

BRUSSELS RAIL TRANSPORT BRIEF: MAY 2020

Date: 12 June 2020

European Regulatory Newsletter

By: Miguel A. Caramello Alvarez, Philip Torbøl, Alessandro Di Mario, Francesca Lai, Giulia Marino

ANTITRUST AND COMPETITION

Germany clears CRRC acquisition of Vossloh Locomotives

The Bundeskartellamt, the German Federal Cartel Office, has approved the acquisition of Vossloh Locomotives by CRRC, arguing that the existing concerns did not justify the prohibition of the merger. In his assessment of the CRRC-Vossloh Locomotives acquisition, the Office took into account all the particularities associated with the acquisition of a European company by a Chinese state-owned entity, including possible state subsidies, availability of financial and technical means, and strategic advantages from other shareholdings. Regarding the arguments on why the Bundeskartellamt didn't block the acquisition, President Andreas Mundt announced that: 'Based on our investigations, we were able to exclude a considerable impairment of competition on the European shunter market as a result of the merger'. However, European competitors expect the merger to distort competition.

France decides to support its railway operator SNCF

On 4 May 2020, French Environment and Transport Minister Elisabeth Borne announced that the government decided to support its railway operator SNCF to overcome the COVID-19 crisis. According to SNCF's CEO, the company has lost about EUR 2 billion in revenue due to the coronavirus lockdown and, therefore, a government bailout might be necessary.

The European Commission approves EUR 6 million of state aid to Treeden Group

The European Commission has cleared EUR 6 million of state aid to Treeden Group for the construction of a transshipment terminal in Poland. The project, which envisages the construction of the standard gauge railway infrastructure and the transshipment warehouse with technical facilities, is expected to be completed in 24 months. The new terminal will be constructed at Wola Baranowska station, consent modal shift from road to rail, and store containers and bulk materials. The state aid approval will also benefit the environment and mobility, as it will promote rail transport while decreasing road congestion. The Commission considered the support measure necessary, as otherwise, market operators would not have adequate incentives to carry out investments into such infrastructure.

Voith and PCS to acquire TSA

On 29 April, Voith (the German mechanical engineering Group) and PCS Holding have announced that they will acquire 59 percent of shares of the Austrian manufacturer of electromechanical drives, Traktionsysteme Austria (TSA). The purchase price hasn't been disclosed to the public. The closing of the transaction will be subject to regulatory approvals and is supposed to occur during the second half of 2020. The ownership structure of the new entity will give TSA easier access to new markets, technologies, and financing opportunities.

Australia reviews Alstom's proposed acquisition of Bombardier's global rail business

The Australian Competition & Consumer Commission (ACCC) is conducting an informal merger review of the Alstom's proposed acquisition of Bombardier's global rail business, Bombardier Transportation. In a market inquiries letter, the ACCC announced that the review will focus, among others, on how closely the two companies compete in the rail mobility industry and whether the proposed deal is expected to cause price increase or drop in service levels. An announcement on the deal is expected to be released on 20 August..

€9 million Italian support gets EU approval

Under EU State aid rules, the European Commission has approved, the €9 million Italian aid measures to push the shift of freight transport from road to rail in the area of the port of the city of Genoa, which was severely affected by the collapse of the Morandi bridge. The measures aim at maintaining or increasing the share of freight transported by rail from and to the port of Genoa. The aid will take the form of a subsidy to logistics companies and multimodal transport operators. The goal will be to encourage the use of rail transport. Support will also be granted, in the form of a subsidy, to the concessionaire of rail services in the port of Genoa to compensate the additional costs borne due to the infrastructural disruption.

