



# Public M&A Review

Q2 2024

**Ashurst**

# Overview

## M&A continues despite the early election call

The UK Public M&A market continued to be active, with volumes increasing after a promising Q1. There was a significant flurry of activity in April and May, in particular, with 28 firm and possible offers announced in those months alone. The value of bids has also risen, hitting heights not seen since 2018. Strategic acquisitions continue to dominate across a range of industries leading to an uptick in share for share offers. Whilst private equity have been quieter in the small to mid-cap space, there was renewed interest in large-cap deals. We also noticed increased competition for attractive assets, with rival bids and significant premia being offered even on high value assets – the £3.57bn bid for International Distribution Services attracted a premium of 72.7%, whilst the £1bn+ competing bids for Spirent generated a premium of 85.9%.

Despite these signs of recovery, a degree of uncertainty remains in the market. Some large high profile bids have been withdrawn recently and an early election call dampened activity temporarily. There will also be some significant global political headwinds to navigate later in the year.

## Possible offer announcements being used tactically

We are seeing targets and bidders use possible offer announcements more frequently. This is being driven by a number of factors. On the one hand, bidders and targets are wishing to engage with shareholders on value, beyond the rule of six, earlier in the process to shore up support. On the other, it is indicative of a more vigorous M&A environment, with target boards using the PUSU regime as a defence tactic and bidders seeking to force engagement by targets through "bear hug" announcements.

The rise in possible offer announcements also arguably explains the increase in lapsed bids – with more early stage discussions being made public before there is a realistic prospect of announcing a firm offer.

## Flexible structuring

Bidders are increasingly utilising offer structures as a means of competing. In the case of Blackstone's bid for Hipgnosis, Blackstone's final increased offer was accompanied by a switch from an offer structure (with a 55% offer acceptance condition) to a scheme. This required Panel consent as the scheme structure was technically less deliverable, which was granted subject to certain conditions, including a requirement that Blackstone make a "follow-on offer" should the bid lapse in circumstances where the Panel believed the original contractual offer would not have lapsed. This pragmatic approach opens up the opportunity for bidders to take a more aggressive approach when faced with competing bidders, although debt financing terms may still restrict some bidders from dropping acceptance conditions below the 75% threshold.

**The Ashurst UK Public M&A Team**

18

ANNOUNCED BIDS

18

RECOMMENDED ON  
ANNOUNCEMENT

17

SCHEMES OF  
ARRANGEMENT

38.8%

AVERAGE OF BID PREMIA  
(% UNWEIGHTED)

43.8%

AVERAGE OF BID PREMIA  
(% WEIGHTED)

A summary of the key features of each announced offer is set out in a table in the Appendix.

[Click here to jump to the Appendix.](#)

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*“The Ashurst team is very pre-emptive when it comes to advice and the team is particularly commercial.”* Chambers UK 2024, M&A: £800m and above

## Ashurst's UK public M&A mandates in the last quarter

### UBS

on Quanex Building Products Corporation's offer for Tyman plc

### Nyetimber Wines

on its offer for The Lakes Distillery Company plc

### Lazard

on K1 Investment Management's offer for MariaDB plc

### Goldman Sachs

on Thoma Bravo's offer for Darktrace plc

### Cavendish

on Bloom Equity Partners' offer for GRC International Group plc

### Jefferies

on Bridgepoint Advisers Limited's offer for Alpha Financial Markets Consulting plc

### J.P. Morgan

on (1) Shurgard Self Storage Ltd's offer for Lok'n Store Group plc, (2) Concord Chorus Limited's offer for Hipgnosis Songs Fund Limited, (3) the EP Corporate Group & J&T Capital Partners offer for International Distribution Services plc and (4) Houting UK Limited's offer for Keywords Studios plc

### Zeus

on PI Industries Limited's offer for Plant Health Care plc

# News digest

## **Panel personnel update**

On 18 April 2024, the Panel announced that it had appointed Cressida Hogg (Chair of BAE Systems plc), as a member of the Panel designated to sit on the Hearings Committee. On the same date, the Panel also announced that it had appointed Jessica Ground, a member of the Panel designated to sit on the Code Committee, to be a Deputy Chair of the Panel. Both appointments took effect from 1 May 2024.

