UK Rolling Stock Procurement: Memoranda Received

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Written evidence from Angel Trains (RSP 01)

While Angel Trains appreciates that the enquiry will deal with specific points relating to the Thameslink procurement process, we wish to present some questions and thoughts on wider procurement issues in the rail industry.

Will Government or the Rail Delivery Group set out an overarching strategy that provides manufacturers and suppliers with a steady new build order book?

It is the ‘boom and bust’ approach to transport planning and investment over the last few decades that has had the most significant impact on manufacturing and suppliers in the rail industry. (Bear in mind that investment in rolling stock is not just about new trains. Making improvements to existing rolling stock would also provide opportunities for the whole supply chain. It would include improving access for people of reduced mobility, reducing the environmental impact of the stock, and changes to enhance its reliability and capacity. It is this kind of work which is the traditional "lifeblood" of the industry.)

The whole rail industry needs clear goals so that it can contribute to UK economic growth. Certainty and stability for train manufacturing will enable the UK to trade on (and export) its significant expertise in this area, where manufacturing companies in the UK are some of the most innovative and specialised in the world.

There is also a cost implication for the taxpayer. The Railway Industry Association estimates that the lack of continuity of rolling stock production adds approximately 20% to the cost of rolling stock in Great Britain.

Could the private sector have procured the trains more efficiently?

Neither the Thameslink nor the IEP procurement process has actually finished yet. They are still both at the preferred provider stage. The DfT issued its initial Invitation to Tender for IEP in November 2007, but the process of shortlisting suppliers had begun well before then. The Thameslink Rolling Stock Project began in April 2008. Passengers will not see the benefits for many more years. Angel Trains would question whether such a long and complicated process actually delivers value for money for the taxpayer.

Angel Trains would argue that the industry structure has the right skills sets and expertise to manage the process of specifying, financing and managing rolling stock procurement through manufacturers, ROSCOs and TOCs better than the more centralised approach of the DfT. Angel Trains signed contracts with Alstom for the supply of new Pendolino rolling stock (106 vehicles) in September 2008 and the new trains will all be in service by December 2012.

Should PPP continue to be used as the model for rolling stock procurement?

PPP / PFI has only been a successful model for funding investment and delivering projects in some sections of the public sector. The rail industry has thrown up a number of poor examples, and not just in the UK; London Underground PPP contracts have not been a resounding success, but neither has the rolling stock PPP for Reliance Rail in New South Wales.
First, experience has shown that if the nature of the requirement cannot be well identified at the outset then it will be difficult to write successful long-term contracts. Because of fluctuating patterns of passenger demand, rapidly improving technology, and on-going modifications to UK transport policies the specifications detailed in the contract will change significantly if the procurement process is long and drawn out.

Secondly, the rationale for PPP initiatives is that of risk transfer, and the government pays a premium for transferring that risk. However, that premium is a particularly large one in the rail industry: stemming from the fact that the design, manufacture and maintenance of rolling stock are bespoke. By this we mean that the nature of rolling stock makes it very difficult for anyone to take over a contract part way through its term if things are not going to plan. (It is not the same as a hospital or a school PPP, where the government can appoint another construction company to lay bricks, or another management team to manage the service.)

For financial investors the bespoke nature of these contracts represents an important risk. As a result they align themselves with manufacturers who are able and willing to stand behind their products with significant indemnities and guarantees. These indemnities and guarantees – and the risks of significant day-to-day performance regime payments – add major costs to the bids. (It also explains why those manufacturers who have strong credit ratings are at an advantage against those who do not.)

And in the end, despite all these costs piling up to offset the risks set out above government will always remain the operator of last resort (because of the importance of the transport network to the UK economy, and to the daily lives of millions of voters). So even with these large premiums the risk is not totally transferred to the private sector.

*September 2011*
Written evidence from Derbyshire and Nottinghamshire Chamber of Commerce (DNCC) (RSP 02)

The Derbyshire and Nottinghamshire Chamber of Commerce (DNCC) is the third largest Chamber of Commerce in the country with 3,400 Members. Those Members include many companies engaged in supplying the rail industry both in the UK and abroad. Most of these companies are located in the country’s largest rail industry and service hub, located in and around Derby.

DNCC keeps in constant touch with its Members and is well placed to provide the Select Committee with evidence and opinion on this matter.

The rail industry is highly regulated and investment decisions are heavily influenced by Government decision and process. For there to be a healthy and viable rail industry in the United Kingdom there needs to be supportive Government policies, particularly in respect of procurement. This Chamber is therefore highly critical of the Government's handling of the Thameslink procurement process from its inception to the naming of Siemens as the preferred contractor.

This decision has implications for the longevity of UK based manufacturing and design capability and will severely limit the UK's ability to participate in this key economic sector. There is concern that the loss of mass manufacturing would have a deleterious effect on the world class consultancy sector also located in and around the city of Derby. This evidence therefore sets out the perceived flaws in the UK procurement process and records the potential damage that could be done to the Derby and UK economy as a result of the current policy and practices.

This Chamber believes that the basis of the Government's procurement policy must be changed to take into account the wider economic impact and strategic importance of decisions. It is heartened by the BIS Secretary of State Vince Cable's announcement made on 5 July 2011 that he will consider the application of EU procurement rules in the next stage of the Growth Review. The Committee is urged to endorse this approach.

DNCC has called on the Transport Secretary Philip Hammond to open up to public scrutiny his claim that awarding the Thameslink contract to Siemens, instead of Bombardier, provides the "best value for the UK taxpayer". This statement almost certainly does not take into account the social and economic costs of the downsizing or loss of the Bombardier plant and the associated supply chain nor the effect on the UK Balance of Payments. Furthermore, the Chamber believes that this decision is wholly counter to the declared aim of the Government to bolster British Manufacturing and support growth in the regions.

Whilst the Chamber supports procurement of goods and services that offer the best value and price, it believes that large industrial sector-shaping public contracts need to consider the wider social and economic impact of respective
bids. It is also essential that when these bids are being determined that full knowledge of the identity of the bidders and the effect of decisions should be available to the decision-makers so that the wider context can be taken into account.

This practice is the norm in the rest of Europe and affects procurement process in other European states. For example, almost all trains, trams or buses procured by the French Government are made in France. In Germany 90% of its transport procurement is German. These countries have safeguarded the prospects of their domestic suppliers without infringing EU procurement laws. UK procurement policies and practices should become similarly aligned.

Bombardier is the UK’s only integrated train designer and manufacturer. It is a highly successful global company used to winning contracts against competitors in many countries. Of the last 14 bids it has made to supply rolling stock it has won 11. In contrast, on the last five bids made where the UK Department of Transport was awarding the contract it has won none. This may simply be bad luck, or it could suggest that there is something prejudicial with the Department’s procurement process that favours companies located in Germany or elsewhere where there is access to cheaper finance.

The current policy and practice has resulted in real damage being done to an important UK manufacturer and a key component of the last advanced engineering cluster in the UK. This is highly significant for the health of the UK economy.

Research commissioned by DNCC, Derby City Council and emda entitled "Planes, Trains and Automobiles", which was submitted to all Government departments, highlighted the importance of the rail sector to the integrated advanced engineering cluster located in and around Derby and which includes other key companies such as Rolls Royce, Toyota and JCB. This decision, if it results in the closure of Bombardier, will damage this cluster and severely affect the large supply chain. Potentially it will jeopardise a large proportion of the £2.6 billion contributed to the local and national economy by the rail sector and adversely affect many of the 5,000 people directly employed and the further 8,500 people indirectly employed in the sector. This means that there needs to be total transparency on why the decision has been made and what the national advantages are of that decision which will cause so much collateral harm.

The Chamber therefore would urge the Committee to do the following:-

1. Strongly support Vince Cable’s intention to review the Government’s procurement process to ensure it is better aligned with those operated in other EU countries.

2. Call for full transparency of the Thameslink decision to allow greater understanding of why the Bombardier plant has been placed at risk.
3. Support any ways in which other procurement could be commissioned in the short term to alleviate the real damage that is being done to the engineering cluster in Derby.

August 2011
4 August 2011

Dear Ms Ellman

UK Passenger Rolling Stock Procurement

I see from your press release dated 13 July 2011 that the Transport Select Committee have scheduled a one-off oral evidence session for 7 September 2011 to debate matters related to UK rolling stock procurement. This follows the recent choice of Siemens plc as the Government's preferred bidder for the supply of the new Thameslink trains. As one of a number of rolling stock financiers, Porterbrook has no public view on the relative merits for the UK railway of the Siemens or Bombardier rolling stock products. In fact in the period since rail privatisation in 1995, Porterbrook has procured substantial amounts of rolling stock from both manufacturers. To illustrate this, I have attached a schedule detailing all the rolling stock procured by Porterbrook since rail privatisation.

As you can see from the schedule, Porterbrook's skill, expertise and experience in this area is significant. To date, the company has purchased in excess of £2 billion of new trains. In the United Kingdom, the company has purchased more than £1.7 billion of new passenger rail vehicles. This has involved Porterbrook in agreeing detailed train specifications with the train operator, the manufacturer and the Department for Transport. In line with McNulty best practice, Porterbrook has conducted this procurement with a view to minimising industry whole life costs by purchasing EMUs and DMUs with a broadly standardised and homogenous generic platform such as Desiros, Electrostars and Turbostars. As you can see from the attached schedule, this accounts for the majority of Porterbrook's investment in new rolling stock. This emphasis in standardisation should have helped deliver longer and more cost effective production runs for the manufacturer. It should also help minimise the whole life maintenance costs.

Throughout the last 16 years, Porterbrook has also worked alongside both train operators and manufacturers to project manage the delivery of the new rolling stock. As a company we have heavily invested to do this as we want a quality asset delivered on time with a strong residual value. For this very reason, the company employs over 50 high calibre engineers and project managers.

Contd...
Then there is the matter of funding the procurement of the rolling stock. Throughout its history, Porterbrook has a long and successful history of providing cost effective and innovative financing solutions for rolling stock. Indeed, only in the last 12 months or so, Porterbrook has successfully refinanced the £1.5 billion of short term acquisition bank facilities put in place when the company was purchased from Abbey in 2008 with a mixture of long and medium term bank, bond and bilateral loan facilities. This demonstrates that Porterbrook has the proven capability to fund new rolling stock as part of a procurement process.

Porterbrook is of the view that during this period it has provided a very effective package of skills and capability to support UK rolling stock procurement. Porterbrook has no strong desire to give oral evidence to your Committee but writes only to put on record our own experience in this area and to comment on some of the features of the recent Thameslink and IEP procurement projects. In these particular projects, Porterbrook was not an active participant. The principal reason for this was the model for the procurement was quite different to that previously used. In the new model it was expected that the manufacturer would lead the whole process by:

- Arranging an equity consortium for the long term ownership of the rolling stock.
- Arranging whole life financing of the new train fleet by utilising its own and the consortium’s balance sheet capability.
- Provision of long term rolling stock maintenance and a train performance regime supported by appropriate investment in depot and maintenance facility infrastructure.
- Project management of all new train commissioning to the rail network.

To have participated in this process Porterbrook would effectively have had to commit to a single manufacturer and product before it had seen comparative train specifications or commercial terms. This is not how as a company we prefer to do business. Our preference is to select the best technical product for the railway with the best residual value and whole life costs as this is the best way of protecting our equity returns and delivering best value for money to the railway. In these projects this was not possible and as we had particular concerns with the complexity and cost of the specification for the IEP Project it became an even greater issue. Moreover, packaging the overall funding costs with the technical characteristics and the cost of the trains clouds the decision making process. Historically, Porterbrook has chosen the best manufacturer rolling stock product and purchased it with the best finance it can. In the new model, the manufacturer with the best credit rating is always going to have a material bidding advantage depending upon the relative weighting of the procurement criteria. Finally, these new projects are train service provision contracts with long term maintenance provision and a performance regime. Obviously Porterbrook has not seen the figures included in the respective bids but, as a company, we are unsighted whether the quoted train lease rentals represent value for money when compared with rentals in our contracts under the more traditional procurement model. This will depend entirely on the value attributed to the performance regime and the underlying franchise agreement relating to performance.

As I have stated above, Porterbrook has no particular view on the detail of the decision regarding the procurement of the Thameslink trains. As a company we merely wished to put on record our own experience in this area and some observations on where the most recent procurement models used may not work in the best interests of the railway industry in delivering value for money.

Contd...
Of course, we would be pleased to meet with you to discuss this letter if you have any further questions.

Yours sincerely

[Signature]

Paul Francis
Managing Director

Enc
Written evidence from the Department for Transport (RSP 04)

Introduction

This Memorandum has been produced in preparation for the Transport Select Committee hearing into UK rolling stock procurement on 7 September 2011.

It covers the overall status of the current UK rolling stock market. As requested it focuses in particular on the current procurement of the new trains required for the Thameslink Programme and addresses a number of points that have been raised in the media following the Department for Transport’s decision to award preferred bidder status to Siemens plc and Cross London Trains (XL Trains). It also covers the Government’s approach to future procurements as set out in the recently announced Growth Review.

It must be stressed from the outset that it is not possible for the Department to disclose details of the proposals provided from either of the shortlisted Thameslink bidders whilst the procurement is ongoing as much of the information is commercially sensitive and disclosure at this stage would prejudice the commercial interests of both the bidders and the Department, and potentially result in the unequal treatment of the bidders. Further, the Department and the bidders are constrained by the legally binding Process Agreement which was entered into to protect that commercially sensitive information.

This Memorandum will address the following matters:

- Overall status of the UK rolling stock market;
- Background to the Thameslink Programme;
- Thameslink rolling stock project, including procurement timeline;
- Commercial structure for the Thameslink rolling stock project;
- The Thameslink Invitation to Tender, evaluation and decision making process;
- Future procurements;
- Points raised by the media following the Thameslink preferred bidder announcement.
Overall status of the UK rolling stock market

Rolling stock procurement in the UK is a multi billion pound market. Since railway privatisation there has been massive investment in new rolling stock to replace fleets of trains dating back to the 1960’s. The most notable investments have been the replacement of the fleets of trains for the commuter services of south east England in the mid 2000’s and new trains for the West Coast Main Line and Cross Country routes. Overall, since privatisation in 1996 over 5,500 new carriages have been ordered by UK train franchise operators which represents around 50% of the current UK passenger fleet. In addition a further 1,800 carriages have been ordered for London Underground since 1996.

The principal suppliers of new trains to the UK main line rail network have been Alstom, Siemens, Hitachi and Bombardier. Alstom has supplied new “Pendolino” trains for the West Coast Main Line from its factories in Savigliano in Italy and Washwood Heath in Birmingham (the latter facility closed in 2005). Siemens has supplied new trains for South West Trains, Trans Pennine Express, London Midland as well as for Scot Rail from its factory in Germany.

Hitachi has supplied the new “Javelin” train for commuter markets in Kent that operate on the High Speed 1 line. These trains were manufactured in Japan. Hitachi are part of the Agility Trains consortium appointed as preferred bidder for the new trains for the Intercity Express Programme. Hitachi are proposing to construct a new train assembly plant at Newton Aycliffe in the north east of England to build the trains for this project in the UK. They would also use this factory to manufacture new trains for other European orders in the future.