RAIL REGULATORY AND POLICY

The Commission adopts a package of measures to support the transport sector

On 29 April 2020, the European Commission adopted a package of measures aiming to relieve the transport sector, which was severely hit by the travel restrictions put in place during the coronavirus pandemic to protect public health. The purpose of the measures is to ease administrative burdens and increase flexibility. The Commission proposed to extend the validity date of certain certificates, licenses, and other authorizations and to temporarily postpone certain periodic checks concerning road, rail, inland waterways transport, and maritime security. As regards the rail sector, the Commission proposal extends the three-month deadline by which certain member states must transpose EU legislation on rail safety and interoperability. The delay is hoped to provide the sector with legal clarity and to allow it to focus its time and resources on coronavirus recovery. The Commission announced that other proposals providing additional relief to the transport sector may follow.

The European Commission provides guidance to resume travel

On 13 May 2020, the European Commission published its guidelines to resume transport services in the EU as Member States slowly start to ease their travel restrictions.

The text is part of the tourism and travel package, which puts forward both general principles and specific guidance to reboot cross-border travel by rail, air, road, and water after it came to a halt in an attempt to slow the spread of the coronavirus.

The guidance provides recommendations to shift to online ticket purchasing and check-ins, limiting the number of passengers allowed on-board, disinfecting transport hubs, and stronger ventilation. To prevent making travel "overly cumbersome or even impossible" the suggested measures will need to be mutually accepted at the point of departure and arrival.

The package also provides guidelines for transport vouchers and lifting border restrictions.

PUBLIC PROCUREMENT AND NEW PROJECTS

High-Speed 2 rail project approved by United Kingdom

The Department for Transport has given “Notice to Proceed” for the High-Speed 2 railway project. This marks the formal approval for the launch of the construction phase of the 225 km long line connecting London to West Midlands. The new line will reduce long transit times between London and Birmingham, relieving pressure on other lines running out of the British capital and create 400,000 supply chain contract opportunities. The decision to commence works comes during uncertain times, Andrew Stephenson, the HS2 minister has in fact declared that “[w]hile the government's top priority is rightly to combat the spread of coronavirus, protect the NHS and save lives, they could not delay work on their long-term plan to level up the country.” Works will therefore start in the near future amid the coronavirus crisis.

FlixTrain puts French open access service plans on hold

In June 2019, the German company FlixBus GmbH announced its plans to expand its FlixTrain services on four French domestic routes in 2021, as well as between Brussels and Paris. On 15 April 2020 however, the company said it will eventually not proceed with the project.

Tenders announced to modernize Warsaw rail network

On 17 April 2020, Polish rail infrastructure manager Polskie Linie Kolejowe announced it will hold a tender for the modernization of the Warsaw rail network, which will include the update and creation of lines around the city. The project will be co-funded by the EU and the Operational Programme Infrastructure and Environment, and the works will commence by the end of this year. The ambitious renovation comes after Polish Linie Kolejowe unveiled a 'Warsaw Master Plan' to modernize the Polish capital's rail system and develop its suburban and long-distance traffic.

Electrification services tender for Rail Baltica Project

On 17 April 2020, Rail Baltica opened a tender to provide energy subsystem engineering services. The procedure is composed of two stages: (i) carrying out technical studies, including software simulations, suggesting technical architecture of the energy subsystem, and drafting the technical description for the deployment contracts (ii) and overseeing the project and construction works. The tender is subsidized by Connecting Europe Facility and conducted under Latvia's public procurement laws.

Nederlandse Spoorwegen (NS) announce procurement of EMU fleet

On 15 April 2020, the Dutch national railway operator has launched a tendering process with a request for information sent out to the industry to procure electric multiple units (EMU), in order to update its EMU fleet with single and double deckers. The trains NS intends to purchase should provide for a high capacity for transport and ameliorated accessibility. The initiative comes as older NS trains come to term. The contracts are scheduled to be signed by 2022 and the trains to start operating by 2027.

Austria awards public service contracts to Westbahn and ÖBB to secure operations amid the pandemic

The Austrian Ministry for Climate Action, Environment, Energy, Mobility, Innovation & Technology adopted the decision to award emergency public service obligation contracts to Austrian Federal Railways and Westbahn to secure the continued operation of Wien–Salzburg trains during the coronavirus crisis. The contracts, provisionally running for three months starting on 20 April 2020, provide that the two operators each will run a train each way every two hours between Wien Meidling and Salzburg.

