



Competition and Markets Authority
The Cabot
25 Cabot Square
London
E14 4QZ
United Kingdom

19 July 2023

By Email Only: Hitachi.Thales@cma.gov.uk

Dear Competition and Markets Authority

CMA Investigation: anticipated acquisition by Hitachi Rail, Ltd of Thales SA's Ground Transportation Systems Business

1. Wabtec Corporation (**Wabtec/we**) refer to the Competition and Markets Authority's (**CMA**) investigation into the anticipated acquisition by Hitachi Rail, Ltd of Thales SA's Ground Transportation Systems Business (the **Hitachi/Thales Investigation**) and in particular the CMA's Provisional Findings Report dated 12 June 2023, the Notice of Possible Remedies dated 8 June 2023, the Office of Rail and Road's response to possible remedies dated 4 July 2023 (the **ORR Response**) and Construcciones y Auxiliar de Ferrocarriles, S.A.'s (**CAF**) response to possible remedies dated 11 July 2023 (the **CAF Response**).
2. Wabtec, one of the world's most significant partners to the rail industry, has been closely following the Hitachi/Thales Investigation over the recent months. As an important player in the global market for rail signalling systems and related services, we kindly invite the CMA to consider the following submissions which we hope assist the CMA in its investigation.

A. About Wabtec

3. As stated above, Wabtec is one of the world's largest providers of value-added, technology-enabled systems and services for the rail industry. Wabtec's products enhance safety and comfort, improve productivity, reduce maintenance costs for customers, and can be found in most rolling stock across the globe. Wabtec employs 27,000 employees in over 50 countries, including the United Kingdom, and generated revenue of approximately EUR 8 billion in 2022.
4. Wabtec is a publicly traded company, incorporated under the laws of the state of Delaware, with headquarters located at 30 Isabella Street, Pittsburgh – Pennsylvania 15212. We are an S&P 500, Fortune 500 and NYSE listed company.

Rail Signalling Systems

5. Wabtec is recognised around the world for its development of new and innovative solutions in rail signalling systems. As part of its signalling portfolio of solutions, the **Wabtec I-ETMS (Interoperable Train Management System)** is the most widely accepted system in North America, covering 90% of the network with 98 different railroads and operators. It is one of the four types of approved Positive Train Control (**PTC**) systems in North America federally mandated to prevent accidents.

6. In partnership with 40+ customers including 15+ passenger customers, the Wabtec I-ETMS technology has been implemented in over 90,000 kilometres and 20,000 on-board units. The system runs on over one million miles of PTC operations every day since it was completed during 2019/2020. The I-ETMS technology has been adapted for use in other railway networks around the world with ongoing projects in Brazil, Australia and a few countries in Africa. Europe has several mature signalling systems in operation (TVM, KVB, LZB, CIRELEKE, EBICAB, SCMT etc), and ERTMS is being implemented across Europe as part of the interoperability programme to ease rail mobility across countries.
7. Wabtec is one of the founding members of Europe's Rail Joint Undertaking (EU-Rail), participating actively in all Flagship Projects. As part of this engagement, Wabtec is leading the Flagship Project 6: FUTURE - delivering innovative rail services to revitalise capillary lines and regional rail services, demonstrating our commitment for innovation to provide efficient and affordable signalling solutions in Europe.¹
8. Wabtec has a broad and mature presence in Europe with more than 8,000 employees operating in more than 50 locations across the continent and the UK that are dedicated to the rail transport industry.
9. Wabtec continues to invest millions of dollars each year committed to continuous improvement of the system through internally funded developments of new technology. Railway operators also drive and lead on process to capture enhancements and new features. These features are updated and released over the air through a secure process several times per year.

Wabtec in the UK

10. Wabtec has been operating in the UK railway market for more than 100 years and currently employs over 1700 staff, including a large cohort of engineers (120+) and annual turnover of more than £[£], making us one of the top five suppliers to the UK rail industry. We operate in several locations, including seven facilities dedicated to rail, one of the most notable being the Doncaster Railway Works, established by the Great Northern Railway in 1853. Wabtec is a trusted partner of many of the key UK rail industry players, including TfL, Network Rail and all Rail Operating Companies as well the key train manufacturers (OEMs) located in the UK. Wabtec continues to invest and support UK railways. We are working with all major OEMs in the supply of the latest technology subsystems, including brake systems, doors, air conditioning, passenger information systems, and power collection equipment. Our services organisation ensures on-going support locally for those systems for their product lifetime, working directly with maintenance organisations and operators like Transport for London. Wabtec overhauls all major subsystems including bogies and wheelsets, engines and has a full vehicle refurbishment and technical upgrade capability, including engineering systems integration. On top of this, Wabtec has a long history of activities in the UK related to on-board or wayside signalling as described in the following paragraphs.
11. Wabtec, under the brand Mors Smitt, is a key supplier of an onboard signalling function dedicated to train protection systems to the UK market. Wabtec has been supplying the Class B train protection system, known as AWS/TPWS, since 1995, with more than 2500 systems supplied (over 25% of the total UK fleet and over 70% of the modern fleets). Having developed the UK's first AWS/TPWS Specific Transmission Module (**STM**) in 2015, Wabtec is the only supplier providing a fully integrated ERA compliant interface with ETCS. This is now in service on several prestigious fleets including the Elizabeth Line (Crossrail) which is the UK's busiest railway. Working closely with the OEMs, Wabtec is the incumbent supplier of AWS/TPWS to Alstom, Stadler and Hitachi and is working closely with Siemens and CAF to support their future train platform development programs for the UK.
12. As a recognition of its expertise, Wabtec represents suppliers as an industry expert on the Rail Safety & Standards Board Control, Command & Signalling (CCS) Standards Committee.