Since privatisation, Bombardier has supplied the greatest number of new trains across the UK main line rail network and also for the London Underground network, with a combined total of over 4,500 new carriages ordered since 1996. The Bombardier plant in Derby has supplied by far the majority of this number, with the remainder being supplied from its factory in Belgium (Voyager, Meridian and Pioneer trains).

The Spanish company CAF also has a presence in the UK rolling stock market, supplying diesel trains for Northern Ireland Railways. They have also been a major sub contractor to Siemens, for example for the trains for the Heathrow Express service.

In recent years interest has been shown from other global manufacturers to attempt to enter the UK rolling stock market. This includes the China South Locomotive and Rolling Stock Corporation.

For all manufacturers, the train parts assembled at the factories are sourced from a large variety of sub suppliers right across the world, including emerging markets such as China. As such train manufacturing is truly a global business and not just concentrated in one particular country or location.
Furthermore, the train manufacturers make components from a range of their own factories around the world. For example Bombardier's bogies are manufactured in a Bombardier factory in Germany. For Siemens, bogies are manufactured at their factory in Austria. This further underlines the global nature of the business.

Procurements have traditionally been based on a model whereby Rolling Stock Leasing Companies (ROSCO’s) purchase trains from a manufacturer, with the Train Operating Company (TOC) then paying for the use of the train to a ROSCO for a fixed period of time as a lease cost. To encourage investment in new rolling stock the Department has provided undertakings to ROSCOs that the trains will be utilised beyond the life of a specific train operating company franchise, therefore providing certainty to the ROSCOs that the lease cost will continue to be paid. This particularly applies when a train operating company has a relatively short franchise term.

There have been occasions where the Department have had a more direct involvement in the procurement of new trains. This particularly applies to the Thameslink and the Intercity Express projects. As a rule however it is expected that this train operating company/ROSCO procurement model will continue for most future rolling stock orders. It will be for the train operating company to specify whether new rolling stock is required for their franchise term in response to the Department issuing an output related specification of the services it expects the train operating company to deliver. This approach has been highlighted by Sir Roy McNulty in his recent review of the structure of the rail industry. As such, for the majority of procurements, the Department will continue to have an “arms length” involvement, with the train operating companies and ROSCOs having the responsibility for choice of supplier.

Following the completion of the Spending Review last year the Government reaffirmed its commitment to a programme of significant investment in UK rail as part of its overall drive to stimulate sustained economic growth. Billions of pounds have been committed to a programme of schemes such as Crossrail, Thameslink, rail electrification, station modernisation and capacity improvements.

As part of this, the Government remains committed to continued and sustained investment in the UK rolling stock market. Through the continuation of Crossrail, Thameslink, the Intercity Express Programme and other programmes this Government has announced that around 2,700 new carriages will be delivered on to the mainline rail network by 2019. London Underground is also investing in new trains with significant numbers currently being introduced on the Victoria and Sub Surface Lines. There are also plans for replacing the Underground trains on the deep level tube lines after 2016.

**Thameslink Programme Background**

The full continuation of the Thameslink Programme was announced by the Government in November 2010. The Thameslink Programme aims to relieve congestion on some of the most crowded commuter routes into London and
provide capacity for future growth in demand. It will deliver significant benefits and make travelling across London and the south east faster, easier and more reliable and will reduce crowding on some of the busiest sections of London’s transport network including the heavily congested London Underground Victoria and Northern lines. It provides for improvements to the rail infrastructure and major upgrades to central London stations such as Blackfriars, Farringdon and London Bridge.

The Thameslink Programme will also see the introduction of a new generation of electric commuter trains operating with metro-style frequency through the central section during the morning and evening peaks by the end of 2018.

The introduction of these new trains will enable the cascade of existing Thameslink trains to other parts of the rail network. This includes the supply of trains for the electrification proposals for the North West of England and the Thames Valley routes.

Network Rail are delivering the necessary infrastructure works with redevelopment of Blackfriars and Farringdon station well progressed enabling the first 12 car trains to operate on the route from Bedford to Brighton from December 2011 as planned.

The major works to improve London Bridge station will be implemented after the Olympics with work planned to be completed by 2018. The works include a reconstruction of the station with a new and larger concourse. Following completion of these works Thameslink trains will run at a frequency of up to 24 trains per hour in either direction through the central London section. There will be an interchange with Crossrail at Farringdon station.

**Thameslink Rolling Stock Project**

Following a comprehensive market testing exercise which involved consultation with a wide range of organisations, including the rolling stock manufacturers, the Department initiated the procurement of circa 1200 new railway carriages for the Thameslink Programme in April 2008 through the release of an OJEU notice. After the completion of an intensive evaluation and negotiation process the Department announced on 16 June 2011 that Siemens Plc and XL Trains - a consortium of Siemens Project Ventures GmbH, Innisfree Ltd and 3i Infrastructure Plc – were the preferred bidder for the new trains order. The Department is continuing to work closely with Siemens and XL Trains to conclude the contractual arrangements and is targeting contract award this winter.

The timeline for the Thameslink procurement is as follows:

- April 2008: issue of pre-qualification OJEU
- November 2008: issue of invitation to tender
- June 2009: tender returns
October 2009: Alstom deselected from competition

June 2011: Siemens Plc and XL Trains announced as preferred bidder

December 2011: target date for financial close

Early 2015: first trains scheduled to enter passenger service

2017: delivery complete of all trains

December 2018: commencement of Thameslink 24 trains per hour service in either direction through central London

**Thameslink rolling stock commercial structure**

As mentioned above, since privatisation the majority of new train procurement exercises have been undertaken by train operators and/or rolling stock leasing companies and as a rule it is expected that this model will continue for most future procurements. However, for the reasons set out below, the Department elected to lead the procurement of the Thameslink trains up to the contract award stage, with the Thameslink train operator then entering into the contract for the new trains thereafter. The Department’s reasons for this approach are set out below:

- The Thameslink Programme introduces new trains across 3 existing train operating franchises – First Capital Connect (FCC), Southern and Southeastern. Consequently, the Department, as the train operating franchise specifying and letting authority, was the only party capable of providing overall control and direction to these parties;
- Delivery of the new Thameslink trains into service will continue beyond the contracted end dates of the existing train operating franchises;
- The existing train operating franchises had not been let with a requirement to procure large numbers of new trains. Any variations to the franchises to accommodate this requirement may not have resulted in good value for money for taxpayers (as they would have to be negotiated in an uncompetitive environment).

For similar reasons, the Department is undertaking the procurement for the new trains for the Intercity Express Programme. This approach, where the Department leads initially, is not unique. For example, in 2001 the Strategic Rail Authority (on behalf of the Government) commenced the procurement process for the replacement of the Mk1 ‘slam door’ trains for the South Central, South East and South West franchises. Such an approach was also adopted for the new commuter trains now operating between London and Kent on the High Speed 1 network.
Whilst the Department is responsible for the Thameslink procurement it is important to stress that it has worked closely with key industry stakeholders on the design of the procurement and subsequent evaluation of the bids. This includes the existing Thameslink train operator First Capital Connect (FCC) and Network Rail. The Department will continue to lead the procurement process up to contract award supported by FCC who have been involved in the contract negotiations with bidders leading up to the preferred bidder decision. At contract award FCC will enter into the contract for the new trains. Upon the expiry of FCC’s existing train operating franchise the new Thameslink trains contract will be novated to the successor franchise.

In order to ensure that FCC are able to take leadership post contract award, FCC has established a team to oversee the activities of Siemens during the critical train and depots design phase. The Department will continue to be involved in the process post contract award to ensure the overall outputs continue to be delivered and also to ensure delivery of its obligations as set out in the suite of agreements with Siemens.

Network Rail has also had a significant role in the procurement project to date. Initially they assisted in the development of the invitation to tender documentation in so far as it impacts the infrastructure interface. Furthermore, Network Rail has been fully involved in the bid evaluation from a technical perspective. In particular Network Rail has played a key role in reviewing the bogie characteristics from each of the bidders to ensure confidence in the important area of wheel/rail interface. Going forward, Network Rail is leading on the System Integration workstreams to ensure the proposed new trains, upgraded infrastructure and revised operating procedures “gel” together to deliver the overarching Thameslink Programme objectives.

The Department also has an objective of moving away from “hell or high water” train leasing payments where the train operator pays for the ongoing lease of the train irrespective of reliability of the train. For the Thameslink trains the Department has introduced a degree of risk transfer such that if the trains are not performing to their targets then an element of the lease payment is withheld.

**The Invitation to Tender (ITT):**

**Consultation and design of procurement**

The Department’s Train Technical Specification for the new Thameslink trains is an output specification which requires trains that are highly reliable, can achieve the very exacting dwell time demands and thus deliver 24 trains per hour through the core central London Thameslink route, and will provide reductions in whole life and whole industry cost through a reduction in track damage and lower energy consumption. There is no train design currently operating in the UK that can meet these requirements and consequently it was incumbent upon all bidders to develop the next generation of trains that will
meet these objectives. It therefore follows that the bidders’ proposals would include a degree of design innovation.

The Department undertook a consultation exercise before finalising the content of the ITT. In April 2008 the Department held an Industry Day at which it outlined its plans and included details of the programme overview, train technical requirements, infrastructure interface, commercial and financial structure, operator’s perspective and the procurement process that would be adopted. The Industry Day was attended by over 100 interested people representing a wide range of train manufacturers, ROSCOs, banks, financial advisors, legal advisors and project management organisations.

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The Invitation to Tender was developed by the Department and its technical, financial and legal advisors in collaboration with Network Rail, FCC and Passenger Focus.

The Integrated DBFM (Design, Build, Finance, Maintain) with train operator involvement structure was assessed as being the most suitable approach for Thameslink. The requirement to include finance was essential as the Department does not have the funds to purchase the trains and depots outright.

This type of design, build, finance and maintain structure, whereby the responsibility for providing the financing is passed to the private sector, has been used widely in the UK and across Europe in public procurements and has successfully led to many companies with a wide range of credit ratings being involved in providing services to the public sector.

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The structure of the ITT gave bidders the freedom to engage with manufacturers, investors and funders in order to produce the best value for money solution over the 30 year life of the project.

**Invitation to Tender**

In response to the issue of the OJEU, five organisations expressed an interest in the project and four were subsequently invited to bid: Alstom Transport, Bombardier Transportation, Hitachi Rail (Europe) and Siemens plc. Hitachi Rail (Europe) withdrew from the competition prior to the deadline of submitting tender returns as they wanted to concentrate on the Intercity Express Programme. Alstom were deselected from the competition in October 2009.

The procurement competition invited pre-qualified companies to submit proposals for a fully financed package for the design, manufacture, entry into service and support of a new fleet of trains and the design and construction of two new train maintenance depots. The trains and depots will be owned by the successful bidder and leased to the Thameslink Train Operator.

The Invitation to Tender was issued to the four pre-qualified bidders in November 2008. The documentation was placed on the DfT website shortly thereafter, and hence has been in the public domain for over 2½ years.
In April 2009 the Competition Commission produced a report on the rolling stock leasing market. In that report the Competition Commission found there to be no particular issues around the bundling of maintenance with leasing and indeed found wet leasing\(^1\) to be sometimes beneficial on efficiency grounds. The Competition Commission also considered it to have a relatively benign impact on competition and the entry of rivals into the market. No alterations were therefore made to the process or procedure as a result of this report.

At no time during the bidding process or prior to the appointment of Siemens and XL Trains as the preferred bidder did any bidder raise concerns about the structure of the tender, the evaluation criteria being used, the requirement for bidders to provide all necessary funding or any other aspect of the procurement approach being adopted.

The Tender Evaluation Criteria

The evaluation criteria was detailed in the ITT and therefore published on the Department’s web site. It involved a four stage process. The first three stages allowed the Department to assess the bidder’s technical, financial, depot, maintenance and project deliverability proposals. Proposals that were assessed as meeting the minimum requirements of each of these three stages were then subject to a whole life and whole industry cost assessment. Therefore any proposal which met the minimum requirements of stages one to three has satisfied the Department that the bidder is able to design, manufacture, maintain and finance a trains and depot solution which will meet the project aims.

Once the Department was satisfied that one or more proposals met the stage one to three thresholds, the Department selected the proposal that offered the best value for money as determined by the whole life and whole industry cost model. More detail of the evaluation stages is provided in Annex 1.

Evaluation and Decision Marking Process

Throughout the evaluation process the identities of all bidders were anonymised in line with Departmental policy, and to eliminate any personal bias prejudicing the outcome of the competition.

The results of the evaluation were then presented to the Department’s Contract Award Committee, which is responsible for, and gives approval to proceed with, all procurement activity associated with major procurements undertaken by the Department.

Based on the principal of anonymity the Thameslink preferred bidder decision was approved at the Contract Award Committee on 27 April 2011. The decision

\(^1\) Wet leasing refers to the arrangement whereby the leasing of the trains is accompanied by the provision of a full train maintenance package. Alternative arrangements include dry leasing whereby the trains are leased without maintenance and the train operator either maintains the trains themselves or procures their own maintenance contract.
was then endorsed by the Board Investment Commercial sub-Committee (BICC) on 4 May 2011 and was reported to the main Department for Transport Board on 6 May 2011. The recommendation was made to the Secretary of State who gave his approval on 12 May 2011. On the same day, but after he had approved the recommendation, he was informed of the identity of the preferred bidder. It is standard practice for major Government announcements to be co-ordinated across Departments. Taking this into account and the protocol of not making major Government announcements during times when Parliament is in recess the preferred bidder decision was announced on 16 June 2011.

**Future Procurements**

As mentioned earlier it is intended that train operating companies will continue to procure new rolling stock required for new train franchises. We are aware for example of potential proposals from the private sector to modify the existing fleet of Voyager trains on the Cross Country route and are interested in understanding the feasibility and value for money of this proposal further.

An exception to this market led approach is the new trains required for the Crossrail project which is being procured by Crossrail Limited (a wholly owned subsidiary of Transport for London). This is for an order for around 600 new railway carriages. Contract award is expected late 2013.

Furthermore, were the Government to decide to progress the High Speed 2 project, new rolling stock would be required. It is too early at this stage to make a definitive statement as to which procurement route is most suitable for this project but there is a possibility that this could be Government led.

There is also a recognition that the UK rolling stock market has been plagued with extremes of “feast” and “famine” as is evident at Bombardier’s Derby factory. The Business Secretary and Transport Secretary are committed to working with the industry to deliver a more sustainable market for future long term rolling stock orders than the one that was inherited in 2010. As part of this, and drawing on the conclusions from Sir Roy McNulty, the Government is looking to specify longer train operating company franchises which will help give the market greater certainty of longer term rolling stock requirements and thus help to “smooth” the order profile going forward.

For all future Government led procurements (i.e. not just rolling stock) the Prime Minister has now asked the Growth Review to look at the degree to which the Government can set out the requirements and the evaluation criteria with a sharper focus on the UK’s strategic interest, including a review of public procurement practice and outcomes in other EU Member States. The results of these reviews will inform future Government led procurements.
Points raised by the media following the Thameslink preferred bidder announcement

Following the announcement of Siemens and XL Trains as the preferred bidder for the Thameslink Rolling Stock Project a number of issues have been raised in the press about the procurement process and the selection of Siemens and XL Trains as the preferred bidder. Set out in Annex 2 is the Department’s response to these issues, insofar as the Department is able to comment at this stage in the competition recognising its commitments under the Process Agreement. The issues raised are:

- Train design including bogies;
- Credit rating;
- The purpose of bidder anonymity;
- Procurement Directive;
- Socio-economic factors in the Thameslink procurement;
- Risk of stopping the procurement now and starting again with a new procurement;
- Subcontracting work to a competitor;
- Corruption allegations.
Annex 1 - Thameslink rolling stock evaluation criteria

Stage 1: Mandatory Requirements

The Department identified criteria which must be satisfied by bidders in order for their proposals to be considered further. These are the basic characteristics required for any train to be able to gain access to the Thameslink Network and operate the Thameslink 24 trains per hour service.

