



Letter to the Independent

4 June 2010

From Dr. Roger Barker

Sir, Vince Cable is right to look at the UK's takeover rules (An Industrial-size economic challenge, 4.6.2010). But what should be under consideration are the potential benefits of increasing the voting threshold for shareholder approval of takeovers, rather than any widening of a public interest test.

The recent bid by Prudential to takeover AIA is a case in point. A key feature of the negotiations has been the need to gain a high level of approval from Prudential's shareholders – 75 percent. Such a threshold arises from the need to raise significant equity capital from shareholders to finance the deal. Regardless of the merits of this particular transaction, the effect of such a high approval threshold has been to empower shareholders. In particular, an engaged minority of institutional shareholders has been able to exert a high level of influence over the outcome.

From the perspective of UK corporate governance, the advent of more critical scrutiny from shareholders is welcome. The decision to go ahead with a large-scale merger or takeover is one of the most crucial decisions in the life cycle of any company. However, a large body of evidence suggests that such transactions are often value-destroying, particularly for the shareholders of the acquiring company.

The empowerment of active shareholders in mergers and acquisitions by introducing a higher voting threshold, both with respect to the acquiring company and the company being acquired, is likely to be more helpful to the cause of good corporate governance than any widening of a public interest test. The latter would give a greater role for government in takeover decisions and would politicise rather than legitimise the UK takeover process.

Yours sincerely,

Dr. Roger Barker
Head of Corporate Governance
Institute of Directors
116 Pall Mall, London SW1Y 5ED.