory of property rights refers is based on the hypothesis - which indeed is frequently the case - that public ownership is identified with state ownership, and therefore the crucial feature is the absence of a subject who holds the right to residual claims. In such a framework the problem that emerges is purely a question of control, since ownership is totally divorced from control. There exists no individual ownership, this being replaced by indirect collective possession on the part of the public economic subject.

The separation of ownership from control thus results in a conflict of interest between owners (shareholders) and the management. The nature of this conflict points to an agency problem, which may be addressed by devising a number of differentiated mechanisms. Various tools and mechanisms have been put in place that are designed to limit the management's power of control; particular mention should be made of the structuring of a system of incentives, the market for corporate control, and also the special powers the State may exercise on the occasion of a privatisation carried out through introduction of widespread small shareholdings. Regulatory mechanisms have been

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[2] Cf. G. Bruni, *Contabilità per l'Alta Direzione*, Milano, Etaslibri, 1990.

[3] E.F. Fama, M.C., Jensen, *La separazione tra proprietà e controllo*, in "Problemi di amministrazione pubblica", n. 13, p. 229.

[4] E.F. Fama, M.C., Jensen, *La separazione tra proprietà e controllo*, op.cit., pag. 213.

[5] In a public ownership regime the costs of each decision and each choice that is made have fewer repercussions on whoever made those choices than is the case in a private ownership regime. What Alchian wants to emphasize is the weak link between the costs borne by the individual who has made those choices and the costs deriving from such choices. A.A. Alchian, *Elementi per una teoria dei diritti di proprietà*, in "Problemi di Amministrazione pubblica", n. 13, 1989, p. 107.

introduced into corporate structure and the structure of the markets, above all British and American markets, as part of a quest to safeguard the interests of the holders of risk capital.

The most significant tools devised so far include the duties of trustees, the rules governing the composition and functioning of Boards of Directors, the establishment of an adequate system of incentives and the market for corporate control. Recent trends have moved in the direction of proposing rules for the composition and proper functioning of Boards of Directors. An interesting example, in this respect, is offered by the Cadbury Code rules, based on principles of integrity, transparence and *accountability*. Other proposals aim more generally to restrict the number of members sitting on Boards, to increase the relative presence of external members and guarantee greater independence of Directors[6].

Furthermore, one fundamental aspect concerns not only the manner in which Board functions are exercised but more specifically the actual content of such functions, in other words, the possibility that the Board may manage the company or watch over and supervise its management[7].In this perspective, there are currently two systems in the European Community dealing with the organisation of corporate administration. The first, the so-called *one-tier* structure, requires there to be only one administrative organ composed of both executive and non-executive Directors. Such a model is widespread above all in Britain. The second system, the so-called *two-tier* structure, is based on two different administrative organs, one in charge of corporate management and the other (Supervisory Board) entrusted with the task of controlling the Board of Directors.

The Anglo-American model of corporate governance is based essentially on the rules laid down in the Cadbury Code. Its most significant aspect resides in the role assigned to non-executives, who are nominated by virtue of their professional ability and have the twofold task of assisting the executives and monitoring management performance in terms of the company's goals. In recent years debate has focused above all on the adequacy of the financial and accountancy controls existing within the company, the truthfulness of information given by the management to shareholders, the responsibilities of non executive Directors, whose regime is at present made equal to that of executives, towards third parties and towards the company.

The *two-tier structure* characterising the model of corporate governance in Germany, Holland and Denmark has been criticised under several aspects. For instance, it has been pointed out that the *Supervisory Board* meetings are held rather infrequently, and that the information conveyed to the management is fragmentary and incomplete; furthermore, it has been claimed that the supervisors themselves have little opportunity to exercise effective control since they sit on the Boards of a large number of companies[8].

Research should therefore address the question of the mechanisms of organisational control in companies owned by a broad base of shareholders, focusing on the balance between internal and external management and supervision. An analysis of this fine balancing act should clarify how corporate governance becomes "the set of rules and institutions designed to reconcile the interests of

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[6] Independence should be understood as meaning that the administrators are not linked to the company, group or majority shareholders by consultancy, business or financial relations.

[7] P. Marchetti, *Corporate governance e disciplina societaria vigente*, op.cit., pag. 421.

