



Siemens / Alstom

Merger Control Between a Rock and a Hard Place?

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GCLC Lunch Talk, 22 March 2019



Freshfields Bruckhaus Deringer

Overview of rolling stock markets

Mainline rolling stock



(Very) high speed trains



Mainline trains

Urban rolling stock



People movers



Metros

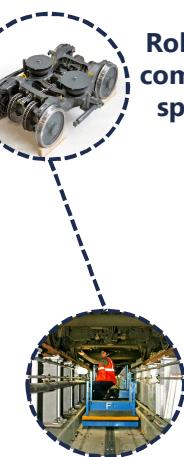


Trams / LRVs

Other rolling stock-related markets



Passenger coaches



Rolling stock components / spare parts



Locomotives

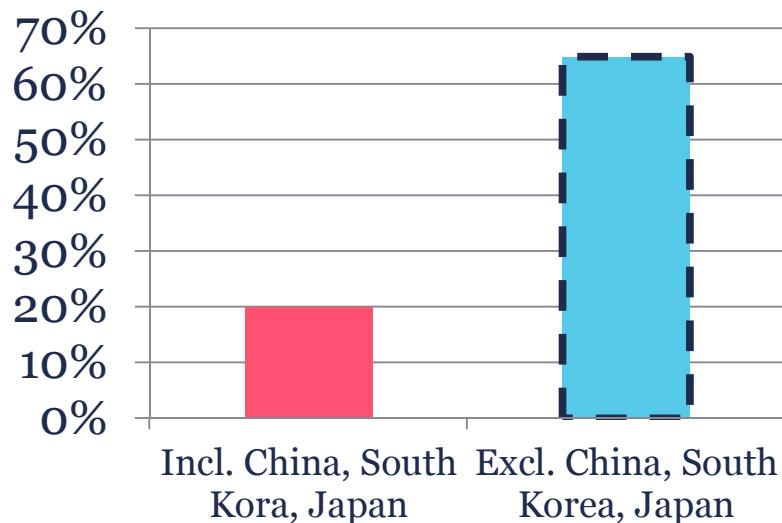


Rolling stock maintenance

(V)HS – Market definition

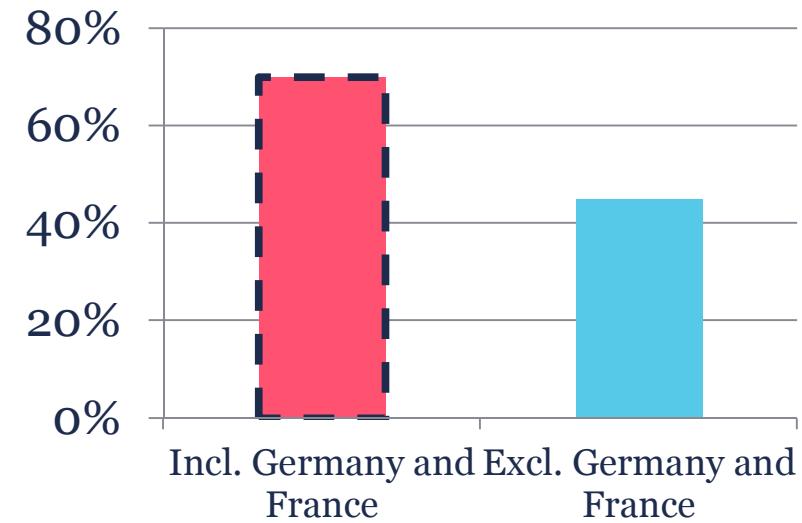
Inconsistent approach to excluding countries with restricted procurement practices

Worldwide (V)HS Combined Share



VS.

EEA (V)HS Combined Share



(V)HS – Focus on historical data

Market share and bidding analysis focused on 10 year period

- 10 year period fails to account for current market conditions in last 5 years
- Overstatement of the importance of the TGV 2020 tender where Alstom was the sole bidder



7 bidders for
pre-
qualification
5 pre-qualified



5 bidders
Won by Talgo

The Chinese are coming!

- CRRC is the **world's largest supplier** of high speed trains (WW market share > 60%)
- Genuine concern and **competitive pressure** felt by business people
- Customers confirm that CRRC is a **credible entrant** within **3-5 years**
- The EC's concerns were based on
 - Presence only in 'lower range' ROS products
 - Doubts around its ability to meet European requirements
- **Appropriate time period to assess entry?**
 - Standard 2 - 3 years or longer?

