

[REDACTED]

[REDACTED]

Mr Stuart McIntosh,
Panel Inquiry Chair
Competition and Markets Authority
25 Cabot Square
London E14 4QZ

13 January 2023

Dear Mr McIntosh and Inquiry Group

Proposed acquisition by Hitachi Rail, Ltd. ("Hitachi Rail") of the entire Ground Transportation Systems business of Thales SA (the "Target", together with Hitachi Rail, the "Parties") ("Proposed Transaction")

We look forward to engaging with you and your colleagues as you review the Proposed Transaction in this next stage. To assist your reading in, we have set out below, on behalf of the Parties, what they consider to be the key points for consideration by the Inquiry Group in assessing the relative impact of the Proposed Transaction on the current and future competitive landscape for the provision of rail signalling services in the UK.

Overview

- 1. **The objective of the Proposed Transaction is to enhance Hitachi Rail's capabilities and grow its presence in signalling capabilities worldwide.** Over the past seven years, Hitachi has built the global Hitachi Rail division through strategic acquisitions, including Ansaldo STS and AnsaldoBreda in the areas of signalling and vehicles. Prior to that, Hitachi Rail's activities (particularly in the UK and Japan) had focused predominantly on rolling stock.

[REDACTED]

[REDACTED] Hitachi Rail entered into the Proposed Transaction bringing together the Parties' largely complementary geographical presence and products. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

UK Mainline Signalling Services

2. **The current supply of mainline signalling services in the UK is dominated by two well-embedded incumbent providers, Siemens and Alstom-Bombardier.**¹ These joint market leaders have a virtually unassailable position at present and together account for approximately 97% of the installed base of conventional interlockings (the core safety component of mainline signalling) and a projected 90% of Network Rail's major signalling spend.² While several international companies have shown an interest in potentially entering or increasing their existing presence in the UK signalling sector, including Hitachi Rail, the Target, [REDACTED] integrators, there have been only very limited instances of success for rail signalling OEMs due, in large part, to insufficient incentives and historically high barriers to entry and expansion in the UK.³
3. **In line with the above, neither of the Parties currently has any meaningful presence in the provision of mainline signalling services in the UK.** The Parties have [REDACTED] revenue^{4,5} and [REDACTED] employees associated with UK mainline signalling activities.⁶ Crucially, [REDACTED]
[REDACTED]
[REDACTED].⁷ Moreover, the Target has [REDACTED], while Hitachi Rail's track record for UK major signalling

¹ CMA Phase 1 decision, paragraphs 8 and 54.

² [ORR Signalling market study. Final report dated 9 November 2021 \("ORR Final Report"\)](#), page 7.

³ As described the ORR Final Report, Section 7.

⁴ [REDACTED]

⁵ [REDACTED]

⁶ [REDACTED] Hitachi Rail and the Target have only around [REDACTED] mainline signalling employees within the UK. This contrasts with an estimated [REDACTED] and more than [REDACTED] personnel employed respectively by Siemens and Alstom-Bombardier in the UK in connection with mainline signalling.

⁷ Hitachi Rail's previous UK conventional interlockings (which, together with those supplied by Atkins, account for only c.2% of the installed base) are surpassed products and [REDACTED].

frameworks [REDACTED] in CP6 (as part of a consortium with Linbrooke).⁸

4. **Future competition for ETCS ATP wayside re-signalling and the local control element of OCS (SCS) will be within Network Rail's Train Control Systems Framework ("TCSF") procurement structure which contemplates the participation of multiple competing providers.** As a result of the digitalisation of the rail network, there is a clear need for additional capacity to supply mainline signalling systems in the UK. As indicated in the ORR Final Report *"65% of external signalling assets are projected to expire within the next 15 years, potentially leading to a five to six-fold increase in the volume of renewals work as Network Rail looks to replace conventional systems with digital alternatives"*.⁹ Following the ORR's findings on competition in the sector, and recognising the new UK market opportunities for suppliers as a result of digitalisation and harmonisation, Network Rail designed the upcoming TCSF¹⁰ to incentivise and facilitate the market entry and expansion needed to provide the additional capacity required. The TCSF structure, which was announced by Network Rail after the Proposed Transaction was made public, currently envisages [REDACTED] the ultimate selection of five, providers who would be awarded an initial fixed proportion of work bank allocation in decreasing proportions based on their ranking in the tender process (14%, 11%, 7%, 5% and 3%). It is understood that the providers will then be able to contest for a share of the remaining unallocated work bank having regard to their performance against specific KPIs.¹¹ The incentives for providers (including the Parties) to compete for those places, and to achieve a further share of the unallocated work bank, will be dependent on the measures and requirements introduced by Network Rail and suppliers' own internal KPIs and hurdle rates; therefore, they are unaffected by the Proposed Transaction.
5. **It is fanciful to suggest that there would not be any other strong bidders that would compete with Siemens, Alstom-Bombardier and the Parties for work within the TCSF structure.** The need for additional capacity is obvious, and it appears from the structure of the TCSF (as currently understood), that Network Rail intends to support UK entry and expansion. Given this commitment and the proportion of contestable work bank available for allocation (both initially and subsequently based upon performance) it is highly unlikely

⁸ See [Annex C](#) of the ORR Signalling market study update (May 2021).

⁹ ORR Final Report, page 6.

¹⁰ Launch of the TCSF was delayed from July 2022 and timing remains uncertain.

¹¹ The description and consideration of the TCSF in this letter is based on currently available public information provided by Network Rail. It is expected that the final form of the TCSF will change prior to its adoption but the fundamental points explained in this letter will remain valid.