Any proposal which failed to meet any of the Mandatory Requirements would not have been taken forward for further consideration.

Stage 2: Technical Requirements and Financial Deliverability

Once proposals satisfied the mandatory requirements in Stage 1, the Department then undertook an assessment of the overall technical requirements and the financial deliverability.

The overall technical requirements were separated into three areas:

i. Train Technical Specification (TTS): The Department required that proposals achieve a minimum compliance level of 75%. The TTS requirements included compliance with all British and European Standards, Unit Mass, Reliability, Gauge and Track Interaction, Ride Quality, Noise and Vibration and Design Life.

ii. Train Infrastructure Interface Specification (TIIS): The Department required that proposals achieve a minimum compliance level of 75%. TIIS requirements included requirements for Gauge, Wheel-Rail Interface, Axle Loading and Route Availability.

iii. Train Maintenance and Depots: The Department assessed proposals for the continued achievement of the train design performance and reliability and availability undertakings throughout the design life of the trains. The Department required that proposals achieve a minimum compliance level of 50%.

The financial deliverability requirements were separated into two areas:

iv. Funding Deliverability: The Department assessed proposals to establish the extent to which the financial proposal demonstrated that there is commitment in place from the providers of equity and debt finance. The Department required that proposals achieve a minimum compliance level of 50%.

v. Financial Robustness: The Department assessed proposals to establish the ability of the proposed commercial structure to mitigate and absorb the risks involved in the project and to minimise their impact on the financial structure. The Department required that proposals achieve a minimum compliance level of 50%.
Stage 3: Project Deliverability

In Stage 3 the Bidders’ abilities to deliver the proposals assessed in Stage 2 were evaluated. The evaluation was split into two areas: management plans and programme. The robustness of three groups of management plans of each bidder (Project Management, Engineering Management and In-Service Management), was assessed using the RADAR® methodology.

Amongst other things the bidder was expected to use the Engineering Management Plans to provide the Department with confidence in their ability to implement the rolling stock project. The engineering management plans comprised plans covering Systems Assurance, RAM (Reliability, Availability and Maintainability), Design Management, Standards, Acceptance, Systems Integration, Testing, Manufacturing Management and Commissioning/hand-over.

All proposals which achieved the minimum thresholds in Stage 1 – 3 were considered to have demonstrated the ability to deliver the requirements for the rolling stock project. The final stage of the evaluation process identified the proposal that offers the best value for money.

Stage 4: Value Assessment

All Bids which pass Stages 1 to 3 were subjected to a value assessment based on whole life and whole industry cost of each Bidder’s Proposal. A cost model was produced to calculate the costs over 30 years based upon the bidder’s proposals for train leasing costs, train maintenance costs, depot leasing costs, energy consumption, and VTISM costs². Value adjustments were also made based upon the bidders’ responses to the suite of contract agreements (“mark-ups”).

Selection of Preferred Bidder

Section 3.3 of the ITT sets out the process for the selection of the preferred bidder. It stated that at the conclusion of Stage 4 the Preferred Bidder was determined on the following basis:

a). All proposals would be ranked in order of NPV, after risk and value adjustments, of their submitted Stage 4 cost model. The bidder which has the lowest NPV would be ranked first (the Interim Lead Bidder). If all the other lower ranked Proposals had an NPV that is more than 5% greater than the NPV of the Interim Lead Bidder, the Interim Lead Bidder would be identified as the preferred bidder.

b). If one or more lower ranked proposals had an NPV that is less than 5% greater than the NPV of the Interim Lead Bidder, then the identification of the preferred bidder would be determined according to a calculation based on the evaluation scores from Stages 2 and 3.

² Vehicle Track Interaction Strategic Model provides links between inputs, such as track and vehicle characteristics, and outputs, such as rail life, wheel life and maintenance regimes, to predict the impact of change in one part of the VTI system on another part.
Annex 2 - Points raised by the media following the Thameslink preferred bidder announcement

Train Design

As mentioned earlier the Department’s Train Technical Specification for the new Thameslink trains is an output specification which requires trains that are highly reliable, can achieve the very exacting dwell time demands and thus deliver 24 trains per hour through the core central London Thameslink route, and will provide reductions in whole life and whole industry cost through a reduction in track damage and lower energy consumption. There is no train design currently operating in the UK that can meet these requirements and consequently it was incumbent upon all bidders to develop the next generation of trains that will meet these objectives. It therefore follows that the bidders’ proposals would include a degree of design innovation.

Bogies

The Siemens proposed train solution includes their SF7000 bogie design. Siemens commenced the design of this bogie in 2007 and have confirmed that much of the design is based upon proven subsystems in both the domestic and international markets. These bogies are currently being built and will undergo extensive testing at both the Graz plant (Siemens’ dedicated bogie design and manufacturing facility in Austria) and their dedicated test track in Germany where the bogies will have undergone circa 1 million miles of running before the first new train enters passenger service. Many of the component parts have been subjected to type testing and the first completed bogies will be available for testing at the Graz facility later this year. Subject to contract award these bogies will then be fitted to vehicles and commence test track testing in 2012, some 2½ years before the first trains arrive in the UK.

The evaluation of the bidders’ bogies included consideration of the designs from the perspectives of:

- Compliance with all British and European Standards
- Wheel / rail interface
- Unit Mass
- Reliability
- Gauge and Track Interaction
- Ride Quality,
- Noise and Vibration
- Design Life
- Gauge
- Axle Loading
- Route Availability

There has been much commentary in the press that the Bombardier bogie took 10 years to develop, and whilst this may be true this should not be necessarily considered as the ‘benchmark’ time required for design and development timescales for bogies. Significantly shorter timescales have been achieved for
example with the bogies for the Alstom UK Pendolino and the Hitachi Class 395 Javelin. Moreover the design of the new fleet of trains for the Inter City Express Project also assumes new types of bogies.

**Evaluation of designs**

In evaluating the design proposals, and recognising the existence of novelty in all bidders’ train designs, the evaluators also considered the bidders’ experience, capacity and capability in taking their train designs, including novel features, through the phases of design, development, manufacture, testing, fault free running, entry into service, operation, maintenance and overhaul. This analysis was done through the evaluation of a range of project, engineering and in-service management plans including project execution, quality, safety, risk management, systems assurance, RAM (reliability, availability and maintainability), design management, standards, acceptance, systems integration, testing, manufacturing management, commissioning/handover and configuration management.

**Credit Rating**

There has been speculation in the press that the difference in the credit ratings of the parent companies of the bidders was a determining factor in the outcome of the procurement. The Department does not accept that this was the case.

The debt terms provided by the bidders are likely to take the strength of the parent company of the manufacturer into account but it is just one element that makes up the pricing. Other important factors are the contractual structure, the covenant of the contracting party paying the lease payments, the nature of the asset being provided, the debt terms, the construction period drawdown profile and length, the gearing of the financing package and the return required by equity investors. Taken together all these factors have a significant impact on the cost of financing the new trains.

**The purpose of bidder anonymity**

The purpose of bidder anonymity is to ensure that supplier selection decisions (when it is categorised as strategic, high value, high risk, novel or contentious, and is likely to be greater than £1M in value) are made based on objective evidence, and are not influenced by knowledge of the identity of bidders. The key decision points when bidder anonymity is used are:

- when deciding the shortlist of suppliers to be invited to tender
- the selection of a preferred bidder
- when seeking endorsement of the above procurement decisions from Board Committees,
- When seeking the approval to proceed from Ministers.
Anonymous bidding gives ministers protection from any possible allegations regarding bias, lobbying, hospitality etc.

**Procurement Directive**

The question has been raised in the press as to whether we have used the correct procurement Directive for the new Thameslink trains.

As explained earlier the procurement is being conducted by the Department to facilitate the Thameslink Train Operating Company (First Capital Connect) to enter into a suite of agreements to take on lease and to pay for the benefit of the trains for a fixed period. The Department will enter into related arrangements including the provision of a commitment to lease the trains for an agreed period through a section 54 undertaking.

The Utilities Contracts Regulations 2006 (Utilities Regulations) apply to procurement by a utility. A ‘utility’ is defined as “a relevant person specified in one of the Parts of Schedule 1 carrying out an activity in that Part”. Part Q of Schedule 1 includes any relevant person involved in “The provision or operation of a network providing a service to the public in the field of transport by railway.” Train Operating Companies running passenger rail services fall within this definition.

The use of the Public Contracts Regulations 2006 was considered but these Regulations exclude the seeking of offers in relation to a proposed public contract where the contracting authority is a utility within the meaning of regulation 3 of the Utilities Contracts Regulations 2006(b) and that contract is for the purposes of carrying out an activity listed in any Part of Schedule 1 to those Regulations in which the utility is specified.

Therefore, as the purpose for which the trains are being procured is a utility purpose, and the contracting party is a utility the Department concluded that the procurement should be governed by the Utilities Regulations.

It is also worth noting that it is usual for the procurement of rolling stock to be conducted by train operating companies in accordance with the negotiated procedure under the Utilities Regulations, and that rolling stock manufacturers, finance lessors and other relevant market players are accustomed to the use of this procedure.

**Socio-Economic Factors in the Thameslink procurement**

The Department did not include consideration of socio-economic factors in the evaluation criteria contained within the ITT. This position was known to all bidders and was clear from the ITT published on the DfT web-site. Furthermore the Department cannot include new evaluation criteria at a stage following the issue of the ITT and the receipt and evaluation of bids as this would be contrary to EU procurement law.
Government procurement processes seek to award contracts on the basis of MEAT (most economically advantageous tender), because this is regarded as providing best value for the taxpayer. OGC guidance is clear that the Government’s procurement policy is that all public procurement is to be based on value for money, having due regard to propriety and regularity.

**Risks of stopping the procurement now and starting again with a new procurement**

The invitation to tender has a provision which allows the Secretary of State to terminate the competition.

The wording of this right in the invitation to tender is as follows:

“The issue of this ITT in no way commits the Secretary of State to award the TRSP [Thameslink Rolling Stock Procurement] to any person or party. The Secretary of State reserves the right to terminate the competition, to award the TRSP without prior notice, to change the basis, the procedures and the timescales set out or referred to in this document, or to reject any or all Proposals and to terminate discussions with any or all Bidders at any time. Nothing in this ITT should be interpreted as a commitment by the Secretary of State to award the TRSP to a Bidder”.

Although it may appear at first sight that this is a wide ranging power, it is constrained by the overarching procurement law under which the competition was conducted and therefore would not allow the Secretary of State to vary the procedures or the basis of the competition in a manner which could disadvantage any bidder in a way in which altered the outcome of the competition. The Secretary of State clearly does have a power, in certain circumstances, to terminate the competition. However, any decision to terminate would have to be based on valid and defensible reasons, for example, that changes in external factors result in the overall Thameslink project no longer being value for money or affordable to the taxpayer. If bidders considered that the reasons for termination were not valid then they could challenge the decision and, if successful, claim damages including loss of profit.

Large amounts of public money have already been spent on infrastructure improvements for Thameslink (including the complete rebuilding of Blackfriars station). There would be significant programme implications of terminating the existing procurement and commencing a new competition.

- The additional capacity that Thameslink will provide is urgently needed now by London's commuters, and the 400+ existing Thameslink carriages that will be released for redeployment elsewhere are also urgently needed to address overcrowding. Without them, the planned electrification programme for the Great Western Mainline and for the Liverpool/Manchester area could not proceed. A new competition would take between 2 and 3 years to conclude which would delay these benefits by a corresponding time period.
• The delay would also add significant prolongation costs to the Thameslink Programme as the infrastructure modernisation works at London Bridge station may have to be delayed because they are not aligned with the rolling stock delivery programme. This would mean that the overall business case for the project would have to be reviewed and re-evaluated with consequent potential loss of benefits arising from the delay.

• There would also be additional costs associated with conducting a new procurement for the supply of trains.

It is also important to stress that, even if a decision to retender was taken based on valid reasons, it would not be possible to achieve an early award of a new contract so even if Bombardier were ultimately successful in such a retender process, job losses would not be avoided.

**Subcontracting work to a competitor**

The scope of the tender documents does not give the Department rights to require the winning bidder to sub-contract work to a particular third party. Such a requirement could not be introduced at this stage of the procurement process as it could be seen as discriminatory and against EU procurement law.

Bidders themselves do have freedom to elect to sub-contract work to third parties as part of their bid. For reasons of confidentiality the Department is not able to comment on whether the bidders proposed to sub contract to third parties.

**Corruption Allegations**

As part of the process for the pre-qualification of bidders for the Thameslink Rolling Stock Project the Siemens plc accreditation submission was received on 9th June 2008. The submission included a specific reference to investigations concerning its parent company Siemens AG and certain of its then current and former employees regarding allegations of public corruption. The submission also identified the steps the company has taken to address these issues.

Following consideration of Article 26 of The Utilities Contracts regulations 2006 and OGC guidance, the Department asked Siemens plc for further information and assurances.

On receipt of this information the Department satisfied itself that the individuals involved in the allegations were not and would not be involved in Siemens plc or any aspect of the Thameslink procurement exercise and consequently Siemens plc was not excluded.

The Thameslink ITT contains the requirement for Bidders to notify the Department of any changes to the information provided to the Department as
part of the pre-qualification process. No relevant notifications have been received since the issue of the ITT.

Siemens AG continue to disclose progress of on-going investigations on a quarterly basis on their Global website.

*August 2011*
Written evidence from Huddersfield Penistone and Sheffield Rail Users Association (RSP 05)

In the light of current disquiet at the transfer of rolling stock construction to train builders based outside the UK, I wonder if your committee could ask a question of the Department for Transport when you next have a representative in front of you.

The HPSRUA members are concerned that the current fleet of Pacer trains, which serve the line from Huddersfield to Sheffield and many more in the North of England, are coming to the end of their useful (and comfortable) life. We understand that they will no longer be DDA compliant by 2019, not long in the timescale of rolling stock procurement trains.

Although Northern Rail was nominated as the lead train operator in deciding on replacements for the Pacer fleet, now approaching 30 years old, there has been no mention of a timetable for orders. The McNulty report has much useful to say on rolling stock procurement and recommends that rolling stock orders in future are standardised for new projects.

As the Bombardier production line in Derby currently building the class 172 diesel train, might it not be a suitable candidate for the Pacer replacement? Our question is:

When will the Pacer Replacement programme be announced and will it take account of the McNulty recommendations?

*July 2011*
1. The Associated Society of Locomotive Engineers and Firemen (ASLEF) is the UK train drivers’ union representing approximately 18,000 members in train operating companies and freight companies as well as London Underground and light rail systems.

