

Legal experts back pensions disclosure on M&A deals

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Lawyers specialising in mergers and acquisitions and pensions have welcomed a proposal that would oblige firms that want to acquire a UK public company to publish their plans for its pension scheme, despite the roadblock it could place in the way of dealmaking.

In March, the UK's [Takeover Panel](#) asked for suggestions on how it could improve its rules governing corporate mergers and acquisitions, following political controversy over the takeover of UK chocolate-maker [Cadbury](#) by the US foods group [Kraft](#).

Its consultation closed last week, and this morning, it emerged that David Gee, chairman of trustees at the [ICI](#) Pension Scheme, and the Law Debenture Trust Corporation, a professional trustee company, had written to the Panel calling for more public disclosure, according to a story in the Financial Times.

Corporate lawyers with a prominent role advising companies, and pension-scheme trustees, during M&A deals offered their backing to the proposal this morning.

Jennie Kreser, a partner in pensions law at Silverman Sherliker, said: "I don't think it's unrealistic. In a sense this happens already - it just happens too late from the trustees' perspective. Companies are already guided towards seeking 'clearance' from the Pensions Regulator on M&A deals, but this is voluntary, and often takes a significant amount of time.

"This proposal would encourage an earlier conversation, and a definite consideration of all pension-scheme members, rather than just the current employees. It can only be a good thing, as far as those members are concerned – though companies making a bid might not agree."

Philippa James, head of the pensions-law practice at City law firm Mayer Brown, said: "This is something that happens informally anyway; it looks like this proposal would just codify it and turn it into a formal requirement."

Stephanie Bates, a partner in corporate M&A at the same firm, echoed this: "From my perspective it seems quite sensible. For any bidder approaching any UK public company with a substantial defined-benefit, or final-salary pension scheme, the scheme will be high on its list of areas to focus on already."

Pension schemes of the defined-benefit, final-salary type, can [act](#) as substantial impediments to M&A deals because they place legal obligations on companies to pay benefits to their former workforces in retirement, possibly decades later.

Acquirers are often leery of taking on such obligations, particularly if they are if there is a pensions deficit.

Pensions issues of this kind famously played a role in derailing the Qatar Investment Authority's bid for UK retailer [J Sainsbury](#) in 2007. Last year, the UK airline [BA](#) merged with its Spanish counterpart [Iberia](#)