Network Rail completes the Southend Victoria project

Network Rail installed more than 100 km of new overhead wire between Southend Victoria and Shenfield, completing a project worth EUR 52.7 million, aiming to enhance reliability for passengers and bring the line up to the modern standards, characterizing other parts of the network. The whole project envisaged the installation of 320 km of wires and 200 wire support structures, ensuring the correct height and tension on the entire route that runs between London Liverpool Street and Southend Victoria. The success of the project should translate into a bigger and more efficient railway, including fewer delays and cancellations, allowing for more train services to support an increased demand.

Coronavirus, TX Logistik to double food train services

Due to COVID-19, TX Logistik (part of Polo Mercitalia), has decided to double the food train services from 10 to 20 per week. The services, between Bro (Stockholm)–Malmö, are provided for Swedish retail chain Coop and are necessary to supply foodstuffs to supermarkets in the south of the country. The Swedish group has stated that by transporting its goods by rail, it saves up to 9,600 metric tons of CO2 per year compared with road transport.

Second phase of construction works starts for Brescia Est–Verona high speed rail

Rete Ferroviaria Italiana has given the authorization to the Cepav due consortium, led by Saipem, to proceed with the second phase of works (contract valued at €514 million) for the Brescia Est–Verona high speed rail. The second phase comprises the completion of the civil infrastructures for the high speed rail section, along with the construction of the railway superstructure, the electricity transmission system, and technological equipment. By crossing two regions, three provinces, and 11 municipalities and running 30 km parallel to A4 motorway, the high speed rail would reduce road traffic enormously. The total value of the project was estimated at EUR 2.16 billion and approved in 2017 by the Inter-Ministerial Committee for Economic Strategy in Italy and is expected to be completed in 2023.

Loan contract signed between Hungary and China for Budapest–Belgrade line

On 24 April 2020, the Hungarian Minister of Finance, Varga Mihály, has signed a loan contract with China's EximBank for the construction of the Budapest–Belgrade railway line. The loan covers 85 per cent of the costs. The line will connect the Hungarian region to one of the most significant routes of world trade linking Hungary to Piraeus Port via Serbia. The project is considered to be controversial, this mostly relates to concerns over the use of Chinese funding by an EU Member State.

Ferrovie Emilia Romagna awards level crossing contract to WEGH Group

Ferrovie Emilia Romagna has awarded WEGH Group a contract to supply level crossing barrier machines. The two-year contract will allow the replacement of older equipment across the 364 km regional network with new infrastructure, which will be more reliable and easier to maintain. The project includes the provision of several days of theoretical and practical training for maintenance staff.

Swedish Transport Administration issues report proposing Malmö–Brussels overnight train

On 27 April 2020, the Swedish Transport Administration issued a report recommending a Malmö–Köln–Brussels overnight train as the best option for increasing international rail travel to and from Sweden. The transport administration was commissioned by the Swedish government last year to investigate the possibility for procuring regular night trains to cities in continental Europe. The report identified a number of hurdles, amongst other,

practical hurdles (such as the lack of opportunities to acquire the concession for traffic lines that extends to or through Germany under a Public Service Obligation) and procurement issues (whether the project should be directly awarded or done under competitive tendering).

S-Bahn Liechtenstein to proceed

On 21 April 2020, a letter of intent to go ahead with the cross-border S-Bahn Liechtenstein scheme was signed by Liechtenstein's Deputy Prime Minister Daniel Risch and Austria's Minister for Climate Action, Environment, Energy, Mobility, Innovation & Technology Leonore Gewessler. S-Bahn Liechtenstein services would use the existing 18.5 km line running through the principality from Feldkirch in Austria to Buchs SG in Switzerland, connecting existing passenger services in the Land of Vorarlberg and canton of St. Gallen. Around 9 km of the line is within Liechtenstein, but the entire route is owned and managed by Austria's ÖBB-Infrastruktur.