2. ASLEF welcomes the opportunity to provide supplementary evidence to the Select Committee’s oral evidence session on UK Rolling Stock Procurement in September 2011. At the outset the union would say that the fragmented nature of the railway has contributed enormously to undermining the industry’s manufacturing base and supply chain with a sporadic ordering system ensuring there has been no long term or strategic direction to the procurement of rolling stock.

3. ASLEF deeply regrets the manner in which British Rail’s rolling stock was virtually given away at the time of privatisation following which very large fortunes were made as rolling stock companies (ROSCOs) changed hands. We would contend that one of the greatest tragedies of rail privatisation is that it has precipitated the terminal decline of the UK’s near 200 year old rolling stock manufacturing capability while the value of the ROSCOs themselves has risen so exponentially.

4. ASLEF would point out that prior to the abolition of the Strategic Rail Authority in 2004, all rolling stock orders were awarded to companies with a UK manufacturing base.

5. Subsequent procurements administered by the Department for Transport (DfT) have seen awards go to a succession of foreign firms including Javelins for HS1 (Hitachi – Japan), the Intercity Express Programme (Hitachi) and now Thameslink (Siemens – Germany). Contrastingly all rolling stock procurements conducted by Transport for London (TfL) for the same period have gone to companies with a UK manufacturing capability.
6. The union recognises that rolling stock is procured within frameworks set by European and international law. Nevertheless, the policy of the Society is that such regulations can only be seen to work fairly if the UK retains a strong domestic manufacturer to compete with foreign companies. In the case of Thameslink the union also believes that the Department for Transport should have taken into account the impact on the UK economy of which country the trains were built in before it awarded the work.

7. ASLEF acknowledges that the DfT’s tendering requirements for rolling stock procurement do not stipulate a provision for bidders to have a manufacturing base in the UK. The union would suggest that this perhaps highlights one of the unwritten rules of rolling stock procurement. While such an official requirement might well conflict with EU competition law it ought to be balanced against the social and economic objectives of the procurement specification. The examples cited in section 5 clearly demonstrate the DfT rolling stock procurement policy places no emphasis whatsoever on a UK manufacturing capability.

8. We would contrast the DfT’s approach to procurement with TfL’s which encompasses the Greater London Authority (GLA)’s Responsible Procurement Policy (RPP) which, among other things, encourages a diverse base of suppliers, the promotion of fair employment practices, the promotion of workplace welfare (which includes working with suppliers who do not discourage trade union membership among employees), meeting strategic labour needs and community benefits. We would point out that Siemens does not recognise trade unions in its UK rail businesses.

9. Successive Governments have, of course, not articulated a coherent rolling stock policy which has ensured that the whole procurement process has become both chaotic and haphazard. The procurement of the new fleet of Inter City Express trains, for example, demonstrated the Department for Transport’s short-sightedness by insisting on a design no-one in the industry wanted while moving goalpost after goalpost as specifications changed, altered or were revised at will.
10. In an era of unprecedented demand for train travel and amid ongoing rail infrastructure developments it is extraordinary that no firm train orders have been made in the UK since the IEP in February 2009, nearly two and a half years ago in contrast to the middle years of the last decade when there was a deluge of orders which would have stretched most manufacturers.

11. It’s worth considering that in France Bombardier’s Crespin factory has a long term eight billion euro order for 800 regional trains from SNCF which allows the company to invest heavily in the necessary equipment confident that there will be the work to justify the investment. The very opposite scenario exists in Derby where the incentive is to minimise investment without knowing when the next order is likely to arrive.

12. We would regard it axiomatic that new rolling stock should be determined by long term infrastructure development planning but this notion is challenged by the imperatives of the fragmented rail industry. For example, ASLEF strongly supports the electrification of the Midland mainline but until such times as a decision is made to proceed with such an infrastructure enhancement the future rolling stock requirements will remain ambiguous.

13. ASLEF has long argued that a domestic rolling stock manufacturing capability is vital to the integrity of the UK rail industry. That’s why the union supported Bombardier’s bid for the Thameslink rolling stock contract. Our senior representatives visited the factory in December 2009 and were hugely impressed by the quality of design and manufacturing in Derby.

14. The union would also draw attention to the work of a number of organisations who have pointed out that the reduction in tax revenues from the work being done outside the UK is more than the gap between the two suppliers’ bids.

15. ASLEF believes the Government must reverse its decision on preferred bidder status for Siemens, if necessary by conducting a completely new fast track procurement which fairly assesses the technical capability of the bidders, their record as good
employers, their willingness to invest in training and other facilities in the UK, and the socio-economic impact of their proposals.

16. We believe history shows that fast track procurement can be conducted efficiently and effectively. For example, the procurement of the new Stansted express rolling stock in 2008 was conducted in seven and a half months while in the same year the tendering process for the new London Overground rolling stock lasted 12 and a half months.

17. ASLEF would conclude by saying that fragmentation is ultimately responsible for such a scattergun and haphazard approach to rolling stock procurement in the UK. We very much regret that since the DfT took responsibility for rolling stock procurement in 2004 that no contract has been awarded to a company with a UK manufacturing capability. The union urges the Committee to call on the Government to develop a strategy to encourage high-technology manufacturing, using public procurement sensibly and creatively to ensure that wherever possible UK taxpayers’ money is spent supporting the UK economy.

_August 2011_
The recent procurement exercise has revealed fundamental issues in relation to strategic procurement in the UK and in particular the procurement of rolling stock.

Below are some thematic issue analysis which could familiarise the Select Committee on Transport with the latest developments at EU and domestic levels.

A. What are the principles which underpin public procurement regulation?

1. Public procurement in the European Union has been significantly influenced by the internal market project. The identification of public procurement as a major non-tariff barrier has revealed the economic importance of its regulation\(^1\). Savings and price convergence appeared as the main arguments for liberalizing the trade patterns of the demand (the public and utilities sectors) and supply (the industry) side of the public procurement equation\(^2\). The economic approach to the regulation of public procurement aims at the integration of public markets across the EU. Through the principles of transparency, non-discrimination and objectivity in the award of public contracts, it is envisaged that the regulatory system will bring about competitiveness in the relevant product and geographical markets, will increase import penetration of products and services destined for the public sector, will enhance the tradability of public contracts across the common market, will result in significant price convergence and finally it will be the catalyst for the needed rationalization and industrial restructuring of the European industrial base\(^3\).

2. In parallel with the economic arguments, legal arguments emerged supporting the regulation of public procurement as a necessary ingredient of the fundamental principles of the Treaties such as the free movement of goods and services, the right of establishment and the prohibition of discrimination of nationality grounds. The legal significance of the regulation of public procurement in the common market has been well documented. Public procurement liberalization reflects the wish of European Institutions to eliminate preferential and discriminatory purchasing patterns by the public sector and create seamless intra-community trade patterns between the public and private sectors. Procurement by member states and their contracting authorities is often susceptible to a rationale and policy that favours indigenous undertakings and national champions\(^4\) at the expense of more efficient competitors (domestic or Community-wide). As the relevant markets (product and geographical) have been sheltered from competition, distorted patterns emerge in the trade of goods, works and services destined for the public sector. These trade patterns represent a serious impediment in the functioning of the common market and inhibit the fulfillment of the principles enshrined in the Treaties.

3. Legislation, policy guidelines and jurisprudence have all played their role in determining the need for integrated public markets in the European Union, where sufficient levels of


\(^2\) The European Commission has claimed that the regulation of public procurement could bring substantial savings of ECU 20 bn or 0.5% of GDP to the (European) public sector. See European Communities, *The Cost of Non-Europe*, op.cit.

\(^3\) See Commission of the European Communities, Statistical Performance for keeping watch over public procurement, 1992. Also the Cost of Non-Europe, Basic Findings, Vol.5, Part.A; The Cost of Non-Europe in Public Sector Procurement, op.cit.

\(^4\) The term implies a firm with more than a third of its turnover made in its own country and has enjoyed formal or informal government protection.
competition influence the most optimal patterns in resource allocation for supplying the public sector as well as the public utilities with goods, works and services. Public procurement has now been elevated as a key objective of the EU’s 2020 Growth Strategy.

B. Procurement regulation as an economic exercise

1. Viewing public procurement from the prism of an economic exercise, its regulation displays strong neo-classical influences. Such influences embrace the merit of efficiency in the relevant market and the presence of competition, mainly price competition, which would create optimal conditions for welfare gains. The connection between public procurement regulation and the neo-classical approach to economic integration in the common market is reflected upon the criterion for awarding public contracts based on the lowest offer. This feature of the legal framework focuses on price competition being inserted into the relevant markets and, assisted by the transparency requirement to advertise public contracts above certain thresholds would result in production and distribution efficiencies and drive the market towards an optimal allocation of resources.

2. Removing protectionism and preferential treatment and inserting an environment of competition in public markets will bring about allocative efficiencies, which in turn will result in social welfare gains at European and national levels through the emergence of three major effects that would primarily influence the supply side. These gains include a trade effect, a competition effect and a restructuring effect.

3. The trade effect is associated with the actual and potential savings that the public sector would be able to achieve through lower cost purchasing. This effect appears to have a static dimension, since it emerges as a consequence of enhanced market access of the relevant sectors or industries. The trade effect emanates from the principle of transparency in public markets (compulsory advertisement of public contracts above certain thresholds). On the other hand, the competition effect relates to the changes of industrial performance as a result of changes in the price behaviour of national firms which had previously been protected from competition by means of preferential and discriminatory procurement practices. The competition effect derives also from the principle of transparency and appears to possess dynamic characteristics. The competition effect comes as a natural sequence to price competitiveness and inserts an element of long-term competitiveness in the relevant sectors or industries in aspects other than price (e.g. research and development, innovation, customer care). The competition effect would materialise in the form of price convergence, at both national and Community-wide levels, of goods, works and services destined for the public sector. Finally, the third effect (the restructuring effect) reflects upon the restructuring dimension of the supply side as a result of increased competition in the relevant markets. The restructuring effect possesses dynamic characteristics and refers to the long-term industrial and sectoral adjustment through strategic investment, takeovers and mergers and acquisitions. The restructuring effect attempts to capture the reaction of the relevant sector or industry vis-à-vis the competitive regime imposed upon the demand and supply sides, as a result of openness and transparency and the sequential trade and competition effects.

4. The lowest offer as an award criterion of public contracts is a quantitative method of achieving market equilibrium between the demand and supply sides. The supply side competes in costs terms to deliver standardised (at least in theory) works, services and goods to the public sector. Price competition is bound to result in innovation in the relevant industries, where through investment and technological improvements, firms could reduce production and/or distribution costs. The lowest offer criterion could be seen as the necessary stimulus in the relevant market participants in order to improve their competitive advantages.
5. The lowest offer award criterion reflects on, and presupposes low barriers to entry in a market and provides for a type of predictable accessibility for product or geographical markets. This is a desirable characteristic in a system such as public procurement regulation which is charged with integrating national markets and creating an homogenous and transparent common market for public contracts. In addition, the low barriers to enter a market, together with the transparent price benchmarking for awarding public contracts through the lowest offer criterion would inevitably attract new undertakings in public procurement markets. This can be seen as an increase of the supply-side pool, a fact which would provide the comfort and the confidence to the demand side (the public sector) in relation to the competitive structure of an industry. Nevertheless, the increased number of participants in public tenders could have adverse effects. Assuming that the financial and technical capacity of firms is not an issue\(^5\), the demand side (the public sector) will have to bear the cost of tendering and in particular the costs relating to the evaluation of offers. The more participants enter the market for the award of public contracts, the bigger the costs attributed to the tendering process would have to be born by the public sector.

6. However, competitiveness in an industry is not reflected solely by reference to low production costs. Efficiencies which might result through production or distribution innovations are bound to have a short term effect on the market for two reasons: if the market is bound to clear with reference to the lowest price, there would be a point where the quality of deliverables is compromised (assuming a product or service remains standardized). Secondly, the viability of industries which tend to compete primarily on cost basis is questionable. Corporate mortality will increase and the market could revert to oligopolistic structures.

7. The welfare gains emanating from a neo-classical approach of public procurement regulation encapsulate the actual and potential savings the public sector (and consumers of public services at large) would enjoy through a system that forces the supply side to compete on costs (and price). These gains, however, must be counterbalanced with the costs of tendering (administrative and evaluative costs born by the public sector), the costs of competition (costs related to the preparation and submission of tender offers born by the private sector) and litigation costs (costs relevant to prospective litigation born by both aggrieved tenderers and the public sector). If the cumulative costs exceed any savings attributed to lowest offer criterion, the welfare gains are negative.

8. A neo-classical perspective of public procurement regulation reveals the zest of policy makers to establish conditions which calibrate market clearance on price grounds. Price competitiveness in public procurement raises a number of issues with anti-trust law and policy. If the maximisation of savings is the only (or the primary) achievable objective for the demand side in the public procurement process, the transparent/competitive pattern cannot provide any safeguards in relation to underpriced (and anti-competitive) offers.

9. The price competitive tendering reflects on the dimension of public procurement regulation as an economic exercise. On the one hand, when the supply side responds to the perpetually competitive purchasing patterns by lowering prices, the public sector could face a dilemma: what would be the lowest offer it can accept. The public sector faces a considerable challenge

\(^5\) The demand side often omits risk assessment tests during the evaluation process. The Directives remain vague as to the methods for assessing financial risk, leaving a great deal of discretion in the hands of contracting authorities. Evidence of financial and economic standing may be provided by means of references including: i) appropriate statements from bankers; ii) the presentation of the firm’s balance sheets or extracts from the balance sheets where these are published under company law provisions; and iii) a statement of the firm’s annual turnover and the turnover on construction works for the three previous financial years. See case C-27/86, Constructions et Entreprises Industrielles SA (CEI) v. Association Intercommunale pour les Autoroutes des Ardennes; case C-28/86, Ing.A. Bellini & Co. S.p.A. v. Regie de Betiments; case C-29/86, Ing.A. Bellini & Co. S.p.A. v. Belgian State, [1987] ECR 3347.
in evaluating and assessing low offers other than “abnormally low” ones. It is difficult to identify dumping or predatory pricing disguised behind a low offer for a public contract. On the other hand, even if there is an indication of anti-competitive price fixing, the European public procurement rules do not provide for any kind of procedure to address the problem. The anti-trust rules take over and the suspension of the award procedures (or even the suspension of the contract itself) would be subject to a thorough and exhaustive investigation by the competent anti-trust authorities.

C. The ordo-liberal approach to public procurement regulation

1. Harmonisation of laws has been entrusted to carry the progress of public procurement regulation. Directives, as legal instruments, have been utilized to provide the framework of the *acquis communautaire*, but at the same time afford the necessary discretion to the Member States as to the forms and methods of their implementation. This is where the first deviation from the traditional economic approach of public procurement occurs. Anti-trust law and policy is enacted through the principle of uniformity across the common market, utilizing directly applicable regulations. By allowing for discretion to the Member States, an element of public policy is inserted in the equation, which often has decentralized features. Traditionally, discretion afforded by Directives takes into account national particularities and sensitivities as well as the readiness of domestic administrations to implement *acquis* within a certain deadline. In addition, individuals, who are also subjects of the rights and duties envisaged by the Directives, do not have access to justices, unless provisions of Directives produce direct effect.