## **Revised fees and charges announced**

On 18 April 2024, the Panel published Instrument 2024/2 which makes minor amendments to the Takeover Code with respect to certain fees and charges. Revised document charges are now payable on offer documents and Rule 9 waiver circulars published on or after 1 June 2024. The changes also increase the charges for exempt principal trader, exempt fund manager and recognised intermediary status, in each case where such charges are payable on or after 1 July 2024.

The changes took effect from 30 April 2024 when a revised version of the Code was published reflecting these and other minor amendments to the Code.

## **Panel Consultation Paper 2024/1 (Code jurisdiction) published**

The Code Committee of the Panel published a public consultation paper on 24 April 2024, which proposes a new jurisdictional framework. The proposal involves narrowing the scope of companies to which the Code applies, limiting its application to companies which are registered and listed (or recently listed) in the UK. The Panel's review of Code jurisdiction is being driven principally by the growth of private trading platforms, which may otherwise result in a larger number of otherwise private entities being subject to the Code.

The consultation period runs until 31 July 2024. The Panel expects to publish its Response Statement in Autumn 2024 and for the amendments to come into effect approximately one month after the publication. Further details of matters of which readers should be aware can also be found in our Corporate Update on the topic [here](#).

## **Revised Practice Statement 31 published**

On 30 April 2024, the Panel published a revised Practice Statement 31 with the amendments applying with immediate effect. In our last update, we discussed the theme of undervaluation in the UK public equity market and the provision (or lack thereof) in the Code for target-led sale processes. This revised Practice Statement 31 sets out a new practice adopted by the Panel in relation to such target-led sale processes.

# News digest (cont.)

Practice Statement 31 now clearly categorises different target-led sale processes, being (1) formal sale processes, (2) private sale processes, (3) strategic reviews (which may or may not refer to an offer for the company) and (4) public searches for potential offerors not conducted as formal sale processes.

The revised guidance provides targets with greater flexibility to undertake sale processes outside of a formal sale process. For example, where the Panel is satisfied that a company is genuinely initiating a private sale process, a company making a voluntary announcement that it is commencing a private sale process will no longer be required to identify any potential bidder with which it is in talks or from which it has received an approach. Similarly, any announcement required as a consequence of rumour or speculation will only be required to identify a potential bidder where such bidder has been specifically identified in the rumour or speculation. However, those bidders who wish to benefit from turning off PUSU deadlines or dispensations to Rule 21.2 (for example, seeking inducement fees from targets), will still need to use the formal sale process.

The dispensations set out in the revised guidance in Practice Statement 31 will only be granted following consultation with the Panel and the Panel will be far less likely to grant a dispensation where discussions commence as a consequence of a leak. Therefore, early consultation on these processes is advised.

## **Panel Bulletin 7 released**

On 15 May, the Panel published a bulletin covering offeror intention statements. The bulletin notes that the Panel expects an offeror to almost always have developed specific intentions in relation to the matters set out in Note 1(a) on Rule 2.7 and Rule 24.2(a). These intentions must be set out in the firm offer announcement and the offer document. If an offeror has no intention to make any changes in relation to the matters set out in Note 1(a) on Rule 2.7 and Rule 24.2(a), it must make a negative statement to that effect.

The purpose of this bulletin appears to be to stop the usual approach of offerors stating that they will "conduct a strategic review" with an expectation that offerors explicitly state their intentions for certain matters relating to the target's business following completion of an acquisition.

## **Ruling in the matter of The Lakes Distillery Company plc**

A judgment was handed down on 20 June 2024 in respect of the application by The Lakes Distillery Company plc for the sanction of a scheme of arrangement, the scheme having been sanctioned on 11 June 2024. The judgment provided reasons for the adjournment of the court sanction hearing held on 21 May 2024 and subsequent sanction of the scheme at the adjourned hearing held on 11 June 2024, with the judge's principal concerns mainly relating to the sufficiency and accuracy of the disclosure of the target director's interests in the explanatory statement.

# News digest (cont.)

The Companies Act specifically requires the explanatory statement to disclose material interests of directors (whether as a director, shareholder or otherwise) and the effect of the scheme on those interests, and this judgment serves as a reminder of the importance of accurate and prominent disclosure in this regard. It also highlights that the consequences of failing to meet the required standard of disclosure would likely result in the company becoming obliged to issue a supplementary or new scheme circular and convene a second court meeting.