DHL to reduce China–Europe transit time

DHL is looking at further reductions in transit times between China and Europe. This initiative follows the success of the service between Xi'an in China and Hamburg and Neuss in Germany which was launched in November. Partners in this project are China Railway, UTLC ERA and Belintertrans. The Xi'an–Germany express service has been well received, with DHL looking to increase the frequency from every two weeks to weekly. It uses a 9,400 km route through Kazakhstan, Russia, Belarus, Lithuania, and Russia's Kaliningrad exclave, with shipments entering the EU near Braniewo in Poland to avoid delays at other border crossings reducing transit time to 10–12 days from the more usual 15-plus days.

Trenitalia and Bombardier Transportation sign an integrated logistics contract for ETR500 Frecciarossa components

Following the signature of a contract between Trenitalia and Bombardier Transportation, the latter will continue to deliver new, repaired, and overhauled components and spare parts for the fleet of ETR500 Frecciarossa high-speed trains. The contract also covers critical components, such as traction cooling equipment and transformers. The contract is set to provide Trenitalia with a Frecciarossa 1000 fleet of 14 new high-speed trains, which have a capacity of 460 passengers each and are able to run at speeds of 360 km/h.

Fehmarnbelt construction phase in Denmark

The construction contracts between Femern Link Contractors and Femern A/S will allow the latter to start construction works on the Fehmarnbelt tunnel in Denmark. The construction works of the harbour at Rødbyhavn, the tunnel portal in Lolland, and administrative facilities, will start in 2021. The harbour is the gateway for the construction of the tunnel element factory, which will be one of the biggest factories in Denmark, and the whole construction site will be the largest of its kind in Northern Europe. The Fehmarnbelt tunnel link is expected to be opened in mid-2029, the Danish minister of transport said.

Maersk launches China–Turkey railway connection

As part of its intercontinental rail service network, Maersk will run a new China–Turkey rail service, which will link Xi'an city and Izmir. The rail express service, provided on a weekly basis, will connect main locations in China and Turkey with different types of pre- and on-carriage services. Accordingly to their supply chain needs, customers have further flexibility as they can choose different Maersk rail and ocean transport solutions as part of the integrated offerings across ocean, logistics and services.

Knorr-Bremse will supply high-speed equipment for Velaro RUS

Knorr-Bremse and Siemens Mobility signed a contract for the supply of high-speed equipment for Velaro RUS trains running on Russian railway network and for a 30-year maintenance service. Starting in the last quarter of 2020, Knorr-Bremse is expected to deliver the braking, entrance, and HVAC systems for the 13 ten-car Sapsan trains and to provide windscreen wipers and power electrics. Due to extreme climatic conditions, the equipment will need to meet the demanding GOST technical standard that applies in Russia. The Velaro RUS trains, completing the 650-km route between Moscow and St. Petersburg in around three hours 45 minutes, have a capacity of 604 passengers and a top speed of 250 km/h.

Former commuter train tested to deliver vital NHS supplies

Using a Class 319 EMU, a commuter train, GB Railfreight successfully delivered parcels for vital NHS supplies. The test has shown that trains can be loaded and offloaded with standard roll cages at most mainline stations in the UK and that when seats are removed, carriages can contain substantial volumes of parcels. Following the success of the test, GB Railfreight is now discussing with the government to determine how the service may help overcome the logistical challenge of delivering vital NHS supplies.

New agreement between Czech Republic and SNCF on high-speed rail development

Czech railway infrastructure and SNCF concluded an agreement for the development of a planning framework for high-speed lines in the Czech Republic. The aim of the contract is to ensure that a constant control of documentation for zoning decisions and the continuation of works on next technical regulations will be carried out. The first phase, starting in 2020, will focus on the preproject preparation of high-speed lines, which mainly consist in the preparation of documentation for zoning decisions proceedings. For the next phases, the completion of the documentation is a precondition for designing works during the stage of the building permit documentation likely to take place in 2023 at the latest.