2. However, the public policy dimension of public procurement regulation is not exhausted in the nature of the legal instruments of the regime. The genuine connection of an ordo-liberal perspective with public procurement regulation is reflected in the award criterion relating to the most economically advantageous offer. The public sector can award contracts by reference to “qualitative” criteria, in conjunction with price, and thus can legitimately deviate from the strict price competition environment set by the lowest offer criterion. There are three themes emanating from such approach: one reflects on public procurement as a complimentary tool of the European Integration process; the second regards public procurement as an instrument of contract compliance; last, the ordo-liberal perspective can reveal a rule of reason in public procurement, where the integration of public markets in the European Union serves as a conveyer belt of common policies, such as environmental policy, consumer policy, social policy, industrial policy and takes into account a flexible and wider view of national and community priorities, and a type of “European public policy”.

D. How are complex public contracts awarded?

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1. Although in numerous instances the importance of the economic approach to the regulation of public procurement has been reinforced by European and national institutions, the relative discretion of contracting authorities to utilise non-economic considerations as award criteria it has also been confirmed. Under the most economically advantageous offer award criterion, environmental and socio-economic considerations are allowed to play a part in the evaluation process and determine the award of public contracts, provided that they are linked to the subject-matter of the contract, do not confer an unrestricted freedom of choice on the authority, are expressly mentioned in the contract documents or the tender notice, and comply with all the fundamental principles of Community law, in particular the principle of non-discrimination.

2. Often, questions are asked as to the possibility of a contracting authority to lay down criteria that pursue advantages which cannot be objectively assigned a direct economic value, such as advantages related to the protection of the environment or the promotion of employment policies. The European Court of Justice held that that each of the award criteria used by contracting authorities to identify the most economically advantageous tender must not necessarily be of a purely economic nature.

3. The European Court of Justice maintained that a criterion relating to the reliability of supplies is a legitimate factor in determining the most economically advantageous offer for a contracting authority. However, the capacity of tenderers to perform the terms and conditions of the contract cannot be legitimately linked with the subject matter of the contract, unless the contracting authority provides for an objectively determined verification. Therefore, the link of non-economic criteria to the subject matter of the contract presupposes the existence of procedural requirements which permit the authentication of the accuracy of the information contained in the tenders and confirm that the criteria serve the objective pursued.

August 2011

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15 See case C-448/01, EVN AG, Wienstrom GmbH and Republik Österreich, judgment of 4 December 2003, paragraph 70.
EXECUTIVE SUMMARY

Siemens plc is a major UK employer of 16,000 people. One of its key business activities is rolling stock supply and maintenance. Siemens plc, along with a number of other rolling stock suppliers all with international parent companies, has participated in various procurement exercises in the UK rail market over the past 10 years. As is the nature of competition, Siemens plc has won certain tenders and not others. Siemens plc now has over 300 Siemens trains (1500 rail vehicles) in service with various operators.

This written submission sets out Siemens plc’s position on a number of key points in relation to UK Rolling Stock procurement (excluding the London Underground market) but also various issues that have been raised since the selection of Siemens plc by the Department for Transport (DfT) as the preferred bidder for the Thameslink Rolling Stock Procurement Project (TRSP).

In summary:

- The opening up of competition in the UK rail market post privatisation has resulted in cost reductions, improved rolling stock from a range of suppliers, better performance and a significantly improved passenger environment.

- The lack of continuous orders is a challenge to rolling stock suppliers but can drive a wide range of behaviours and tender strategies, some of which may actually be positive.

- Contrary to popular opinion, the European rolling stock market is also highly competitive, with both foreign-owned and indigenous manufacturers securing orders.

- Siemens plc has had a degree of success in the UK rail market and this has been recognised by a number of Industry awards.

- Siemens plc was one of four bidders that prequalified in response to the OJEU Notice in April 2008 for TRSP.

- Siemens plc has subsequently been involved in bidding for the TRSP since the issue of the Invitation to Tender in November 2008 and on 16 June 2011 the Secretary of State announced that Siemens had been awarded preferred bidder status.

- As part of the TRSP, Siemens plc will create up to 2,000 jobs and bring into service the Desiro City, which is an evolution of its proven Desiro UK train. A new bogie based on proven technology will be utilised.
INTRODUCTION

1. Siemens plc has been present in the UK for 168 years, and is now a major UK-wide employer. We employ 16,000 people in the UK (largely UK nationals), of whom around half are involved in manufacturing and engineering across our key Sectors of Energy, Healthcare and Industry (a fourth Sector, covering Infrastructure and Cities, will be established on 1st October 2011). The company has an annual turnover of £4.1bn in the UK, and contributes significantly in direct and indirect taxes to the UK Exchequer. Siemens annual purchase volume in the UK is in the order of Euro 1.5bn, which in turn secures many thousands of jobs in the supply chain.

2. Siemens plc is committed to the UK manufacturing sector and currently has 13 manufacturing sites in the UK, involving a range of technologies. For example:
   
a. 15,000 traffic signals for the UK and 28 international markets are manufactured at Siemens Traffic Solutions in Poole, officially ‘Britain’s best factory’ (Works Management / Manufacturing Institute Awards 2010).

   b. Industrial gas turbines for power plants are manufactured at Siemens Industrial Turbomachinery in Lincoln. 90% of the turbines are exported, with 3,690 engines sold to date.

   c. Siemens MRI scanners and more than a third of all MRI scanners installed in hospitals around the world have at their heart a superconducting magnet designed and manufactured by Siemens Magnet Technology in Eynsham, Oxfordshire.

   d. High efficiency motor drives exported to 78 countries globally are made by Siemens Standard Drives in Congleton. More than 1.3 million drives are produced per year, saving customers 4 million tonnes of CO₂ per year.

3. Siemens plc has a strong track record of investment in the UK. For example, the company has recently announced:

   a. Inward investment of around £80m in Hull establishing a wind turbine manufacturing plant to capitalise on the growing market for offshore energy. The factory will create up to 700 new direct jobs as well as additional employment in the supply chain in the Humber region.

   b. £30m investment in the Siemens Urban Sustainability Centre in London’s Docklands, demonstrating Siemens’ commitment to creating sustainable cities. The centre will attract 100,000 visitors every year, from city mayors, global experts, city planners and officials to members of the local community, school children and post graduate students.

   c. The creation of up to 340 new jobs at a new Renewable Energy Engineering Centre being built in Manchester.

   d. £8m at Siemens’ Newcastle site, where Siemens will officially open a Fossil and Renewable Energy Training facility in September this year, a key investment to address the skills requirement in the North East of England.
4. As a result of our existing and planned investments in the UK economy, Siemens is deeply committed to the development of UK jobs and skills. As an example, Siemens is this year recruiting over 100 apprentices across its business in this country.

UK ROLLING STOCK MARKET

5. The Rolling Stock market in the UK has a number of major UK based suppliers with international parents, they are:

a. Siemens plc with its parent based in Germany

b. Bombardier Transportation UK Limited with its parent based in Canada and headquarters in Germany

c. Hitachi Europe Limited with its parent based in Japan

d. Alstom Transport with its parent based in France

6. Based on information available to Siemens, since privatisation and the opening up of the UK market to competition, the commuter rail market share of Diesel Multiple Unit (DMU) vehicles and Electric Multiple Unit (EMU) vehicles between the various rolling stock suppliers is shown in the following graphs:

Electric Multiple Units

<table>
<thead>
<tr>
<th>Cars</th>
<th>Total</th>
<th>Alstom</th>
<th>Bombardier</th>
<th>CAF</th>
<th>Hitachi</th>
<th>Siemens</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cars</td>
<td>3,689</td>
<td>304</td>
<td>2,020</td>
<td>0</td>
<td>0</td>
<td>1,365</td>
</tr>
<tr>
<td>% Share</td>
<td>100%</td>
<td>8%</td>
<td>55%</td>
<td>0%</td>
<td>0%</td>
<td>37%</td>
</tr>
</tbody>
</table>
Following privatisation of the Railway industry in the mid 1990s the management of procurement of Rolling Stock has predominantly been undertaken by either Train Operating Companies directly or via their appointed procurement consultants or by the DfT.

a) Train Operating Companies directly or via their appointed procurement consultants:

i) In summary, procurement is conducted in accordance with European Procurement Law. It involves the issue of an OJEU Notice (call for competition) by the procuring entity inviting companies interested in Rolling Stock provision (and separately financing) to prequalify to participate.

ii) The interested parties then submit pre-qualifications to the procuring entity (or in some cases using automatic pre-qualification systems for example Link-Up) and a short list of prequalified bidders is developed by the procuring entity.

iii) An Invitation to tender is issued to the pre-qualified tenderers specifying the scope of the procurement together with the relevant evaluation criteria that will be used to assess the tender submissions – these are often very detailed documents.

iv) Suppliers then develop their tender strategies by focussing on what the procuring entity is looking to buy and how the bids would be evaluated – this is a critically important element for a supplier in developing a winning bid. To give some examples:

- If the number of seats is weighted highly in the evaluation criteria, the supplier would look carefully at the layout of the train and the
location of equipment cubicles to ensure that they maximise furnishable space;
- If ‘deliverability’ is weighted highly in the evaluation criteria, the supplier would put particular emphasis on how they will demonstrate to the buyer that what they are offering will be delivered in accordance with the contract;
- If the whole lifecycle cost is highly weighted in the evaluation criteria, this could drive the supplier to maximise the period between maintenance, drive a reduced spares consumption rate or reduce operating costs such as electricity consumption.

v) In parallel the procuring entity would normally select a financier to fund the purchase for example a Rolling Stock Leasing Company.

vi) Following the selection of the successful supplier, the required stand still letters are issued in accordance with EU procurement law and after the standstill period the contract between the supplier and the procuring entity can be concluded.

vii) The diagram below shows a typical contractual structure with the relevant parties.

![Diagram](image)

Key: **S54** – Section 54 undertaking by government for a guaranteed usage period to encourage investment in the Railways; **Dir A** – Direct Agreement enabling step in rights in certain circumstances; **TSA** – Train Service Agreement; **MSA** – Manufacturing Supply Agreement; **RSLA** – Rolling Stock lease Agreement
viii) Examples of procurement contracts that have been conducted since privatisation are shown in the table below. The participants and the successful bidders are shown, with the successful bidder is underlined.

<table>
<thead>
<tr>
<th>Service</th>
<th>Participants</th>
</tr>
</thead>
<tbody>
<tr>
<td>South Eastern</td>
<td>Bombardier / Alstom</td>
</tr>
<tr>
<td>c2c 1</td>
<td>Bombardier / Alstom</td>
</tr>
<tr>
<td>c2c 2</td>
<td>Bombardier / Siemens</td>
</tr>
<tr>
<td>Great Eastern (NXEA)</td>
<td>Siemens / Bombardier / Alstom</td>
</tr>
<tr>
<td>South West Trains</td>
<td>Siemens / Bombardier / Alstom</td>
</tr>
<tr>
<td>ScotRail 1</td>
<td>Alstom / Bombardier / Siemens</td>
</tr>
<tr>
<td>South Eastern Metro</td>
<td>Bombardier / Hitachi</td>
</tr>
<tr>
<td>Southern 1</td>
<td>Bombardier / Siemens / Alstom</td>
</tr>
<tr>
<td>Southern 2</td>
<td>Bombardier</td>
</tr>
<tr>
<td>TransPennine Express</td>
<td>Siemens / Bombardier / Alstom</td>
</tr>
<tr>
<td>London Midland 1</td>
<td>Siemens / Hitachi</td>
</tr>
<tr>
<td>London Midland 2</td>
<td>Siemens / Hitachi / Bombardier</td>
</tr>
<tr>
<td>ScotRail 2</td>
<td>Siemens / Bombardier</td>
</tr>
<tr>
<td>Stansted Express</td>
<td>Bombardier / Siemens</td>
</tr>
<tr>
<td>London Overground</td>
<td>Bombardier / Siemens / Hitachi</td>
</tr>
</tbody>
</table>

b) Department for Transport

i. The DFT also procures Rolling Stock, following much the same process as outlined above, but it tends to do this for projects with much more of a National Strategic dimension for example the proposed Diesel Multiple Unit tender (that was subsequently cancelled due to the electrification of the network), the Intercity Express Programme and Thameslink.

ii. In both the Intercity Express Programme and Thameslink, bidders were asked to commit long-term equity and arrange debt from numerous sources in the market to fund the deal.
iii. An extract from the Thameslink tender showing diagrammatically the contractual structure anticipated in the tender documents is shown below.

8. As a result of the opening up of the UK Rolling Stock market to competition, we firmly believe that this has resulted in cost reductions in procurement, improved rolling stock, better performance and a significantly improved passenger environment.

9. We are aware of concerns about the way in which orders are placed in the UK, and the ‘feast and famine’ effect of the DfT procurement regime. It is true that continuous production would be more efficient, and we believe that all manufacturers would prefer that situation. But it is difficult, if not impossible, to achieve this ideal at the domestic level, when there are a limited number of orders and the prospect of three to six suppliers bidding competitively for them.

10. This lack of continuous orders can drive a wide range of behaviours and tender strategies, some of which may be positive. For example, a company may decide to approach tenders by taking more risks and offering a particularly competitive price, or to restructure to improve competitiveness, or to revise its business strategy by diversifying into new markets (e.g. rolling stock refurbishment).

11. Moreover, the UK’s approach has purposely driven positive changes. A key example is the DfT’s 2007 technical strategy, which encouraged manufacturers and their supply chains to
innovate, leading to the development of the next generation of EMUs that would be more energy efficient and lighter, include more innovative features, do less damage to the infrastructure and reduce whole life whole system cost, as opposed to the traditional focus on just capital costs. The key was not to have a revolution, but to have a development and evolution of technologies and design features that could be incorporated into the next generation of Rolling Stock. The first deployment of the full second generation EMU rolling stock will be seen on Thameslink.

12. Significant opportunities for rolling stock suppliers continue to exist in the UK market in the near to mid-term. Examples include more than 3,000 vehicles for London Underground, around 600 vehicles for Crossrail, projects relating to potential refinancing on Greater Anglia and the West Coast Mainline, as well as opportunities relating to Merseyrail, Transport Scotland and trams with Centro in Birmingham.

Siemens and the UK market

13. As mentioned, Siemens plc’s rail business has grown steadily in the UK since the early 1990s. We are now one of the UK’s leading rolling stock providers, with a market share in the commuter rail sector of around 35 percent. Our rail business is part of Siemens Mobility, which is in turn a division of our Industry Sector. Siemens Mobility Division comprises all of Siemens’ competencies in rail, road, and traffic solutions, and currently employs around 1,600 employees in the UK.

14. Siemens Mobility is recognised as an industry leader and has won several awards over the past 18 months including, Modern Railways ‘Rail Innovation Award’ for RailBam – an acoustic bearing condition detection system (2010); Modern Railways ‘Golden Spanner’ for the most reliable Electric Multiple Unit with the Class 444 train (2010); Investors in People accreditation for our Rolling Stock business in 2010; and EFQM 4 Star rating for business excellence in (2010).

15. Siemens plc has supplied more than 1,500 of the current rail vehicles in the UK, and has delivered trains to Heathrow Express and Heathrow Connect, London Midland, First TransPennine Express, South West Trains, National Express East Anglia, Northern Rail and ScotRail. We are responsible for deploying well over 300 train sets each day, and they travel over 50 million miles per annum.

