**Governance Case Study**

Background:

BIGPE (a private equity group) is acquiring a 30% interest in Target (a corporation) through a primary issuance of shares by Target to BIGPE. The remaining 70% of Target is held by Entrepreneur (the entrepreneur that founded Target). Entrepreneur will waive her preemptive rights in connection with the issuance to BIGPE. Target is a successful consumer products company in an emerging country. The funds injected by BIGPE into Target will be used to expand the business of Target. Entrepreneur will want to monetize some of its stake in Target but wants to keep control. BIGPE has a 4-years investment horizon and expect that it will exit the investment through an initial public offering of Target (the “IPO”). The parties are negotiating the shareholders agreement for Target (the “SHA”).

BIGPE has proposed the following package of governance provisions for the SHA:

* BIGPE to have a veto over the annual business plan for Target;
* BIGPE to have veto right over further share issuances by Target;
* No sales of Target Shares for 2 years (the lock up period);
* BIGPE to have (1) a right of first refusal over shares transfer by Entrepreneur after the lock up period and (2) tag along rights over shares sales by Entrepreneur;
* BIGPE to have the right to cause Target to commence an IPO after the third anniversary of closing;
* BIGPE to have two directors on the five directors board of Target.

BIGPE will present this package and justify each of these “asks”.

Entrepreneur will respond and if appropriate make counterproposals.