¹ [eurail-fp6 \(europa.eu\)](https://eurail-fp6.europa.eu).

13. Additional to UK TPWS, Wabtec has enjoyed a productive relationship with Network Rail, being one of only two UK Network Rail approved suppliers of the BR930 signalling relays (branded Mors Smitt). This product supply and customer relationship dates back from the early 1970's to the present day, demonstrating Wabtec's commitment and understanding of being a long-term partner for safety critical rail products. As of today, Wabtec supplies more than 20,000 relays annually to the original British Rail standards, supported by a dedicated UK engineering team for new BR930 relay developments and obsolescence management, ensuring the continued safe operation of the railway in the country.
14. Wabtec has also a team specialised in signalling design work for Network Rail and for suppliers to Network Rail. Located in Birmingham, this team came from the acquisition of AM Rail Group in 2016. Now under the banner of Wabtec Control Systems, this team has a proven record in the delivery of signalling design through all the Network Rail Grip stages, from feasibility studies to scheme design and detailed design. The UK Wabtec Control System team has strong capabilities in level crossings (28 level crossings designed and commissioned since 2012) as well as power distribution renewals and is well-known for its support to rail signalling construction companies in the UK. The team is made of seven engineers in the UK and is supported full time by 28 IRSE Licensed engineers located in Hyderabad, India and has access to a total of 1000+ engineers in Bangalore, India trained in signalling and train control applications.
15. Wabtec has had a number of successful rail acquisitions in the UK which demonstrate the willingness of the company to operate in the UK on a long term basis. Below is the list of the companies acquired specifically for Wabtec's railway operations in the UK:
 - a. Acquisition of Brush Traction in 2011. Brush was known for locomotive overhauls, services and aftermarket components in the UK rail industry. Since its acquisition Wabtec has kept and consolidated its capacity to overhaul and refurbish trains and locomotives in Doncaster.
 - b. Acquisition of LH Group Services in 2012. Based in Barton, LH overhauls, repairs and serves engines and powerpacks for the railway industry in the UK as well as in Europe. Wabtec has continuously invested and grown the LH services capabilities to better serve operators in UK, in Ireland and in the rest of Europe.
 - c. Acquisition of Mors Smitt in 2012. Mors Smitt was operating in Netherlands, France, China and Hong-Kong as well as in the UK. Mors Smitt's UK operations continue to develop and serve the rail industry in the UK thanks to on-board train protection system (TPWS – see above) as well as Network Rail safety relays (see above).
 - d. Acquisition of the Fandstan Electric Group in 2014. Fandstan was a leading rail equipment manufacturer based in several locations in the world as well as in Chard in the UK. The business owns the Brecknell and Willis brand and is one of the major current collection suppliers in the UK (pantographs, third rail shoe, third rail). As a third rail supplier, Brecknell and Willis, now part of Wabtec, has been successfully serving London Underground for many decades.
 - e. Acquisition of AM Rail Group in 2016. AM Rail Group was a UK based designer of complex signalling systems and now is Wabtec Control system UK, working for Network Rail and suppliers of Network Rail.
 - f. Acquisition of Axiom in 2017. Axiom Rail is a designer and supplier of innovative and adaptable rail freight suspension systems/bogies, approved for use in the UK, Central Europe, and the Nordic countries. Located in Doncaster the Axiom team, now Wabtec, continues to serve the freight rail industry in the UK.
16. Wabtec has also acquired world renowned rail companies and successfully integrated their UK operations to continue to serve the UK market.