## **UK Listing Rule reforms / Public Offers regime**

On 11 July 2024, the FCA published its final rules for the new UK listing regime which will take effect from 29 July 2024. The publication of the new rules follows an extensive consultation process which has sought to enhance the attractiveness of UK capital markets, with the overall philosophy being a shift towards a more disclosure-based framework, whilst seeking to maintain robust levels of investor protection in key areas. Practitioners should be aware, in particular, of changes in approach to: significant transactions, where a shareholder vote will no longer be required for "class 1" transactions; controlling shareholder arrangements, where the requirement for a controlling shareholder agreement has been removed; and sponsor obligations. Our latest corporate briefing on this topic, which also includes links to prior briefings, can be found [here](#).

In terms of other UK capital markets reforms, following the publication of the Public Offers and Admissions to Trading Regulations in January, which represent the first part of the reframing of the prospectus regime, the FCA is expected to move to a formal consultation process in respect of its rules in this area later this summer.

On this basis, the wholesale update of UK capital markets is anticipated to be complete during the course of 2025.



# Appendix

Key features of firm offer  
announcements

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# Announced UK takeover bids

(1 April to 30 June 2024)

Target (Market)	Bidder(s)	Bid value	Bid premium*	Recommended	Hostile/No Recommendation	Rule 9 offer	Cash	Shares (L/U/A)	Other consideration	Mix and match	Offer**	Partial Offer	Scheme	Offer-related arrangements □	Formal sale process	Non-solicit undertaking of bid in shareholder	Matching/Topping rights***	Additional shareholder vote	Profit forecast/QFBS
<b>The Lakes Distillery Company plc (Unquoted)</b>	Nyetimber Wines and Spirits Group Limited	£46.1m	N/A	•			•						•	N <sup>1</sup>					
<b>Gresham Technologies plc (Main Market)</b>	STG Partners, LLC	£146.7m	26.94%	•			•		• <sup>2</sup>				•	N			•		• <sup>3</sup>
<b>Lok'n Store Group plc (AIM)</b>	Shurgard Self Storage Ltd	£378m	15.9%	•			•						•	N					
<b>TClarke plc (Main Market)</b>	Regent Acquisitions Limited	£89.2m	28%	•			•		• <sup>4</sup>				•	N/C					
<b>DS Smith Plc (Main Market)</b>	International Paper Company	£5.8bn	47.7%	•				L	• <sup>5</sup>				•	N/C/R <sup>6</sup>				B	• <sup>7</sup>
<b>Hipgnosis Songs Fund Limited (Main Market)</b>	Alchemy Copyrights, LLC <sup>8</sup>	£1.21bn <sup>9</sup>	42.6%		• <sup>10</sup>		•						•	N/C					
<b>Tyman plc (Main Market)</b>	Quanex Building Products Corporation	£788m	35.1%	•			•	L	• <sup>11</sup>				•	N/C <sup>12</sup>	•			B	• <sup>13</sup>
<b>Darktrace plc (Main Market)</b>	Thoma Bravo, L.P.	£4.25bn	20%	•			•						•	N/C <sup>14</sup>					• <sup>15</sup>



# Announced UK takeover bids (cont.)

(1 April to 30 June 2024)

Target (Market)	Bidder(s)	Bid value	Bid premium*	Recommended	Hostile/No Recommendation	Rule 9 offer	Cash	Shares (L/U/A)	Other consideration	Mix and match	Offer**	Partial Offer	Scheme	Offer-related arrangements□	Formal sale process	Non-solicit undertaking of bid in shareholder	Matching/Topping rights***	Additional Shareholder vote	Profit forecast/Q/FBS
Hipgnosis Songs Fund Limited (Main Market)	Blackstone Inc.	£1.27bn <sup>16</sup>	49.2%	•			•						• <sup>17</sup>	N/C					
Trinity Exploration & Production Plc (AIM)	Touchstone Exploration Inc.	£24.1m	71.9%	•				A					•	N/C					• <sup>18</sup>
Cykel AI plc (AQSE Growth Market)	Mustang Energy PLC	£19.22m	1.30% <sup>19</sup>	•				L					•					B	
IQGeo Group plc (AIM)	Kohlberg Kravis Roberts & Co. L.P.	£333m	19%	•			•		• <sup>20</sup>				•	N/C					
International Distribution Services plc (Main Market)	EP Corporate Group, a.s. J&T Capital Partners, a.s.	£3.57bn	72.7%	•			•		• <sup>21</sup>		•			N/C <sup>22</sup>					• <sup>23</sup>
Foresight Sustainable Forestry Company plc (Main Market)	Averon Park Limited	£167m	32.88%	•			•		• <sup>24</sup>				•	• <sup>25</sup>			•		
GRC International Group plc (AIM)	Bloom Equity Partners Management, LLC.	£8.6m	66.7%	•			•						•	N					
Trident Royalties Plc (AIM)	Deterra Royalties Limited	£144m	22.5%	•			•						•	N/C		•	•		