[8] A PriceWaterHouse study, which compared the two corporate governance systems, found no substantial conceptual differences, however different the manner of exercising corporate governance in the two systems may seem. The supervisory Board meets regularly with the executive Board, similarly to the relation between the executive and non-executive directors' meetings; in both systems, the recruitment, dismissal and remuneration of executive directors are determined by non-executive directors; although the modes of deliberation differ, one notes an analogy between the conflict opposing executive to non-executive directors and that opposing the supervisory board to the executive board; the manner in which powers are delegated to executive directors on matters concerning takeovers, mergers, significant investments, etc. are identical in the two systems; the accountability regime is set up by legislative norms and is virtually identical; the representative delegates elected by the workers to sit on the supervisory board is not considered to be a significant element of differentiation in the mechanism of corporate governance. See: PriceWaterHause, *Corporate governance*, in "Ricerche e informazioni al servizio delle imprese", n. 3, Luglio 1996.

entrepreneurs and investors in order to ensure that control over enterprises is allocated efficiently (i.e. to suitable entrepreneurs) as independently as possible of the financial means of the individuals”[9].

2. The Market for Corporate Control

In ownership models with a broad shareholding base, the controlling force of extensive financial markets plays a crucial role, above all if such markets are close to the theoretical efficiency requisites, given the hypothesis that there exists a positive correlation between managerial efficiency and the share price of a floated company[10].

The fundamental assumption of the theory of optimal allocation of control is that in all efficient systems corporate ownership and control can be traced back to individual entrepreneurs, to groups of shareholders linked by agreements, and finally to a broad shareholding base of small investors, in a mix which varies over time as a function of individual corporate situations. It is assumed that such variations allow each company to evolve constantly in the direction of its so-called “natural ownership”, namely that which has the greatest chance of enhancing its performance. The specific mechanism whereby this evolution comes about is the market for corporate control, which, through the possibility of offers to purchase, leaves open the possibility of hostile takeover bids, thereby guaranteeing management efficiency[11].

The risk of loss of corporate control, in other words the risk of being taken over, is considered to be one of the main devices that discipline management behaviour and guide it towards greater efficiency, since it is precisely through this constant threat to inefficient companies that the market performs its function of incentivation. Now, if indeed the hypothesis of a positive correlation between managerial behaviour and market value of shares is well founded, it follows that inefficient management will have immediate repercussions on the share price, which will tend to fall. This then opens up the possibility that a new owner may succeed in purchasing a sufficient number of shares to obtain control of the company, and may replace the corporate management in the hope that a more efficient management will increase the market value, thereby making it possible to maximise the unrealised potential benefits[12]. Otherwise stated, whenever managerial inefficiency translates into a decrease in share price, and consequently into an increase in the differential between market value and potential value, a hostile bid by one or more agents who believe they can manage the company more efficiently becomes more and more attractive.

Through this mechanism, the optimal allocation of control not only gives shareholders a guarantee that the company will be run by managers whose behaviour is oriented towards value creation, but it also makes it possible to capitalise potential gains by means of the capital gain characteriszing the hostile takeover.

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[9] The definition quoted by Bianchi is taken from studies by Barca. See: L. Bianchi, *Corporate governance. Considerazioni introduttive*, in “Rivista delle Società”, 1996, pag. 406; F. Barca, *Imprese in cerca di padrone*, Bari, Laterza, 1994.

[10] “The notion of “market for corporate control”, widely used in the theoretical literature, refers to the purchase of stocks of companies whose shares were owned by a multiplicity of small investors, when such purchase is designed to acquire control of those companies, generally without the consent of whoever (owners and/or directors) presently exercises control; the Stock Exchange is the place where these acquisitions are carried out”. F. Barca, *Allocazione e riallocazione della proprietà e del controllo delle imprese: ostacoli, intermediari e regole*, Temi di discussione del Servizio Studi della Banca d’Italia, n. 194, Maggio 1993, p. 9.

[11] On this topic. the contributions of Fama and Jensen are considered to be fundamental. See: E. Fama, *Agency problems and the theory of the firm*, op.cit.; M.C. Jensen, *Takeovers: their causes and cosequences*, in “Journal of economic perspectives, n. 1, 1988.

[12] E. Fama, *Agency problems and the theory of the firm*, op.cit.

However, in the extensive dicussions in the literature on the role of the capital market in penalising inefficient management, numerous imperfections in the functioning of this mechanism have been pointed out. First and foremost, it is by no means infrequent for takeover bids to be motivated by causes other than an increase in a company's internal efficiency, whereas in order for a change in ownership and control to exercise the above-described positive effects on efficiency, it is necessary for the capital market to be perfect: that is to say, the share price must reflect the true value of the company, and there must be no speculative element through which the purchase of a significant portion of shares would artifically raise the market value.

The first impediment to the theory of efficient allocation of control is found in the hypothesis of so-called free riding[13]. 'Free riding' is defined as a hypothetical situation in which each shareholder has knowledge of an impending hostile takeover that will lead to an increase in the share price, and therefore opts not to sell the shares but rather to await the increase in value expected to arise from the takeover.