17. For instance, Faiveley Transport was acquired in 2016 by Wabtec. A French firm, Faiveley Transport was a leading global provider of value-added, integrated systems and services and had operations in Tamworth in the UK. Faiveley had been supplying and servicing the UK railway industry with on-board door, air conditioning, OTMR (black boxes for the Rail industry), and CCTV as well as other railway components. The operations of Faiveley Transport have been fully integrated on Wabtec's Burton site and are part of the Wabtec rail activities. This transaction has enabled Wabtec to continue and expand its support to rail industry.
18. As a second example, Wabtec acquired GE Transportation, a rail giant, part of General Electric, in 2019. Whereas before the acquisition GE Transportation did not have any significant operations in the UK, the UK team of GET was integrated with the Wabtec teams to continue to serve the installed base of GET in the UK (mainly locomotives class 70) as well as other locomotives installed bases around Europe.

B. Remedies in the Hitachi/Thales Investigation

19. Wabtec has closely followed developments in the Hitachi/Thales investigation, including the more recent developments regarding possible remedies. Having considered the CMA's Notice on Possible Remedies and the CAF and ORR Responses, we wish to provide the following observations.
20. We note that the CMA concluded in its Provisional Findings Report that the proposed transaction between Hitachi and Thales may be expected to result in a substantial lessening of competition (SLC) as a result of horizontal unilateral effects in:
 - a. the supply of digital mainline signalling systems and related services in Great Britain; and
 - b. the supply of CBTC signalling systems and related services in the United Kingdom.
21. In particular, the CMA is concerned that in a concentrated market for mainline and CBTC signalling systems, the transaction would result in the loss of an actual or potential competitor and thus remove significant competitive constraints from the remaining actors on these markets.

Structural Remedy

22. Wabtec does not have a view as to whether an SLC on the markets identified is a reasonable conclusion for the CMA to reach. However, in the event that an SLC is found, Wabtec agrees with the CMA's initial views, as set out in the Notice on Possible Remedies that, only an appropriately scoped divestiture package would be capable of preventing such an SLC. In particular, there would be a need for scale, capability, capacity and financial backing to meaningfully participate in tendering processes. We suspect that the fast pace of innovation required would be difficult to achieve under, for example, a pure licensing or sub-contracting model that did not include divestment assets and skilled employees. As a result, it may well be the case that behavioural remedies would be insufficient to avoid an SLC, were one to be identified. In this regard, we note that both CAF and the ORR have provided similar observations on the nature of the potential remedy adopted.

Scope of the Divestiture Package

23. Further, to ensure sufficient scale, capacity and capabilities to compete effectively in the UK, Wabtec agrees that the carve out should not be limited to UK operations alone, but should also comprise appropriate parts of that party's European rail signalling business and IP licences. In addition, Wabtec supports the divestiture of a single package comprising both mainline signalling and CBTC systems, in particular in light of the synergies achievable between the product lines not only in respect of ongoing operations but also in terms of R&D and innovation more broadly, and finally the expectation of diversified product and service portfolios for participation in certain tenders.

Suitable Purchaser

24. Insofar as a partial divestiture of UK and certain European operations is contemplated, it is our view that the CMA's concern relating to the divested business's reliance on global capabilities would be remedied by a purchaser having an appropriate global track record of providing mainline (and/or CBTC signalling systems) and the technical, financial and operational capabilities to not only maintain the competitiveness of the divested business, but to grow it into a serious and fiercely competitive player on the European and UK rail signalling markets.

C. Wabtec's Vision

25. In light of the aforementioned, we consider that a structural divestment of an appropriately scoped UK and European signalling business supported by necessary IP licences would offer a company such as Wabtec a significant opportunity to expand its role in the market for mainline signalling in the UK and in particular to enter the CBTC sector.
26. In this regard, we strongly believe that the combination of the divested business with Wabtec's resources, experience, financial backing and global reach would create a European and UK signalling OEM capable of competing with the incumbent players on an equal footing. In particular, the combined business would have, or could easily expand, the manufacturing facilities, and design, installation, logistics, project management and research and development capabilities identified by the ORR as being crucial to competing effectively on the mainline signalling and CBTC services markets in the UK.
27. Following its unparalleled and undisputed success in implementing new signalling solutions for the North American market, Wabtec has the natural ambition to become a true international player in signalling, including freight and passenger applications in the UK and Europe. Our broad and mature presence in the UK and Europe, our large experience of acquiring and integrating railway assets, would facilitate a smooth integration of the divested business, maximising its competitive potential as compared to other potential bidders. We would therefore welcome the opportunity to repeat our past successes in expanding into the UK's rail services industry as highlighted above and to support UK rail operators and Network Rail in maintaining the safety of the UK's mainline and underground rail operations.
28. We strongly believe that, should the CMA uphold its SLC findings at the conclusion of its merger investigation, a structural remedy would resolve such concerns and provide the opportunity for an established and experienced global player, such as Wabtec, to enter the UK market for signalling, to the benefit of UK customers. We would be delighted to discuss this further with the CMA, should such meeting be considered helpful by the Inquiry Group.

Yours sincerely

Lilian Leroux
Chief Strategy and Sustainability Officer