16. We have also constructed and operate six depots for rail maintenance under the terms of our rolling stock contracts. All of the new depot builds that we have been involved with have been carried out directly by Siemens plc or by its subcontractors – we have developed and built more train maintenance depots in the UK than any other rolling stock supplier. Currently, Siemens employs 650 people at its depots.

17. Siemens is widely renowned for efficiency of service and on-budget delivery. A key factor in that reliability is our unique test track. In 1997 Siemens bought the former RAF base in Wildenrath, Germany, and invested €9 million in a test track which replicates the UK network conditions. This ensures that trains are fully tested on Network Rail standard track prior to their entry to the UK, allowing fault free mileage accumulation for each vehicle and avoiding extensive testing periods on the busy UK rail network. The Wildenrath test track also offers the ability to have ‘on the job’ training for both drivers’ trainers and maintenance trainers.
18. Siemens announced in March that due to its large fleet of trains in this country that the UK will become Siemens’ ‘Global Rail Innovation Centre of Competence’. This means that the UK will become a test bed for the very latest in predictive technologies, directly benefitting UK rail operators. Siemens has also recently committed to establishing a UK Rail Training Academy. We are working with the National Skills Academy for Rail Engineering to develop the proposal for implementation.

**Competition in European markets**

19. There has been some misleading press coverage about the extent to which European Rolling Stock markets are open to competition. We have developed the graph below to show how market share has been spread between the various manufacturers over the past five years. This shows that a highly competitive market exists in the countries shown.

**Market share by volume up to March 2011**

**Train Order Volume in selected countries from 2006 – March 2011**

<table>
<thead>
<tr>
<th>Country</th>
<th>Market Share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canada</td>
<td>83%</td>
</tr>
<tr>
<td>Scandinavia</td>
<td>27%</td>
</tr>
<tr>
<td>Switzerland</td>
<td>38%</td>
</tr>
<tr>
<td>Belgium</td>
<td>25%</td>
</tr>
<tr>
<td>France</td>
<td>47%</td>
</tr>
<tr>
<td>UK</td>
<td>62%</td>
</tr>
<tr>
<td>Germany</td>
<td>51%</td>
</tr>
</tbody>
</table>

THAMESLINK

**Thameslink procurement process**

20. Siemens plc was one of four bidders that prequalified in response to the OJEU Notice in April 2008 for the Thameslink Rolling Stock Project (TRSP); the other three were Hitachi Europe Limited, Alstom Transport and Bombardier Transportation UK Limited. We have subsequently been involved in bidding for the TRSP since the issue of the Invitation to Tender in November 2008. On 16 June 2011 the Secretary of State announced that Siemens plc had been awarded preferred bidder status. We are currently working with the DfT to reach financial closure and bring the programme to successful fruition.

21. Siemens made a total of four submissions in response to the DfT’s Supplemental Instructions. This was a significant undertaking as the procurement process was very detailed; the last submission was around 7000 pages in content.
22. The procurement process required bidders to submit some elements of their tender in RADAR (Results, Approach, Deployment, Assessment and Review) format, part of the EFQM excellence model. This methodology allows those assessing the bid submissions to use a structured approach in their evaluation.

23. In Siemens' view, the procurement process has been very strict and transparent; the evaluation criteria were made clear at the start of the process. We entered the process as a willing participant with a full understanding of the rules of the procurement especially the evaluation criteria (which have not changed from Day 1). The DfT has consistently made clear that bids must be affordable, deliverable and offer the best value for money.

24. Specifically, the evaluation criteria involved a myriad of elements to allow the DfT to assess the best value for money for the UK taxpayer, including aspects such as train, depot and maintenance costs, energy consumption, track damage, spares consumption, maintenance frequency, performance, deliverability and risk appetite and more – overall the value assessment on a life cycle cost basis.

**Desiro City**

25. Siemens spent Euro 50 million developing the Desiro City train, specifically with the UK market in mind. It has been developed to meet the requirements of current and future UK mainline commuter rail projects (including Thameslink), and is a second generation platform based on proven technology in the form of the successful Desiro UK train. The Desiro UK fleet has now achieved more than 1 billion miles of operational service.

26. The Desiro City is a single car concept designed with maintainability in mind. The highly flexible train design offers a combination of motor and trailer cars for tailored performance levels and incorporates extensive maintenance and servicing improvements and innovations based on the expertise and lessons learned from the current Desiro UK. The modern flexible and modular interior design allows for multiple interior configurations, enhancing passenger comfort and capacity. The lightweight bogie design with inboard bearing concept and optimal wheelbase results in significantly less track wear and lower life cycle costs.

27. The Desiro City also has a significantly reduced weight – weight optimised equipment and an aluminium bodyshell results in a train that is 25% lighter than current UK fleets. Alongside an advanced driver advisory system, improved aerodynamics, an intelligent air conditioning system and intelligent stabling modes are just some of the highlights. The Desiro City’s reduced weight and environmental features enable primary energy consumption reductions of up to 50%.

**Train Bogie**

28. There have been some suggestions since the announcement was made that Siemens plc was the preferred bidder for TRSP, that Siemens does not have an approved bogie. We are glad to be able to address this directly.

29. Siemens is one of the leading bogie designers and manufacturers worldwide. Siemens’ expertise in bogies incorporates a spectrum of types and designs that have been developed over the last 50 years. Since 1995 Siemens has manufactured and delivered 33,500 bogies to customers worldwide. For example, Siemens recently completed the redesign, manufacture
30. Siemens’ SF7000 bogie that will be used on Thameslink is based on proven subsystems in both the domestic and international markets. It is an evolution of Siemens proven bogies, one of which is the SF5000 Desiro bogie which has more than 1 billion miles of operational service on the UK network. As part of the tender process, we have identified the heritage of every component that makes up the bogie from both our domestic and international experience. Designs for the new Desiro City model were started in early 2007 and the bogies are being built to allow extensive testing at both the Graz plant and at Wildenrath.

**Job Creation**

31. Another issue raised has related to job creation. Siemens envisages that, as a direct result of the Thameslink contract, we will create up to 2,000 new jobs in the UK, including up to 600 highly skilled roles in the manufacture of train components – up to 300 of which will be at Siemens’ factory in Hebburn, South Tyneside. Other jobs will be based within our supply chain across the country. Although we obviously cannot finalise the selection of our final suppliers before reaching financial closure of Thameslink we have already engaged in discussions with a number of potential UK suppliers.

32. These new UK jobs have the potential not only to leave a lasting and sustainable skills base in the UK supply chain, but should also assist in creating a critical mass to allow such businesses to compete on the world stage for projects of a similar nature.

**Credit Rating**

33. There have also been comments made about Siemens’ credit rating. Our A+ (S&P) credit rating reflects our credit worthiness and financial strength as a global enterprise. The fact that we have a good credit rating has been true since the very outset of the procurement process.

**Compliance**

34. Since Siemens was appointed preferred bidder for TRSP on 16 June 2011, there have been various questions asked in relation to the Thameslink procurement process regarding the suitability of Siemens as a bidder.

35. The bidder for the TRSP was Siemens plc. We can confirm that no proceedings have been brought or allegations made against Siemens plc or any of its directors on any grounds which would result in mandatory exclusion under the Utilities Contracts Regulations 2006. Siemens plc as an entity is therefore a reliable bidder.

36. We are aware that in some circumstances, under EU procurement rules, the behaviour of a bidder's parent company can be taken into account. However, we can confirm that neither Siemens Holdings plc nor Siemens AG nor any person who has powers of representation, decision or control over Siemens plc has been convicted by final judgment of any of the offences listed in Article 45 (1) of Directive 2004/18/EC or under Regulation 26(1) of the Utilities Contracts Regulations 2006. Therefore there are no grounds for mandatory exclusion of Siemens plc from the tender process.
37. It is the case that Siemens AG, the ultimate parent of Siemens plc, was fined a significant sum of money in the United States some years ago under the provisions of the U.S. Foreign Corrupt Practices Act. We have never hidden this very public fact from the DfT nor anyone else. Indeed the case arose when Siemens raised issues and concerns proactively with the authorities. Since then Siemens has implemented a multitude of significant measures worldwide to ensure its reliability as a bidder; and Siemens AG continues to bid throughout Europe.

38. Siemens globally is now fundamentally reformed, in terms of personnel, organization and leadership culture, and independent observers consider Siemens a role model in compliance. For instance, the prestigious Dow Jones Sustainability Index has ranked Siemens AG top of the ‘codes of conduct/compliance’ index for the second year running. Siemens AG reports openly and transparently about its compliance programme on its global website.

CONCLUSION

39. Siemens is a credible and committed player in the UK rail market, which has already demonstrably shown its ability to deliver highly reliable rolling stock on time and on budget. We have invested significantly to develop the Desiro City train for the UK market and look forward to introducing the Desiro City train into service to commuters on the Thameslink route in due course.

40. Siemens welcomes the opportunity to give both written and oral evidence to the committee and would be happy to expand on any of the points above.

August 2011
EXECUTIVE SUMMARY

Bombardier Transportation UK Limited thanks the House of Commons Transport Committee for the invitation to submit evidence for its hearing into rolling stock procurement.

In this memorandum we describe:

- Bombardier’s position as a global rail technology innovator and manufacturer;
- The structure of Bombardier’s UK rail business;
- The significance of our Derby factory as the UK’s only train manufacturer;
- The importance of our Derby operation to the UK’s rail manufacturing supply chain;
- The linkage between our Derby factory and the cluster of high technology manufacturers in the East Midlands;
- Bombardier’s success in the UK train procurement market amongst private sector customers and with Transport for London;
- Some examples of train procurement timescales on mainland Europe;
- Bombardier’s experience with UK Department for Transport procurement, in particular the Intercity Express and Thameslink Rolling Stock Projects; and
- The disappointment of Bombardier and our workforce at not being chosen as preferred bidder for the Thameslink train order.

BOMBARDIER TRANSPORTATION – A GLOBAL LEADER IN RAIL TECHNOLOGY

Bombardier Transportation is the rail division of Bombardier Inc., a Canadian company employing 65,400 people worldwide at 69 sites in 23 countries. We manufacture, sell and support world-class rail and aerospace technology. Our sister division, Bombardier Aerospace, is the world’s third largest manufacturer of commercial aircraft, and operates a cutting-edge manufacturing site at the former Short Brothers facility in Belfast employing 5,000 people.

Bombardier Transportation is a global leader in the rail technology, manufacturing and servicing industry with more than 100,000 vehicles operating worldwide and 34,900 employees manufacturing, engineering and servicing vehicles in 36 countries. We are proud of the fact that, for the past three years, we have achieved between 18% and 22% marketshare in the global rail sector and, in the fiscal year 2011, our proven transportation technologies and turnkey systems have yielded record orders.1

1 Source – Bombardier Transportation annual report FY 2010-11
Bombardier's rail portfolio is the broadest in the sector and encompasses the world’s most advanced very high speed, long distance, regional and commuter trains, light rail vehicles, advanced rapid transit systems, automated people movers and monorail systems, high capacity metro and underground trains, locomotives, world-leading bogie technology, signalling and control systems and comprehensive service/maintenance support.

Our global reputation for innovation is coupled with strong leadership in driving the environmental credentials of the sector. ECO4 (a range of products/technologies which combine the 4 ‘E’s of Economy, Ecology, Energy and Efficiency) has become recognised for its pioneering contribution to sustainable mobility.

**BOMBARDIER TRANSPORTATION IN THE UK**

In the UK, Bombardier Transportation currently operates from major facilities in Derby, Crewe, Plymouth, Burton upon Trent and Ilford as well as several other locations. We currently directly employ 6,000 people, and have a strong record of investment in training, apprenticeships and graduate entry programmes.

We acquired these facilities 10 years ago at a time when manufacturing was out of favour in the UK. Investment in the UK of over £2 billion in design and technology both in Transportation and in Aerospace has now made Bombardier one of Britain’s largest manufacturers and an example of the impact foreign direct investment can have on employment and the economy.

We have introduced to the UK many examples of high technology design, including our **ELECTROSTAR** electrical multiple unit, the most environmentally-friendly **TURBOSTAR** diesel multiple unit, and our advanced **MOVIA** metro train for London Underground. These include the first air-conditioned trains on that network.

**DERBY – OUR MANUFACTURING BASE IN THE UK**

Although we have several sites in the UK, Derby is arguably our best-known location, as train manufacture began at Litchurch Lane as long ago as 1876. There is immense community pride in this important and long-standing UK train-building site, where our listed Victorian buildings must not obscure the fact that we design and make trains that are amongst the most advanced in the world. Bombardier is the UK’s last remaining train manufacturer.

From Derby, we export vehicles, knowledge and skills around the globe. For example, we recently exported **ELECTROSTAR** trains for the Gautrain airport link, which opened in South Africa in June 2010 and was showcased at the football World Cup. We recently exported Derby-built bodyshells for the Taipei Metro vehicles in Taiwan, whilst Strasbourg’s trams were also built in Derby.
We have in the region of 300 employees working in design/engineering in Derby. These experienced and expert individuals are recognised across Bombardier globally as constituting a centre of excellence for many areas, particularly high technology aluminium train body design, cab and interior industrial design and human factors, product safety and material fire performance. Their engineering expertise is used worldwide, for example in the development of the latest high speed train technology for China and Italy, and in double-deck trains for the Swiss national operator.

**SUPPORTING THE WORLD’S LARGEST RAIL TECHNOLOGY CLUSTER – THE EAST MIDLANDS**

Our Derby factory sits at the centre of an important rail technology manufacturing hub in the East Midlands. The 231 railway businesses based in or around the City constitute the world’s largest cluster of such companies. Many of them supply Bombardier, sustaining up to 24,000 jobs in addition to our own. Since the economic downturn began in 2007, we have provided financial, process improvement and management assistance to our suppliers and, in some cases, bought them outright when this was needed to ensure the viability of our supply chain.

This attitude is synonymous with the values of Bombardier Inc. Our company operates to the highest global operational and ethical standards. We provide competitively paid jobs; we recognise trades unions; we have safe and healthy workplaces; we take our responsibilities to our communities seriously, and we invest in training our workforce, in particular the engineers, designers and the tradespeople of tomorrow.

Alongside neighbours such as Rolls-Royce, Toyota and JCB, we are at the heart of the UK’s most flourishing high-technology cluster in a country where manufacturing has hitherto generally been in decline. This wider cluster currently employs 46,000 people and contributes £10.3bn\(^2\) to the UK’s economic output.

Whilst the vast wealth and power of the City of London’s financial sector is seen as the barometer of the nation’s economy, the Derby manufacturing cluster has already grown to be a quarter of the London financial sector’s size. According to the Planes, Trains and Automobiles\(^3\) report, sustained development of our cluster would be worth an extra £1.7bn per annum to the region, including 5,500 additional new jobs in rail plus many more in aerospace and automotive.

Bombardier Transportation’s 10-year commitment to the UK has not required Government subsidies or special treatment. We design and make trains in Derby rather than merely assembling them, employing many highly-skilled and qualified people like those described above. We remain committed to a healthy, UK-based train building industry.