In such a circumstance, the bidder would therefore have to pay the shareholders a price equal to the share value expected under the new management, without however obtaining any appreciable profit from this procedure. The consequence of the free rider phenomenon is that takeovers may not always occur in cases where they would be efficient. This in turn suggests that the corporate control market may not be as efficient as it is claimed to be. Indeed, empirical evidence has on many occasions contradicted the conclusions predicted by the theory. The most frequent reasons have been purely juridical, springing from regulations imposed on takeover bids and from varying degrees of protection of the rights of minority shareholders.

Finally, in recent times increasing emphasis has been placed on the possible untoward effect of the management's fear of losing control of the company. Constantly working under the pressure of the risk of takeover bids, managers may decise to give priority to short term investment operations that can generate immediate returns, rather than designing longer-term strategies. Thus while so-called *short terminism* or *manager myopia* may be capable of averting the risk of a hostile takeover, it may result in sacrificing long-term economic balance.

[13] Cf. S.J. Grossman, O.D. Hart, *Takeover bids, the free riding problem and the theory of the corporation*, in "The Bell Journal of Economics", n. 11, 1980.

3. Reference models in privatisation processes

When the British model of privatisation is invoked as a yardstick, reference is generally made to the complex regulatory mechanism whereby the state has divested itself of the great public monopolies, mainly in the sector of public utilities.

While it would be reductive to conceive of the British experience exclusively in terms of the privatisation of public utilities, it is nevertheless widely believed that this is one of the most significant types of privatisation. Through the choice of a new institutional set-up a highly innovative model of public enterprise and management of public utilities has been devised, which many believe to represent a genuine alternative to the traditional model. More specifically, in Britain the success of privatisation, whereby the State has withdrawn from monopolistic or near-monopolistic sectors, has been due primarily to the creation of an extensive regulatory system. The public company is the most significant mechanism embodying this system[14].

As was noted earlier, the underlying concept of encouraging widespread shareholding by small investors is inspired by the ambitious goal of transferring ownership of the greater part of state property into the hands of the general public of investors, through systems of economic democracy. On the other hand, it is clear that such a move inevitably enters into conflict with the need to provide some guarantee that companies operating in strategically crucial sectors such the public utilities can be assured both of stable governance - which is not easy to ensure when corporate ownership is split up among innumerable small shareholders - and also of their own continued independence. For if they were to lose their independence, the net result would be to transform former public monopolies into private monopolies, thereby erasing the benefits or privatisation.

However, it is important to note, as also pointed out earlier, that there is indeed an elevated risk of unstable corporate governance, arising partly from the knock-on effects of the separation between ownership and control that characterises managerial capitalism, and partly from the effects of the external control mechanisms exerted by the financial market. In particular, hostile takeover bids may result in fluctuating corporate ownership, leading to a mix that only in certain cases comes close to the public company model.

A complex defense mechanism designed to protect the public company model against precisely such risks has therefore been put into place. Its pivotal element is the so-called "golden share", namely a share that is weighted much more heavily than other shares, and which the State may reserve for itself within a company that has been privatised by broad-based shareholding[15]. The purpose of the Golden Share is to ensure pursuit of political or strategic objectives which the State believes are unlikely to be achievable in a free market situation. More generally, within the framework of the privatisation of public utilities, this can be restated as the goal of reconciling private ownership with the general interest[16].

Technically, the golden share is subordinated to the creation of different categories of shares characterised by different voting or economic rights, and ultimately amounts to a form of State

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[14] It is underlined that the objective of comparative international studies on privatisations is to identify certain basic tendencies; this implies that the analysis of experiences is taken as the starting point for extrapolation of strategic policies of public divestment that can be delineated in "normalized" situations, that is to say, situations which are, as far as possible, detached from specific contingencies. It should be pointed out, first and foremost, that since the objective is to peel away situational contingencies in order to uncover the strategic logic underlying the process of partial or global privatisation, the only truly significant policy line would be one that is brought into effect over a fairly prolonged time span. The peculiarities characterizing the mode of implementation of privatization would then have to be set within the framework of this overall policy tendency. R. Ferraris Franceschi, *Le privatizzazioni di imprese in Italia e Germania*, op.cit., p. 5.

[15] M. Niada, *Le privatizzazioni degli altri*, op. cit., p. 62ff.