[REDACTED]

[REDACTED]

that there would be no participation by one or more credible alternative suppliers, acting alone or in consortia with a local integrator, such as [REDACTED] or another OEM.¹² Examples of such potential participants include [REDACTED]

[REDACTED] Whilst these potential participants have had limited success to date in the UK, they have started to make inroads in the more mature European sector¹³ – the TCSF should further encourage their UK entrance.

6. The Parties have different capabilities in mainline signalling and are not close competitors in the areas referred to in the Phase 2 reference. There is also no reason to expect that they would become closer competitors in the future.¹⁴ [REDACTED]

[REDACTED] This includes the different perspective that Hitachi Rail brings as a rolling stock provider and reflects the fact that the Parties have [REDACTED]

[REDACTED] This is not a deal that will remove the benefit of intense rivalry between two particularly close competitors. It follows that, if each of the Parties were to bid in the TCSF, there is no reason to expect that their separate bids would be more attractive as a result of the particular constraint that each places on the other, as distinct from the constraints generally placed on each of them by Siemens, Alstom-Bombardier and other bidders.

7. [REDACTED]

¹² Integrators offer the benefits of local 'boots on the ground' capabilities, route knowledge, long-standing relationships with Network Rail and familiarity with UK signalling principles. There is a history of OEMs partnering with integrators to bid for UK tenders (e.g. the Hitachi Rail-Linbrooke consortium bid for the Wales & Western lot in CP6). In the ORR's market study final report, the ORR also *recommends* that Network Rail maximises the role of integrators: "*We also urge Network Rail to consider the scope for maximising the competitive constraint imposed by integrators.*" (ORR Report, para 10.25). Consortium bids involving integrators and OEMs have also been successful elsewhere in Europe. [REDACTED]

¹³ See the Parties' response to the Phase 1 Issues Letter, paragraphs 2.9.1-2.9.2 and 6.6-6.7.

¹⁴ Tender data shows that the Parties [REDACTED] in relation to ETCS or OCS in the UK over the last 10 years. [REDACTED]

[REDACTED]; [REDACTED]
[REDACTED] In OCS, the Parties [REDACTED]. The Parties competed against each other in [REDACTED] out of the [REDACTED] OCS tenders over the period 2012-2021 in the UK. In [REDACTED] of these tenders were the Parties the only two bidders.

[REDACTED]

[REDACTED]

[REDACTED]

8. **Future competition for traffic management systems ("TMS") within OCS** [REDACTED] **will not be affected by the Proposed Transaction.** [REDACTED]

[REDACTED] Integrated TMS is currently only being supplied in the UK by Siemens and Resonate.¹⁶ SCS are deployed on top of interlockings and are typically procured together with interlockings. Alstom-Bombardier or Siemens' interlockings account for c. 97% of the installed base, and [REDACTED]

[REDACTED]. As such, the opportunity for Hitachi Rail to compete in future competition for TMS is extremely limited. [REDACTED]

[REDACTED] Accordingly, competition for TMS is expected to remain between Siemens and Resonate (and may also extend in future to Alstom-Bombardier, due to its installed base of interlockings and supply of SCS). [REDACTED]

UK CBTC Urban Signalling Services

9. **Competition in the provision of CBTC services in the UK will not be affected by the Proposed Transaction since Hitachi Rail is not (and will not become) a realistic alternative provider to the Target and the Parties are not therefore close competitors.** In particular, future CBTC opportunities in the UK are expected to be limited to services

15 [REDACTED]

16 [REDACTED]

[REDACTED]

supplied to Transport for London ("TfL") in connection with the London underground system.¹⁷ These are complex and risky brownfield projects which are highly dependent on the specifics of the existing system and strongly favour the Target and Siemens as existing providers; depending on the line, the incumbent provider is most likely to be challenged by the non-incumbent existing provider.¹⁸ In addition, Alstom-Bombardier may also have some scope to challenge either the Target and Siemens since they have a historic relationship with TfL in signalling.¹⁹

[REDACTED]

Summary

10. The Parties look forward to expanding on each of the above points and explaining in more detail how the Proposed Transaction will in no way lead to a substantial lessening of competition in the areas of mainline and urban signalling identified in the CMA's Phase 1 Decision. In particular, the Parties urge the CMA to engage fully with the two customers critical to this assessment, TfL and Network Rail:
- a. With respect to CBTC, the Parties are confident that the Proposed Transaction will have no impact and they encourage the CMA to have the necessary conversations with those in senior positions at TfL to comment on the Parties' submissions.
 - b. In mainline signalling, changing market dynamics, capacity requirements and the impact of digitalisation will incentivise and facilitate competition between

¹⁷ In its Phase 1 decision, the CMA acknowledged that future demand for CBTC signalling projects in the UK is likely to be driven by future projects in London (see paras. 18, 372 and 393).

¹⁸ [REDACTED]

¹⁹ [REDACTED]

[REDACTED]

providers for the benefit of Network Rail. The structure and timeline for the TCSF is not yet fixed and far from certain, and so it is critical that the CMA speaks to senior stakeholders at Network Rail to get a clear understanding of its intentions. Network Rail determines the scope of the market and the dynamics of competition in its design of the TCSF, and the CMA's Phase 1 theories of harm are premised on a definition of the TCSF that has not yet been settled. Whatever form the TCSF may ultimately take, however, the Parties are confident that, far from adversely affecting competition, the Proposed Transaction will in fact help to improve performance standards and raise the quality of the offering, which the Parties could not have otherwise provided within the future TCSF structure should they decide to bid separately for that opportunity. Indeed, the Proposed Transaction is fully aligned with the aims of both Network Rail and ORR to open up the UK market by creating a competitor that can better respond to the TCSF and which may contribute to breaking the duopoly of Siemens and Alstom-Bombardier.

Yours sincerely

[REDACTED]

[REDACTED]