



Final Report of the Hearing Officer¹
(Wabtec/Faiveley Transport)
(COMP/M.7801)

1. On 4 April 2016, the European Commission (the "Commission") received a notification of a proposed transaction (hereinafter "the Proposed Transaction") pursuant to Article 4 of the Merger Regulation², by which Westinghouse Air Brake Technologies Corporation ("Wabtec") intends to acquire indirect sole control of the whole undertaking Faiveley Transport S.A. ("Faiveley") by way of purchase of shares. Wabtec is hereafter referred to as "the Notifying Party" whereas Wabtec and Faiveley are collectively referred to as the "Parties".
2. On 12 May 2016, the Commission adopted a decision to initiate proceedings pursuant to Article 6(1)(c) of the Merger Regulation finding that the Proposed Transaction raised serious doubts as to its compatibility with the internal market and the functioning of the EEA Agreement in relation to the markets for complete pneumatic brake systems and their subsystems (bogies brakes and pneumatic brake controls), pantographs, brake discs and friction materials.
3. On 17 June 2016, the Commission adopted a decision pursuant to Article 10(3) of the Merger Regulation, extending the second phase period for reviewing the Proposed Transaction and the deadline for adopting a final decision by 20 days with the agreement of the Notifying Party.
4. On 8 July 2016, the aforementioned time limit was suspended in accordance with Article 10(4) of the Merger Regulation and Article 9 of the Merger Implementing Regulation³. The suspension ended on 13 July 2016.
5. On 25 July 2016, the Notifying Party submitted commitments to the Commission ("First Commitments") and the Commission launched a market test to assess

¹ Pursuant to Articles 16 and 17 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings, OJ L 275, 20.10.2011, p. 29 ("Decision 2011/695/EU").

² Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of concentrations between undertakings, OJ L 24, 29.1.2004, p. 1 (the "Merger Regulation").

³ Commission Regulation (EC) No 802/2004 implementing Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (OJ L 133, 30.4.2004, p.1; corrigendum OJ L 172, 6.5.2004, p. 9) as last amended by Commission Implementing Regulation (EU) No 1269/2013 of 5 December 2013 (OJ L 336, 14.12.2013, p. 1) (the "Merger Implementing Regulation").

whether these First Commitments were suitable to address the competition concerns maintained during its second phase review in relation to the markets for the production and supply of sintered brake pads and blocks in the independent aftermarket ("IAM") in the EEA.

6. On 16 August 2016, the Notifying Party submitted revised commitments to the Commission ("Final Commitments"), after having received feedback from the Commission on its assessment of the First Commitments, including the results of the market test.
7. There were no applications to be heard as an interested third person in the present proceedings.
8. The Commission did not issue a statement of objections pursuant to Article 13(2) of the Merger Implementing Regulation. There was no formal oral hearing in accordance with Article 14 of that regulation.
9. The draft decision declares the Proposed Transaction compatible with the internal market and the EEA Agreement, subject to full compliance by the Notifying Party with the Final Commitments as conditions and obligations attached to the draft decision.
10. Pursuant to Article 16 of Decision 2011/695/EU, I have examined whether the draft decision deals only with objections in respect of which the Parties have been afforded the opportunity of making known their views. I conclude that it does.
11. I have not received any further procedural request or complaint during the present proceedings and overall I consider that the effective exercise of procedural rights has been respected.

Brussels, 22 September 2016

Joos STRAGIER