VR Group will operate Helsinki commuter rail services

The Helsinki Regional Transport Authority announced that the VR Group was awarded a 10-year contract to operate Helsinki commuter rail services. The commuter trains serve 70 million journeys and travel about 7 million kilometres a year. The fleet providing Helsinki commuter rail services consists of 18 FLIRT electric multiple units manufactured by Stadler. The EUR 400 million contract will enter into force in June 2021 and includes the provision of in-train fleet maintenance services. In order to meet the quality and reliability standards for the train fleet maintenance, VR will develop a fleet maintenance program and use data to reduce the lifecycle costs.

Procurement process launched for HS2 track systems suppliers

On 5 May, formal procurement process has been launched for HS2 track systems following the recent governmental approval for civil engineering elements. The project involves the delivery of 280 km of high-speed track and marks the first construction phase of the HS2 project. The new contract will cover the design and build of the complex track systems between London, Birmingham, and Crewe, where HS2 trains will join the existing West Coast Mainline.

PKP PLK signs a contract for the construction of a Rail Baltica viaduct

The signature of the contract for the construction of a Rail Baltica viaduct by PKP PLK marks the first investment of the railway connection between Czyżew and Białystok in Poland. The €2.3 million project, expected to be finalized by November 2020, will replace the existing rail crossing.

The viaduct, part of Poland National Railway Programme, should be 130 m long and over 25 m wide and will be completed by a pedestrian underpass to provide connection to the train stop. The costs of the Rail Baltica viaduct are covered by the EU under the Connecting European Facility fund.

EIB approves loan for Renfe

The European Investment Bank (EIB) has approved a €320 million funding for Renfe train procurement project. The project has a total value of €642 million. Renfe is set to acquire 72 bimode (electric and diesel) and electric trainsets, to replace old trains operating on the Valencia and Murcia railway network, as well as the regional networks across Spain. During 2019, Renfe has received EIB funding for various projects. A €800 million grant agreement was signed for a project to acquire 211 electric trains for Madrid suburban services. Another loan was given for a purchase of 31 trainsets.

Adif signs agreements for HSR services

Administrador de Infraestructuras Ferroviarias (ADIF Alta Velocidad) has signed with the Ilsa consortium (Trenitalia, Spanish airline Air Nostrum, and Rielsfera) a 10-year framework agreement to operate the three high-speed railway lines. This marks a further step towards Spanish rail liberalization process. The 10-year agreement is aimed at providing transport service to Madrid-Barcelona, Madrid-Valencia/Alicante, and Madrid-Malaga/Seville with high-speed railway connections.

INTERNATIONAL TRADE

RZD Logistics organizes accelerated delivery of medical supplies from China to Russia

On 19 April 2020, RZD Logistics' first container train departed from RZD Shanghai, accelerating the delivery of personal protective equipment and medical supplies to various Russian cities. Shipments will be organised from various cities of China, where the factories are located, to the cities of Russia in need of these goods. General Director Dmitry Murev, explained, 'This is the first stage of a large-scale project that RZD Logistics is implementing by agreement with the Russian Ministry of Industry & Trade'. More containers are expected to depart in the following months.

KEY CONTACTS



MIGUEL A. CARMELLO ALVAREZ
COUNSEL
BRUSSELS
+32.(0)2.336.1946
MIGUEL.CARMELLOALVAREZ@KLGATES.COM



PHILIP TORBØL
PARTNER
BRUSSELS
+32.(0)2.336.1903
PHILIP.TORBOL@KLGATES.COM



ALESSANDRO DI MARIO
SENIOR ASSOCIATE
BRUSSELS, MILAN
+32.(0)2.336.1938
ALESSANDRO.DIMARIO@KLGATES.COM



FRANCESCA LAI
ASSOCIATE
BRUSSELS
+32.(0)2.336.1924
FRANCESCA.LAI@KLGATES.COM

K&L GATES HUB

This publication/newsletter is for informational purposes and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without first consulting a lawyer. Any views expressed herein are those of the author(s) and not necessarily those of the law firm's clients.