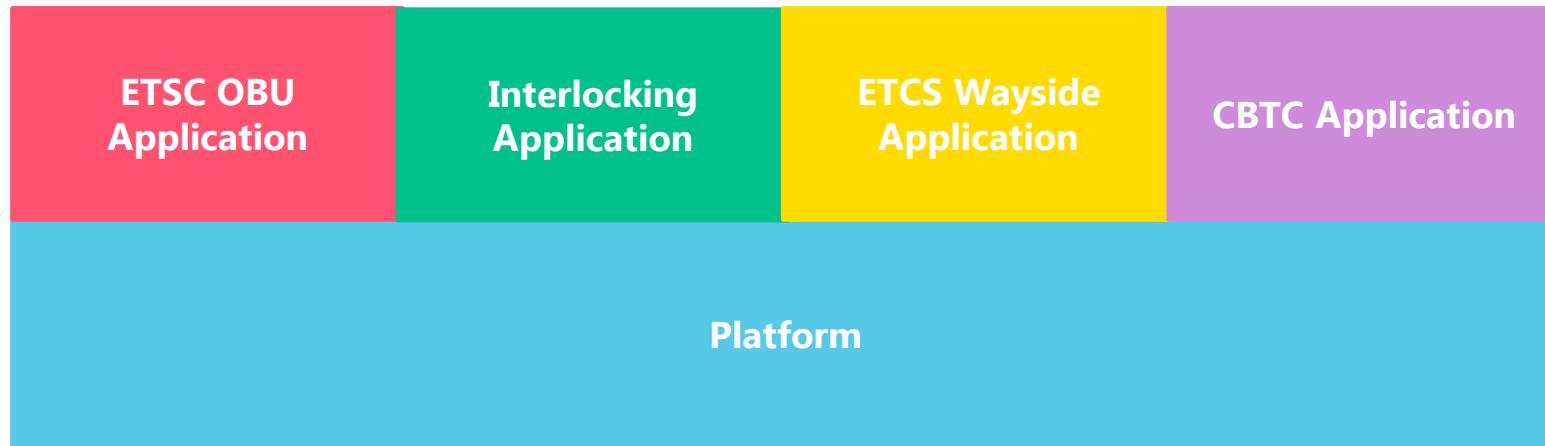


Overview of signalling markets



Signalling: Devising a Workable Remedy

The role of shared platforms



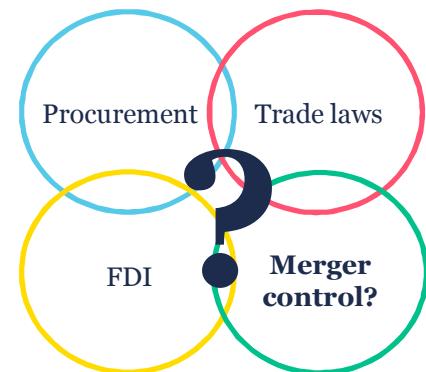
Complicating factor for “mix and match” remedy



The Aftermath ...

Need for regulatory reform in the EU?

- Broad agreement that reforms are required to **protect** EU industry against unfair, state-funded foreign competition
- ... but **mixed views** on how to accomplish that reform
- Many participants in the debate ...
 - Franco-German *Manifesto for a European industrial policy fit for the 21st Century*
 - European Political Strategy Centre, “EU Industrial Policy After Siemens-Alstom”
 - Commissioner Vestager
 - National governments and competition authorities
 - Commercial and trade organizations (e.g. Business Europe)



*‘The current EU rules are obsolete’
‘I think everyone knows that given China’s rise, given
the industrials that emerge in all sectors – railway,
space, energy, artificial intelligence – we need to
gather Europe’s strengths [...] that’s why [the
Commission’s decision is an]
economic error and a political mistake.’*



Potential areas for merger control reform

- **Reduce burden on notifying parties**
 - EU process perceived as combining “the worst of both worlds”: detailed Form CO + extensive production of internal documents
 - Siemens/Alstom: **1,200 page form CO** with approx. **60,000 pages of annexes** + approx. 475,000 **internal documents**
- **Re-open debate on:**
 - Value-based notification thresholds in EU?
 - Changes to the EC - NCA referral mechanisms?
- **Update of the merger guidelines?**
 - Greater account of competition at global level
 - Timeline for assessment of potential entry
- **Right of appeal of the European Council?**