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\(^2\) Duxbery et al, Planes, Trains and Automobiles Research, December 2009

\(^3\) Ibid.
UK TRAIN PROCUREMENT

OVERVIEW

As the Committee will see from the tables below, we have been notably successful in winning 11 out of 14 of the passenger train procurement competitions it has entered in the UK run by private sector train operating companies (TOCs) and rolling stock leasing companies (ROSCOs), as well as Transport for London (TfL). The company has not fared so well in those run by the UK Department for Transport (DfT):

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<th>2005-2011</th>
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<td><strong>Total Orders</strong></td>
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<td><strong>Non-DfT Orders</strong></td>
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Bombardier recognises that the prime focus of Government procurement is to achieve value for the taxpayer. For this reason, we welcomed the introduction of a DfT-led centralised strategy for train procurement from 2004, as we believed this could produce better results for taxpayers, passengers, train operators and, of course, manufacturers. We took this view because we believed such an approach would lead to a higher degree of standardisation whilst ironing-out some of the expensive peaks and troughs in orders, lowering costs and increasing value for money.

Our optimism turned out to be misplaced. From our experience as the worldwide market leader in train manufacturing, our perception today is that the DfT’s procurement processes are quite cumbersome and expensive, requiring far more external consultancy support than we have generally observed elsewhere. In addition, the processes for the assessment of bids seem to be far more complex and time consuming than those applied by either the private sector or TfL.

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* DFT orders include those to preferred bidder where procurement not completed
The risk of such an outcome was foreseen when the House of Commons Transport Committee commented in its July 2008 report into the 2007 Rail White Paper:

“we are concerned that the Department may not have adequate and appropriate expertise to handle such vital strategic decisions in-house, and to do so efficiently. Matters of such importance should not be left to expensive external consultants...”\(^5\)

The DfT rejected the Committee's conclusions and insisted that:

“The Department's Rail and National Networks Group has a number of well experienced managers originating from the public transport, railway operating and manufacturing industries. As such it is very capable of making decisions "in house" and efficiently. However, the Department is also keen to harness the wider skills and knowledge within the industry, in order to ensure that investment is targeted to achieve the best possible return for the taxpayer. Additional skills are required from time to time and targeted external support can be an efficient way of obtaining them.

The DfT then cited the Intercity Express Programme, as an example of why hiring external consultants was justified.

The Committee went on to say:

“We look forward to the Competition Commission's report on the rolling stock market in the UK, due in 2009. In the meantime, the Department must improve its rolling stock procurement strategy so as to create a stable and consistent pattern of procurement. By doing so, it will achieve the best value for money for tax payers, and it will ensure that Britain can continue to have a rolling stock industry.”\(^6\)

We know from our experience that costs for bidders taking part in DfT-led procurements are extremely high, especially in the area of legal advice. As we shall demonstrate later, procurement is designed so that financial engineering is deemed more important than building good, reliable, cost-effective trains.

Meanwhile, we are surprised to note that DfT procurement appears to operate in complete isolation from other aspects of the Government’s economic strategy such as rebalancing the economy in favour of manufacturing.

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\(^6\) Transport Committee, *Delivering a sustainable railway: a 30-year strategy for the railways?* (tenth report of session 2007-08), HC 219, 21 July 2008, para. 113
PROCUREMENT EXAMPLES

We have taken the opportunity to provide the Committee with some comparative examples of procurement processes both in the UK and abroad:

**Stansted Express (National Express) - Procurement Duration: 7.5 months**
- OJEU: 28/08/08
- Bombardier Bid Submission: 22/10/08
- Award: 01/04/09
- Winner: Bombardier Class 379

**First ScotRail EMUs - Procurement Duration: 13.5 months**
- OJEU: 01/06/07
- Bombardier Bid Submission: 21/01/08
- Award: 11/07/08
- Winner: Siemens Class 450

**DMUs for Angel/Porterbrook - Procurement Duration: 3 months**
- OJEU: n/a
- Bombardier Bid Submission: 15/10/07
- Award (Porterbrook): 13/12/07
- Award (Angel): 18/01/08
- Winner: Bombardier Class 172

**London Overground EMUs - Procurement Duration: 12.5 months**
- OJEU: 08/08/05
- Bombardier Bid Submission: 04/01/06
- Award: 31/08/06
- Winner: Bombardier Class 378
Intercity Express Programme - Procurement Duration: 53 months to date  
OJEU: 08/03/07  
Bombardier (joint) Bid Submission: 30/06/08  
Award (planned): 01/04/09  
Preferred bidder (actual): February 2009  
Financial close not yet achieved

Thameslink Rolling Stock Project – Procurement duration: 39 months to date  
OJEU Notice and PQQ received: April 2008  
Bombardier Response: June 2008  
ITT Issued: November 2008  
Original Response Date: April 2009  
Actual Response Date: June 2009  
Various Supplementary Instructions meant that Bombardier’s final bid submission (in response to Supplementary Instruction 5) was made in February 2011  
Preferred Bidder Announcement (planned): October 2009  
Preferred Bidder Announcement (actual): June 2011  
Contract Award (planned): March 2010  
Contract Award (actual): to be confirmed

OVERSEAS PROCUREMENT EXAMPLES

Regional single level trains PP, SNCF (France) for the Regions – Procurement duration: 21 months  
Launch of tender: January 2008  
Announcement of preferred bidder: 1 July 2009 (not an official announcement but press reports)  
Contract signature: 27/10/2009  
Winner: Alstom Transport

Regional double decker trains PH - SNCF (France) for the Regions - Procurement duration: 18 months  
Launch of tender: August 2008  
Announcement of preferred bidder: 18 November 2009  
Contract signature: 24 February 2010  
Winner: Bombardier Transportation

Very High Speed trains (Italy) - Procurement duration: 9 months  
Date of invitation to tender: December 2009  
Date of announcement of preferred bidder: August 2010  
Date of contract award: September 2010  
Winner: Consortium of Bombardier/Ansaldo Breda.

These examples show that DfT procurements are lengthier and more complex. We shall now discuss more specifically the two DfT-led processes referred to above.
INTERCITY EXPRESS PROGRAMME

This flagship project to replace Great Britain’s diesel Intercity 125 train fleet was originally to be procured through private sector leadership. The favoured cost-effective train designed under this process would almost certainly be in service now if the project had continued on its trajectory. The design envisaged a train with underfloor engines utilising the best contemporary technology.

In 2005, the DfT took over the project, which became known as the Intercity Express Programme (IEP), issuing a specification for diesel, electric and bi-mode trains. We anticipated that the redesigned train would require some 1.6 million design hours, so Bombardier partnered with Siemens to create the Express Rail Alliance (ERA). ERA is still the reserve bidder for IEP, so this constrains some of our ability to comment.

Of particular concern is that the DfT made clear the new train could not have underfloor engines. Consequently, Bombardier and Siemens were unable to deploy a modified version of successful Voyager/Meridian design widely used in Great Britain, and were forced to design from scratch a very complex and, hence, more costly train.

In February 2010, a full year after the announcement of the Hitachi-led Agility Trains consortium as preferred bidder, Transport Secretary Lord Adonis halted the IEP procurement process pending an independent review by Sir Andrew Foster. In his report, Sir Andrew said he was not convinced that all of the viable alternatives to IEP had been assessed alongside it on an equal footing. Sir Andrew also expressed some doubts over the technical feasibility of the new bi-mode trains and stated that the value for money had declined over time.7 In describing the electric option he stated:

“The specification of the train has driven features within the design that have been questioned and may well be unnecessary (e.g. the requirement to have a small diesel generator to power the train in the event of a loss of electricity). It should be noted that without these features, there are similar broadly acceptable products available in the market from other manufacturers.”

Sir Andrew also referenced the bi-mode trains as already supplied in the UK market:

“The Meridian and Voyager trains currently used by East Midlands Trains, CrossCountry and Virgin Trains are a distributed power diesel train built by Bombardier between 2001 and 2005. Unusually for this type of train, their design is such that they could be converted to bi-mode or even electric trains through the addition of a pantograph and transformer. Such a conversion may well be cost effective for these trains for the services that they currently operate

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7 DfT, Review of the Intercity Express Programme by Sir Andrew Foster, 6 July 2010, pp3-8
completed and as an existing diesel train, adding the functionality to operate as an electric train seems more sensible than building a new train designed for both.”

He went on to say that he and his team struggled to make sense of the multiple changes to the specification during IEP’s lifetime and criticised the DfT’s management of the Programme including its communication of it.8

Although still known as IEP, the DfT has now changed the specification so it matches very closely the original cost-effective train the private sector would have acquired. Contracts have still not been signed with the preferred bidder.

**THAMESLINK ROLLING STOCK PROJECT (TRSP)**

Bombardier Transportation was extremely disappointed not to be selected as preferred bidder to provide the Thameslink rolling stock. We remain, however, reserve bidder for the TRSP, and our ability to comment is therefore limited.

The company had been optimistic of success for a number of reasons and was surprised not to have been selected:

1. We would have provided proven technology through our tried and tested lightweight bogie (chassis and wheelbase) that is already in operation on other tracks
2. Our manufacture would have been based in the UK, securing British jobs and retaining technical and manufacturing design expertise within this economy
3. Our commercial proposal was highly competitive, particularly given the quality of our products.

All of the management and workers at Bombardier Transportation are saddened by the fact that, following the Thameslink decision, the company has had no option but to announce a consultation process relating to a large number of redundancies at its Derby facility. It simply does not have enough orders to maintain the existing workforce, despite their diligence, expertise, commitment and dedication. The company believes that the skills being lost to the company through this process are, potentially, also a grave loss to the UK economy.

**Design of Procurement Procedure**

The DfT is charged with procuring a solution representing best value for the taxpayer. We believe the model used to calculate the TRSP process is flawed, as it did not take into account the full effect on the public finances of the decision.

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For example, the University of Manchester\(^9\) estimates that building trains in Derby generates £20 million a year in tax revenue, equivalent to hundreds of millions over the lifetime of the contract. Immediate knock-on costs in higher benefit payments would also be significant, as would the wider social and economic benefits of continuing to strengthen high-technology manufacturing in the region. The DfT did not see a need to consider these effects.

The procedure suffered from the following specific shortcomings:

A. **Need for a Full Economic Assessment**

When asked for their assessments of the importance of the rail technology sector to Derby and the East Midlands in recent written questions, the Treasury\(^10\) and the Department for Business Innovation and Skills\(^11\) both answered that they had not done any work in this field.

B. **Impact on Future Costs Should be Assessed**

The DfT's model neglects the effects of its own decisions. Its slow and irregular procurement process means manufacturers face serious peaks and troughs in their orders, as highlighted in the McNulty report. These can add up to 20% to costs.

C. **Impact on Employment Should be Evaluated**

The DfT has also sought to point to Siemens's promise to create a number of assembly, maintenance and construction jobs. However, we understand that most of these jobs will be created no matter who wins the contract. Indeed, the Siemens factory in Hebburn, Tyne & Wear was on our own shortlist as a possible supplier.

D. **Effect of the Transfer of Undertakings (Protection of Employment) Regulations to be Uniformly Applied**

Bombardier planned to honour TUPE in full for the significant number of First Capital Connect employees who will transfer to the TRSP provider. We do not know whether the DfT sought similar commitments from other bidders.

E. **Exchange Rate Risk to be Retained by Bidders not the Taxpayer**

The DfT has agreed to take the exchange rate risk on the TRSP until contract signature. This means that the cost of vehicles supplied from Germany will increase if the Euro appreciates against Sterling. We understand that a similar position applies for IEP in relation to the Yen. This is clearly not in the best interests of UK taxpayers, and it even provides an incentive for production to take place overseas.

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\(^9\) [http://www.cresc.ac.uk/sites/default/files/Knowing%20what%20to%20do.pdf](http://www.cresc.ac.uk/sites/default/files/Knowing%20what%20to%20do.pdf)

\(^10\) [http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110616/text/110616w0001.htm#110616400163](http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110616/text/110616w0001.htm#110616400163)

\(^11\) [http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110617/text/110617w0001.htm#110617400147](http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110617/text/110617w0001.htm#110617400147)
Need for Tried and Tested Technology

The prime reason we were surprised not to be selected as preferred bidder for the TRSP is our ability to deliver a lightweight train through our tried and tested technology. This core requirement for the Thameslink fleet was designed to reduce track wear and damage, thereby lowering track access charges and reducing energy consumption, thus cutting the whole life costs of the scheme.

Whilst the Bombardier ELECTROSTAR is the lightest EMU in the market - weighing an average of just 42 tonnes per car - our AVENTRA train designed for Thameslink is 20% lighter.

When the Thameslink competition was launched, Bombardier was the only supplier who could achieve such a weight reduction. This resulted from our development of the FLEXX Eco inside-frame bogie, which took 10 years to design and test. Originally conceived specifically for the UK market as part of a pioneering ‘Advanced Suburban Bogie’ project in the early 1990s, FLEXX Eco was developed to meet the challenging technical and performance requirements of London’s suburban rail routes and was targeted for the original ‘Thameslink 2000’ project.

Initially tested in prototype form in the UK for two years under Class 320 vehicles (in 1991-92 using trailer bogies) and subsequently under Class 466s using motor bogies, FLEXX Eco remains the only lightweight high-performance bogie in the world on mainline passenger services.

FLEXX Eco has an extremely credible record, having travelled 1.5 billion kilometres in service in the UK under Voyager, Meridian and, more recently, TURBOSTAR trains. It has also been exported to Norway, with 122 bogies supplied to state operator NSB. In reducing overall vehicle weight, the bogie makes a significant contribution to energy saving. It is particularly stable at high speed. It has been tested to 275kph under a Japanese Shinkansen and 392kph beneath an ICE2 in Germany. It delivers excellent performance through curves. The FLEXX Eco bogie is the chosen bogie for the new German ICX very high speed trains (the trains will be built by Siemens and the bogies provided by Bombardier).

Siemens does not have a proven bogie design which could achieve the target weight requirements of Thameslink. We understand that whilst their proposal exists ‘on paper’, it has not been tested or proven in service.

It is significant that, for the Thameslink project, Alstom was offering its X’Trapolis train, an articulated design that offers very lightweight vehicles. However, articulation also creates substantially higher axle loads than the more conventional EMUs offered by Bombardier and Siemens. In October 2009, Alstom was informed that it had been unsuccessful in its bid for the TRSP. Whilst Bombardier provides articulated designs elsewhere in Europe, they were not offered for the Thameslink project, as the Network Rail track
wear model used to calculate whole-life costs penalises heavy individual axle load.

DfT Feedback

A meaningful dialogue between the DfT and firms not selected as preferred bidder has great potential for improving the quality of our offerings and hence the benefits to taxpayers. It is also essential to holding procurement officials accountable.

Following the TRSP preferred bidder announcement, Bombardier representatives received a 1-hour feedback briefing by DfT officials (in this case there was also a subsequent meeting with the Permanent Secretary). Officials used half of the meeting to describe the procurement process (with which we were obviously familiar) and then declined to give what we considered to be adequate answers to our other questions on grounds of commercial confidentiality. This is clearly disappointing. Parliamentary Questions by MPs have revealed more information than the formal feedback process.

Bidders for DfT rolling stock contracts will usually have been required to spend many millions of pounds on their submissions. If the DfT wishes to attract competitive bids in future that provide best value for taxpayers, it must be more forthcoming in the provision of feedback.