# Announced UK takeover bids (cont.)

(1 April to 30 June 2024)

Target (Market)	Bidder(s)	Bid value	Bid premium*	Recommended	Hostile/No Recommendation	Rule 9 offer	Cash	Shares (L/U/A)	Other consideration	Mix and match	Offer**	Partial Offer	Scheme	Offer-related arrangements <input type="checkbox"/>	Formal sale process	Non-solicit undertaking of bid in shareholder	Matching/Topping rights***	Additional Shareholder vote	Profit forecast/QFBS
Alpha Financial Markets Consulting plc (AIM)	Bridgepoint Group plc	£626m	50.7%	•			•						•	N/C				• <sup>26</sup>	
Plant Health Care plc (AIM)	PI Industries Ltd.	£32.8m	57.2%	•			•						•	N <sup>27</sup>					

# Announced UK takeover bids

## Key and footnotes

This table includes details of takeovers, set out in chronological order, in respect of which a firm intention to make an offer has been announced under Rule 2.7 of the Code during the period under review (including any offers which subsequently lapsed or were withdrawn). It excludes offers by existing majority shareholders for minority positions.

Key	
*	Premium of the offer price over the target's share price immediately prior to the commencement of the relevant offer period
**	Standard 90% (waivable) acceptance condition, unless otherwise stated
***	In shareholders' irrevocable undertakings (unless indicated otherwise)
□	Permitted agreements under Rule 21.2 of the Code
A	AIM traded shares
C	Co-operation agreement
F	Break fee given under formal sale process or white knight dispensation
L	Listed/traded shares
N	Confidentiality agreement
NP	No premium given in offer documentation or nil premium
R	Reverse break fee
U	Untraded shares
B	Bidder shareholder approval
T	Target shareholder approval

1. + Side letters in relation to share schemes and HR matters
2. Interim dividend
3. Directors' confirmation (ordinary course profit estimates)
4. Final dividend
5. Interim and final dividends
6. + Clean team agreement and joint defence agreement
7. Quantified financial benefits statement
8. Offer withdrawn following withdrawal of Hipgnosis board's recommendation
9. Increased from original offer of £1.12bn
10. Recommendation withdrawn following board's recommendation of Blackstone's offer
11. As an alternative to the main cash and share offer, Target shareholders can elect to receive consideration via a capped all-share alternative. A special interim dividend is payable under both the main offer and alternative all-share offer
12. + Clean team agreement and joint defence agreement
13. Directors' confirmation (ordinary course profit estimate) and QFBS
14. + Clean team agreement
15. Directors' confirmation (profit forecasts)
16. Increased from original of £1.26bn
17. Originally announced a recommended cash offer to be implemented by means of a takeover offer with 55% acceptance condition. The Panel permitted a switch to a scheme on the condition that a follow-on offer would be made should the scheme lapse
18. Directors' confirmation (ordinary course profit estimate)
19. Premium to the closing price per Cykel share on the last Business Day prior to the suspension of trading in Cykel shares
20. As an alternative to the cash offer, Target shareholders can elect to receive all (but not part) of the consideration as unlisted shares
21. Final and special dividends
22. + Clean team agreement and joint defence agreement
23. Directors' confirmation (profit forecast)
24. As an alternative, Target shareholders can elect to receive all (but not part) of the consideration as unlisted shares
25. New investment agreement heads of terms
26. Rollover arrangements requiring approval of independent shareholders
27. + Retention agreement and deferral of salary and fees agreement

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