[16] See: M.S. Immordino, intervento al Convegno *"Le privatizzazioni di imprese. Esperienze internazionali ed opportunità per l'Italia"*, in Finanza Marketing e Produzione n. 4, Dicembre 1992.

control over companies privatised by means of the public company model. It effectively attributes to the State a series of special rights, ranging from the power of veto over certain decisions made by the shareholders' assembly or over changes in the articles of association to actual direct powers, such as nomination of the President of the Board of Directors. Furthermore, in practical terms of averting the risk of hostile takeovers and thereby protecting shareholders' investments, the golden share has often involved the right of veto over attempts by individuals to acquire large share packets in the corporate capital. Other powers include the right to place limits on acquisition of share packets by foreigners, or the right to dispose of all or part of the corporate assets.

Taken together, these features strengthen the protection afforded to public companies. It is worth pointing out, however, that several objections have been raised concerning the risk of excessive intereference by the state in corporate governance[17].

The second important mechanism whereby the general interest is safeguarded in the British model consists in the external regulation of the markets performed by the authorities. Given the basic conception that private ownership of monopolies - even natural monopolies - is always preferable to state ownership inasmuch as privatisation is capable of increasing production efficiency, the problem then arises of safeguarding the public interest in public utilities. A primary step in this direction has been taken through the creation of a price control mechanism. But in particular, a further step has consisted in the establishment of authorities empowered with a regulatory function in the specific sector and entrusted with the task of ensuring competition within this sector.

France has also favoured the spread of the public company model, but a different approach has been adopted to guarantee stability of corporate governance in privatised companies and safeguard national strategic interests. Firstly, the State has been empowered to adopt a *specific action*, although Act of Law Nr. 912 of 6 August 1986 restricts this power to a statement of 'approval' or 'disapproval' concerning the acquisition of share packets exceeding 10% of the capital of privatised strategic interest companies.

Secondly, the French government has opted for stabilisation of a portion of the shareholdings through the creation of stable control nuclei, the so-called "noyaux durs"[18], which are in effect a mechanism designed to protect capital and effectively aim towards the same objectives as the golden share, although with different consequences[19].Thus in order to ensure stable governance and also to set in place a defensive system capable of protecting companies with broad-based small shareholdings against the threat of takeovers - above all foreign takeovers - the French State has opted for the creation of a nucleus of controlling shareholders, known as the *groupe d'actionnaires stables*. Composed of a concert party of shareholders selected by the Government at the moment of privatisation, it is assigned a share of capital that is not open to the offer for sale and bears a surcharge[20].

[17] On this matter, see: J. Sodi, *Poteri speciali, golden share, e false privatizzazioni,* in "Rivista delle Società", Marzo-Giugno 1996.

[18] On the stable control nuclei, see in particular: M. Niada, *Le privatizzazioni degli altri*, op.cit., M. Durupty, *Il quadro giuridico delle privatizzazioni e le procedure di privatizzazione*, op.cit., P. Balzarini, *Privatizzazione delle imprese pubbliche francesi: modalità e procedure di attuazione*, in "Notiziario straniero", n.3-4, 1987; D. Borde, A. Poncelet, *Le nouveau programme de privatisation francais de 1993: une importante evolution des techniques de mise en vente sur les marches financiers*, in "Revue de droit des affaires internazionales", n.8, 1993; L. Cartelier., *Finta privatizzazione in Francia,* in "Politica ed Economia", n.12, 1986; Y. Djehane, *Des noyaux durs aux groupes d'actionnaires stables*, in "Banque", n.543, Dicembre 1993.

[19] M. Niada, *Le privatizzazioni degli altri*, op. cit., p.61 ff.

[20] The percentage destined to form this nucleus through private treaty divestment has been fixed between 18% (Paribas) and 30% (Credit Commerciale de France), while the percentage assigned to each component varies between 0,5% and 5% of the capital. Over time, this nucleus has undergone a marked increase, leaving small shareholders with little more than the majority in the case of Alcatel-Alshtom, Suez e Saint-Gobain and tiny minority shares in almost all other cases (Paribas, Societè Generale, Havas, Tf1, Matra, CCf. e Bimp).

The creation of the *groupe d'actionnaires stables* represents an attempt to overcome the excessive fragmentation of capital and the ensuing managerial independence. This model therefore differs notably from the public company, and gives priority to protection of capital. In this sense, it can be considered as alternative to the British public company model.

4. Public Company and StateControlled Enterprise

The choice to privatise through broad-based shareholdings among a general public of small shareholders raises a number of issues concerning the existence of alternative models of the public enterprise. It is generally accepted that the traditional interpretation of "public enterprise" is the conception whereby a commodity - in this case a company - belongs to the collectivity; it is also widely recognised that this collective ownership can be realised in various different ways.

