The Hybrid UK Regime: Key Characteristics

- Mandatory notification
- Suspensory
- Thresholds:
  - Based on parties’ worldwide and EU turnover
  - Possible referral from Member States

- “Voluntary” notification
  - Purchaser takes the risk
- Non-suspensory
  - Target to be held separately until end of review
- Thresholds:
  - UK turnover over £70 million
  - Creation or increase of share of supply of 25%

Both authorities aggressively prosecute violations of procedural rules
Merger Clearance: Outcomes and Deal Mortality Rates

PHASE I OUTCOMES
- Cleared unconditionally: 66.7%
- Cleared with conditions: 13.5%
- Referred to Phase II: 9.6%
- Prohibited: 10.3%
- Abandoned / Cancelled: 10.3%

PHASE II OUTCOMES
- Cleared unconditionally: 64.0%
- Cleared with conditions: 25.0%
- Referred to Phase II: 3.0%
- Prohibited: 3.0%
- Abandoned / Cancelled: 3.0%

*In the last 24 months (EC) / 21 months (UK)
Cases Referred to an In-Depth Investigation (Phase II)
UK Merger Control Process

Does the CMA have jurisdiction?

RISK ASSESSMENT:
- Investigation?
- Frustration?
- Risk of IEOs, Phase II, remedies, etc.

RISK ALLOCATION

NOTIFICATION (esp. if CMA decision is a CP)

BRIEFING NOTE

CMA SENDS ENQUIRY LETTER

PHASE 1 REVIEW

PHASE 2 REVIEW

- Undertakings in lieu
- Clearance with remedies
- Prohibition or divestment of target
- Unconditional clearance

If closing without clearance → IEO until conclusion of review
Regulating FDI in the UK

HOW MUCH SCRUTINY TO EXPECT?

- Open to Business or National Security… Balance about to tip
- Existing regime patched and enforcement stepped up
- CFIUK on its way!
Thank you

Any questions?