Opinion of the Advisory Committee on Mergers given at its meeting of 21 September 2016 regarding a draft decision relating to Case M.7801 — Wabtec/Faiveley Transport

Rapporteur: Estonia

(2018/C 113/05)

Concentration

1. The Advisory Committee agrees with the Commission that the notified transaction constitutes a concentration within the meaning of Article 3(1)(b) of the Merger Regulation.

2. The Advisory Committee agrees with the Commission that the notified transaction has a Union dimension pursuant to Article 1(3) of the Merger Regulation.

Relevant markets

3. The Advisory Committee agrees with the Commission's definitions of relevant product and geographic markets in the draft decision.

4. In particular, the Advisory Committee agrees with the Commission's conclusions that:

   4.1. pneumatic friction brake systems for rolling stock constitutes a separate product market, distinct from other types of brakes and from hydraulic brakes;

   4.2. distinct markets exist on the one hand for complete pneumatic friction brake systems for rolling stock and, on the other hand, for sub-systems thereof (mechanical brakes, brake controls and air-supply units);

   4.3. with respect to friction materials for rolling stock, distinct markets exists for (i) organic pads, (ii) sintered pads, (iii) organic blocks/shoes and (iv) sintered blocks/shoes;

   4.4. brake discs constitute a distinct market, separate from friction materials;

   4.5. pantographs and pantograph contact strips constitute distinct markets, separate from each other; and

   4.6. the relevant geographic scope of all markets for rolling stock equipment is EEA-wide but that the exact geographic scope of the markets for energy meters and event recorders can be left open.

Competitive assessment

5. The Advisory Committee agrees with that Commission that it is adequate to assess markets for rolling stock equipment at the OEM level, except for components that need regular replacement (e.g. friction materials and brake discs) for which a separate assessment at the IAM level is warranted.

6. The Advisory Committee agrees with the Commission that the proposed transaction, as initially notified by the Notifying Party, is likely to significantly impede effective competition in the internal market or a substantial part thereof in particular as a result of the creation or strengthening of a dominant position with respect to:

   6.1. sintered brake pads in the IAM in the EEA; and

   6.2. sintered brake blocks/shoes in the IAM in the EEA.

7. The Advisory Committee agrees with the Commission that the proposed transaction would not result in significant impediment to effective competition with respect to any other relevant market concerned by the proposed transaction.

Commitments

8. The Advisory Committee agrees with the Commission that the commitments are sufficient to remove the competition concerns raised by the proposed transaction with respect to:

   8.1. sintered brake pads in the IAM in the EEA; and

   8.2. sintered brake blocks/shoes in the IAM in the EEA.

Compatibility with the internal market and the EEA Agreement

9. The Advisory Committee agrees with the Commission that, subject to full compliance with the commitments, the proposed transaction is unlikely to significantly impede effective competition in the internal market or in a substantial part thereof.

10. The Advisory Committee agrees with the Commission that the proposed transaction should be declared compatible with the internal market and the EEA Agreement in accordance with Article 8(2) of the Merger Regulation and Article 57 of the EEA Agreement.