In modern history, ownership of a commodity by the organised collectivity has in the vast majority of cases been accomplished through the intermediary of the State, regarded as the direct repository of collective interests. Consequently, the type of ownership model can more properly be described as state-controlled rather than public ownership. On the other hand, if the framework considered is one in which state ownership does not or may not coincide with public ownership, then privatisation amounts to transforming public enterprises into public companies, that is to say, into companies owned by the public. In this perspective, the process is not altogether different from publicization.

The success of government policies, above all those adopted in Britain, by means of which the State has withdrawn from monopolistic sectors, or sectors in which there was virtually no competition, has been due primarily to the creation of an extensive regulatory system. The public company is the most significant expression of this system, and it constitutes the reference model when privatisation is being contemplated. But despite this, there is still a smouldering conflict between those who champion privatisation as an opportunity for creating companies with broad-based shareholding by small investors and those who are in favour of a more gradual approach, embodying protective elements that buttress a type of owership structure stabilised by a group of major shareholders.

In Italy, this polemic has recently given rise to more outspoken disputes, cast in strongly contrasting theoretical moulds. The diatribe centres essentially on the risks, described earlier, deriving from broad-based shareholdings, in which the excessive fragmentation of capital has often resulted in the uncontrolled power of managers, as typically occurs in managerial capitalism.

Among the many problems afflicting the Italian industrial system and limiting its growth capacity, mention must certainly be made of the "closed" ownership models, which have prevented the financial system from exercising control over companies and, most significantly, over company managers. In this context, the creation of public companies through privatisation has been welcomed as a crucial step towards more stable development and greater accountability of companies and the financial markets.

However, before the public company can genuinely be proposed as an alternative to the traditional model, it is necessary to address a number of underlying issues which can be considered as postulates of the theory of efficient allocation of control. First and foremost, it is essential to note that one of the fundamental characteristics related to broad-based shareholdings is not so much the way in which control is exercised, but on the contrary the way control is lost, or rather re-allocated, without the requirement of formal consent by whoever is exercising control at any given moment. In order for control to be allocated in the most efficient manner, the capital market must not only be efficient and extensive, but it must also be endowed with rules capable of disciplining sales and purchase of securities between subjects who are not linked by any type of economic relation[21].

If ownership and control fluctuate within the market for corporate control, in search of the natural owner, it is equally evident that the mechanisms devised to reduce the gap between ownership and control may have the effect of moving away from the public company model. In particular, the lack of a control market effectively hampers the kind of corporate regeneration that would be expected to spring from a change in ownership of underperfoming companies, a change which would sweep away inefficient management and Directors.

In this perspective, criticisms have frequently been voiced against the concept that placing limits on shareholdings constitutes a means for protecting former public enterprises privatised through broad-based shareholdings against hostile takeovers. It is argued that some of the protective measures adopted, such as rigid thresholds, could have the negative effect of implying that a public company lives under the constant threat of takeover, which the theory proclaims to be an incentive to managerial efficiency. By the same token, the establishment of protective mechanisms for companies privatised through an offer for sale and broad-based shareholding ownership - mechanisms such as the golden share or the special powers of the State to set up stable control nuclei - have also been criticised as leading to distortion of the public company model. Indeed, it could well be argued that in the case of a golden share the company is not a genuine public company but rather a private enterprise with a broad shareholding base, in which the problem of the separation of ownership from control either does not exist or is drastically reduced. If on the other hand special powers are attributed to the State, whether by statutory clauses or through some other special action, it could be claimed that the resulting company is in effect a model of State participation enterprise, in which the State has reduced its contribution to the risk capital to the mere concept of participation, or indeed makes a nil contribution, while still not relinquishing control. For true privatisation implies a genuine hand-over of ownership and control, whereas this does not occur if the State retains the power to intervene in strategic corporate choices.

Thus while there may of course be considerable divergence in the extent, duration and enforcement of these powers, it appears that public companies can be considered as not altogether unlike enterprises with direct State control, which present many of the same problems as those observable in companies with broad-based shareholding ownership.

In the traditional model of the public enterprise, similarly to the public company, ownership, State powers and management control are distinct. The management are assigned proper or improper objectives by the political authorities, and are not constantly subjected to market evaluation: rather, their behaviour is supervised by the political authority.

In contrast, the “pure” public company, that is to say, a public company free from special powers exercised by governmental organs and not bound by any limits on shareholdings, could truly be regarded as a genuinely alternative form of public ownership and public enterprise.

[21] Cf. F. Barca, *Allocazione e riallocazione della proprietà e del controllo delle imprese,* op.cit., p. 46.

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