



PROPOSED ACQUISITION OF COBHAM PLC

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ICAEW welcomes the opportunity to comment on Proposed acquisition of Cobham plc by Advent International, draft undertakings published by Department of Business, Energy & Industrial Strategy on 19 November 2019, a copy of which is available from this [link](#).

This ICAEW response of 17 December 2019 reflects consultation with the Corporate Finance Faculty.

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KEY POINTS

1. The Secretary of State for Business, Energy and Industrial Strategy is seeking views on proposed undertakings offered by Advent International to mitigate public interest concerns about national security raised by the proposed acquisition of Cobham plc.
2. ICAEW's response reflects the views of its members with significant experience of competition and other regulatory implications of transactions. Our perspective is that such a consultation exercise will impact on the UK's reputation as a destination for international investment – the government must better articulate the purpose and expected benefits if the exercise is to become a precedent.

Will consultation of this type become an established part of the national security regime?

3. In 2018 the government consulted on a white paper of proposed legislative reforms relating to national security and investment. We note that the white paper included detailed proposals on process and scrutiny of transactions, yet a consultation of this nature was not expressly envisaged.
4. The government should be clear on whether this consultation is a signal of a process to be adopted going forward. If such consultation is to become the norm, the market would benefit from understanding which companies and which types of transactions will be in scope. This will enhance transparency and provide predictability of the regime, both of which are vital to maintaining the competitiveness and openness of the UK market.

What is the purpose of this consultation exercise?

5. It is not evident what the purpose is of consulting further on the draft undertakings. There has already been close consideration of the draft undertakings by the departments and services that are best-placed to assess them. That necessary process already lengthens the overall negotiations, and guidance ought to be provided on the nature of wider views that the Secretary of State can be expected to take into account.

What are the benefits of such a consultation exercise?

6. In the interest of transparency and the effective operation of the national security regime it is important that the UK's business, investor and advisory communities fully understand the anticipated benefits. This will better equip them to addressing the impact on strategy, transactions and negotiations.
7. Without an understanding of and the subsequent measurement of benefits, the consultation process risks being seen as a barrier. For example, is such a process expected to change parties' behaviours to the benefit of national security?
8. We note that where material provided to help inform respondents' views is heavily redacted, such as the CMA report in this case, this may have an adverse effect on the quality of views and responses to the consultation and, in turn, on the benefit of the exercise.