

Press release: Government updates takeover rules in line with technology developments

- applies to businesses developing military technology, computing hardware and quantum technology to ensure the rules keep pace with innovation
- reforms strike balance between keeping the country safe and maintaining our global standing as an open and liberal trading nation
- the new measures follow a review of the government's powers in relation to foreign investment and national security

Updated rules to strengthen the government's powers to scrutinise takeovers that may raise national security concerns in specific areas of the economy will be introduced to Parliament today (15 March 2018).

Under current rules, the government can only intervene in mergers when they meet certain tests related to the target company's turnover or where the merger causes an increase in the parties' overall share of supply of goods or services.

However, these rules do not properly recognise the growing importance of small British businesses in developing cutting edge technology products which can have national security applications.

In order to address this change in the market, the government will amend the tests for businesses in the military, dual-use, computing hardware and quantum technology sectors that are most likely to have implications for our security.

Today's rule change will remove the requirement for a merger to lead to an increase in the share of supply. In the coming weeks the government will introduce complementary measures to lower the test for ministerial intervention in relation to the target business's turnover to over £1 million, down from £70 million under current rules. Both are subject to Parliament's approval.

Business Minister Richard Harrington said:

Around 75,000 new jobs were created in the UK last year thanks to foreign investment. However, our economy can only thrive if our national security is protected, so it is right that we keep our powers of intervention under review to ensure the rules keep pace with innovation.

These new measures will allow us to ensure that takeovers in key areas of the economy cannot risk the UK's national security whilst maintaining our position as one of the most open and modern

economies in the world.

The changes follow a consultation launched last year to amend the Enterprise Act to reform and strengthen the government's powers. Today's rule changes are the first step in its plans – broader changes will be announced in a white paper later this year.

The government has also published draft guidance for businesses so they can easily identify and adapt to the changes to legislation.

1. The National Security and Infrastructure Investment Review green paper, published on 17 October 2017, outlined the government's plans to take a staged approach through short and long term measures to reform how it scrutinises national security implications of business transactions. Today's measures are a response to this consultation on amending the Enterprise Act through secondary legislation.

[National security and infrastructure investment review with Part 1 government response and draft guidance](#)

2. The consultation on longer term proposals closed on 9 January. The government will publish a response to this consultation in due course.
3. Under the current Enterprise Act 2002 ministers can intervene in mergers (foreign or domestic) that give rise to specific public interest concerns of national security, financial stability or media plurality. However, for ministers to be able to intervene, the transaction has to meet certain thresholds. These are that the target company has a UK turnover of over £70 million, or that the merger takes the merging parties' combined share of supply to 25% or more (or increases an existing share of supply of 25% or more). There are limited exceptions to this related to some defence and media transactions.
4. The affirmative statutory instrument introduced today amends the share of supply test to allow the scrutiny of more mergers in three areas: (a) the military and dual-use sector, (b) 2 parts of the advanced technology sector, encompassing computing hardware and quantum technologies. For these areas alone, this instrument amends the share of supply test so that it is met where a merger or takeover involves a target with 25% or more share of supply in the UK, as well as where the deal leads to an increase in the share of supply to, or above, this threshold, which is the current requirement.
5. Subject to Parliamentary approval being obtained for this affirmative instrument, a second, negative statutory instrument will be laid to amend the turnover test to allow the scrutiny of more mergers in the same 3 areas of the economy. The second instrument will lower the threshold over which the target business's UK turnover must be, from

over £70 million to £1 million. We intend that both instruments would come into force at the same time, subject to scrutiny of the House.

6. The changes, whilst made for national security-related reasons, will also amend the thresholds that allow the independent Competition and Markets Authority (CMA) to scrutinise merger for competition concerns. However, neither the government or the CMA expect that the changes will bring about a material change in the CMA's approach to the assessment of mergers on competition grounds.