European Union Procurement Rules

The DfT asserts that EU rules tied its hands on the TRSP, but this is due not so much to the rules themselves as to the way the DfT has interpreted them. Officials chose to exclude socio-economic criteria including the long-term effect on taxpayers even though, as Professor Chris Bovis of Hull University has explained:

“There are no EU laws against including socio-economic factors in any procurement process. In fact, the EU is also very flexible on this matter. All significant procurement projects should include the details of the socio-economic impact if the work does not go to home market, just as much as the procurement document should include details on health and safety compliance, ethical trading, social responsibility and employment requirements. The EU law allows all of this – and that is why countries like Germany and France always include this in their procurements. They look at the bigger picture and factor in what would happen to their home market if the work went abroad. And it is not done in a clandestine way. This data is not hidden.”

12 Derby Telegraph, 9 July 2011
EU procurement laws do not require the Government to select the lowest priced bid. The DfT could have used a more sophisticated set of criteria, known as the “most economically advantageous” test. Other EU countries such as France and Germany use this method to ensure that procurement decisions can safeguard a domestic industrial base in the long-term interests of the country. The DfT appears to have put multinational companies like ours, that invested in the UK, at a disadvantage in public procurements.

The underlying problem is that there is no linkage between the rail procurement policies of the DfT and the industrial strategy of DBIS. We welcome, therefore, the initiative of the two Secretaries of State writing jointly to the Prime Minister seeking to reform the DfT’s procurement processes.

Moreover, nothing in the EU rules required officials to hold a contest linking manufacturing, maintenance and finance together. Officials designed the TRSP tender so that the bidders’ financial performance was used to rank the offers. At the time this ranking was done, technical criteria were excluded from further consideration. As Paragraph 3.2.4 of the Invitation to Tender states (our emphasis):

“Those bids that have proceeded to the Stage 4 evaluation will already have achieved the minimum levels of technical compliance in Stage 1 and demonstrated a high level of technical and commercial competence and deliverability in Stages 2 and 3. It is therefore considered that by reaching Stage 4 the Rolling Stock is expected to be capable of meeting the aims of the Department for the TRSP.”

Despite the overriding importance of the financial ranking, costs would have been lower if the Government arranged financing itself because it can borrow more cheaply than private companies.

According to Professor Bovis, the Government had the ability to abort the process and retender at any time. Indeed, as described above, the previous Government initiated a review of the IEP programme after the preferred bidder was announced.

The Government has repeatedly stated that it would be too time-consuming to halt the present TRSP procurement, as the only way to change the outcome would be a complete restart of a process that would then take too long to complete. Our table of procurements timetable demonstrates there is no need for a rebid to take a lengthy period, especially now that the specification is well defined and understood.

CONCLUSION

We hope that this submission will have helped the Committee to understand Bombardier’s experience of train procurement in the UK.

As a team, we are all still numb that we were not named as the preferred
bidder for Thameslink. Our disappointment flowed from having built a successful business in the UK through investment, strong design and engineering, great trains at good prices and, above all else, a talented and proud team of Britons working together.

We felt we would win, as we do in most of the processes run by operators themselves because we believe that we delivered a very competitive bid that was in the interests of the UK economy. With DfT procurement, however, we believe the rules have worked against us and against our colleagues who will ultimately pay a tough price for this decision. Those rules have worked against the UK too, not just in the added bill for unemployment but in the impact on our reputation as a manufacturing nation. The UK needs manufacturing excellence. Help us to achieve a process that keeps skilled jobs here.

August 2011
Written evidence from Unite (RSP 10)

1 Introduction

1.1 Unite is the majority union at the Bombardier Transportation site in Derby, and strongly welcomes the Transport Select Committee’s decision to discuss matters related to UK rolling stock procurement following the recent decision to award Siemens preferred bidder status for the supply of the new Thameslink trains.

1.2 Unite, has taken great pride in the illustrious history of rail manufacture, and employment of thousands of working men and women in the Derby rail manufacturing site. Now, together with colleague unions RMT, TSSA, GMB and the whole community, Unite is deeply concerned by the government decision to make the Derby Bombardier site reserve bidder for this contract, with the immediate threat to jobs, skills, apprenticeships, and to the future of the only rail manufacturing site in the UK.

1.3 Unite’s written evidence to the select committee concentrates on the following key areas:

- The New Leasing Requirement Contained in the Tender for the Thameslink Contract
- The Lack of Inclusion of the Social Impact in Awarding the Contract
- The Impact on Jobs Across the UK
- Technical Concerns
- Recommendations

2 THE NEW LEASING REQUIREMENT CONTAINED IN THE TENDER FOR THE THAMESLINK CONTRACT

2.1 For the first time, the Thameslink contract contained a requirement for the manufacturer to not only produce and maintain the trains, but also one whereby they would retain ownership of the rolling stock and would lease the trains to Thameslink directly, in direct competition to the ROSCOs. Unite understands that it was hoped that this requirement would reduce the leakage of profits away from the industry. Instead it gave Siemens an overwhelming advantage in the Tendering process given its credit rating and backers providing it with the ability to obtain loans at a 1.5% lower interest rate than Bombardier to finance the deal, and giving Siemens an estimated £700 million cost advantage over 30 years.

2.2 The background to this new approach to the contract lies in the privatisation of the rail network in 1993, when the previous Conservative government set up a series of Rolling Stock Operating Companies (ROSCOs) who lease the rolling stock out to the Train Operating Companies (TOCs). This created an environment where the size and number of orders being placed became highly volatile.

2.3 This volatility has lead to the closure of all train manufacturing in the UK with the exception of the Derby facility which has changed hands to new owners five times in

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1 Unite is the UK’s largest trade union with 1.5 million members across the private and public sectors. The union’s members work in a range of industries including manufacturing, financial services, print, media, construction, transport, local government, food, agriculture, education, health, not for profit and of particular relevance to this submission, the docks, rail, ferries and waterways sectors.

2 CRESC report http://www.cresc.ac.uk/sites/default/files/Knowing%20what%20to%20do.pdf

3 investment bankers estimate Daily Telegraph 7 July 2011
the last twelve years. The situation has also created significant problems regarding the retention and replacement of skilled workers. At times over the past few years, the workforce have been asked to either clean or maintain the factory or sent home on full pay, owing the company up to three months worth of hours on a flexible working system while the company awaits the next order to arrive. At other times the factory’s workforce has had to be augmented with a considerable number of temporary workers.

2.4 The ROSCOs were initially sold in November 1995 for a combined sum of around £1.7 billion. By 1996 the rolling stock companies generated a combined pre-tax profit of £1.8 billion and have continued to employ what have been identified as potentially anti-competitive practices with repeated accusations of overcharging which was investigated by the Competition Commission. Despite excessive profits the ROSCOs did not commit to new rolling stock procurement programmes due to the train operating companies not being prepared to commit to the need for new rolling stock as they feared that by the time the new rolling stock arrived they would have lost the franchise.

2.5 Profit margins for 2000 reveal the extent to which the ROSCOs have benefited from privatisation - Angel Trains 29%, Porterbrook 35% and HSBC (Rail) UK 38%. These profits have continued, with Angel trains, for example making a 60.36% profit margin in the 7 months till December 2010.

3 THE LACK OF INCLUSION OF THE SOCIAL IMPACT IN AWARDING THE CONTRACT

3.1 The Government has stated that they believe that Siemens offered the best value for money yet when you take into consideration the taxation revenue which would have been generated by building the trains here, it becomes clear that it would be cheaper to manufacture the trains in the UK.

“for purposes of argument, let us assume that 1,000 jobs could have been secured by Thameslink and other contracts. In this case the tax receipt offset would be nearly £20 million per annum by 2012 and increasing each year with inflation and real wages (and that £20 million pessimistically excludes all pension contributions).”

CRESC REPORT : KNOWING WHAT TO DO? How not to build trains  July 2011

3.2 Unite has noted that the tender document does clearly enable the Secretary of State to intervene in the process and to revisit the contract. He has the power to put in place provisions to ensure the security of supply and maintenance of these trains by having them manufactured and maintained in the UK. Unite believe that European procurement rules allow social and economic factors to be taken into account when awarding contracts yet the government openly admits that these were not considered when awarding the preferred bidder status under this contract.

3.3 The Government has claimed that they could not alter the terms of reference of the Tender set by the previous administration. This Government has had 14 months to review and amend the tender and did not use this opportunity to protect the British workforce in the light of the very changed economic circumstances prevailing.

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5 CRESC report http://www.cresc.ac.uk/sites/default/files/Knowing%20what%20to%20do.pdf
6 CRESC report http://www.cresc.ac.uk/sites/default/files/Knowing%20what%20to%20do.pdf
7 Invitation to Tender document 2008
Under the previous Inter City Express Programme (IEP) contract, which was won by a consortium led by Hitachi, that tender was amended significantly on several occasions after it was sent out, including an additional 3-month review taking into account the extent and length of the tender. 8

3.4 The supplementary instructions sent out to the bidders amending the delivery date was contained in one of five separate amendments which occurred during the tendering process for the Thameslink contract. 9 The last of these instructions was sent to Bombardier as late as November 2010 with their response going in during January 2011. The original Official Journal of the European Union (OJEU) notice was sent out in April 2008 with a planned announcement date of preferred bidder in October of that year. The Thameslink contract was then to be signed in March 2010. These five supplementary instructions have themselves delayed the award of this contract by over a year.

4 THE IMPACT ON JOBS ACROSS THE UK

4.1 The decision to go with Siemens as preferred bidder has led to the announcement that over 1,400 will lose their jobs, all apprenticeships have been stopped and the very future of the plant is now at risk. Although Bombardier had previously been discussing the potential loss of 700 temporary workers by November when their current level of work subsided, there were plans to invest in apprentices and other educational and training programmes to build a future for the workforce and its supply chain.

4.2 Of the 1100 suppliers of goods or services to Bombardier, around 900 are based in the UK with almost all constituencies affected, including almost 100 in Derby or the surrounding area. Unite is further researching this impact.

4.3 The Government highlighted that the award of the contract to Siemens would create around 200 jobs but even if the contract is finally given to Bombardier, Unite believes that the majority if not all of these jobs would still be have been created as they are within the supply chain for elements common to both designs, not final assembly or manufacturing of the finished rolling stock.

4.4 According to the Office of National Statistics over 6% of the UK’s gross value added (GVA) is created in the East Midlands. The region’s headline GVA in 2009 was £77.2 billion. In 2008, 16% of the region’s GVA was contributed by the manufacturing sector, the largest percentage in this sector of any region or country. Throughout the recession, employment has fallen and unemployment has risen and at the end of 2010 showed no clear signs of recovery. This hammer blow to the region will therefore only serve to create more problems.

4.5 Work done by Birmingham University on the long term loss of skills that resulted following the mass redundancies at MG Rover in 200710 showed that a quarter of those who lost their jobs were still in a financially difficult position three years on. The study also showed that although 90% of ex-workers were back in work, 60% were no longer using the skills they used whilst working at Rover. Just 30% were still in manufacturing roles.

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8 Lord Adonis at exactly the same stage in the process of bidding for the Inter City Express Programme, after the announcement of Agility Trains as preferred bidder, made an announcement in Parliament in 2009, in which he set up a 3-month independent assessment of the value for money of the Programme

9 See appendix

10 Dealing with plant closures and redundancies - Key lessons from MG Rover by David Bailey, Gill Bentley, Caroline Chapain, Alex de Ruyter, Stephen Hall and Michelle Mahdon – University of Birmingham Business School
4.6 The IEP contract which has still to be finalised three years on, gave preferred bidder status to a consortium lead by Hitachi. Once signed and sealed it will create around 600 jobs, but these will be primarily assembly line roles putting together elements manufactured in Japan and elsewhere. Bombardier and Siemens are of course still reserve bidders on this.

4.7 The Government are talking about the next big contract for Crossrail. It is vital that the impact of the Thameslink contract decision on Bombardier’s ability to bid for this contract is also recognised. Again, not just the jobs at Bombardier placed at risk, but also those in the region’s supply chain.

5 TECHNICAL CONCERNS

5.1 Siemens have not as yet produced a bogie capable of carrying their design of trains on the network. This flaw in their bid could result in the rolling stock being delivered without a compliant bogie, sets being overweight, having performance issues, and may result in the stock requiring new bogies within as little as five years. The problem is so significant that Unite has evidence to suggest Siemens asked for and received a revision to the tendering process for Thameslink to give them the time to allow them to develop and assess the suitability of these wheels. If they get it wrong there could be significant damage done to the track and points on the route. The Bombardier bogies took 10 years to develop and construct and are now seen as the world’s leading bogie frame and has proven reliability.

5.2 Additionally the Thameslink current stock is all of a standardised Bombardier design. Consequently all the drivers on the route will need to be retrained on the new control layout.

6 RECOMMENDATIONS

6.1 Unite is calling for the government to take a pause and reconsider the full situation in line with issues raised above, taking into account the social impact.

6.2 Look at experience elsewhere in Europe, including the following two examples:

- In March 2008 Siemens won a contract to produce 300 three car units for the Belgium rail network defeating Alstrom and Bombardier. Due to the level of protests about the potential loss the last rail manufacturing site in Belgium, Siemens agreed to subcontract some of the fitting out work back to Bombardier in Bruges.
- More recently Siemens won another contract to produce trains in Germany. They have again subcontracted the production of the bogies and some of the metalworking to the Bruges Bombardier plant.

6.3 At present the UK operates an open tendering process (in line with EU regulations) that has a systematically negative effect on the UK manufacturing sector, and does not take into account the location that products will be manufactured in. This means that although a UK company may be awarded a contract, this does not

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11 Canadian academic, Robert Hickey of Queen’s University, Canada has described Siemens as engaging in “Aggressive Bargaining and Union Busting” and that it has Siemens as an “aggressively anti-union business strategy”. Morally, Siemens has an appalling record conducting business in a number of other countries deemed sensitive by the Journal of Management Research (such as Burma and Pakistan) due to factors concerning labour, political freedom, civil liberties, and human rights. On 3 March 2011, Siemens lost its appeal to a European Court to have an anti-trust fine overturned. The EU Commission imposed a fine of almost €400million on Siemens in 2007 for heading a cartel on gas insulated switchgear for electricity grids.

12 See the Appendix time line
automatically mean there will be job security for UK workers or the creation of new manufacturing jobs. At Rolls Royce, 62% of research and development activity now takes place abroad. Where the intellectual capability goes so do the jobs.

6.4 According to Network Rail there are currently 12,000 vehicles on the GB rail network, divided into 64 different rolling stock classes. Each new design adds to procurement, maintenance and driver training costs. Unite believe it would be significantly cheaper and easier to standardise designs rather than go with a bespoke option. Such an arrangement would result in contracts lasting longer, stabilising the volatility, potentially long enough to enable time for a series of apprentices to complete their training. It would also be easier to select a further run of an existing design and provide updates.

6.5 The track profile on the UK rail network has helped and hindered the Derby plant. In the UK, rails negotiate a series of low bridges and other restrictions causing the activities in Derby to be generally restricted to the UK domestic market. It also creates challenges for manufacturers from outside the country, as they have to adapt their designs to work on the UK specification track. The Derby Plant could produce rolling stock for the European network but the resultant rolling stock would currently have to be shipped to the docks by road, adding significantly to the cost. Rail freight gauge enhancements may provide a future possible solution. There are already advanced plans to improve the rail freight route from Felixstowe to Nuneaton. Such a corridor could eliminate the road element of such a journey.

6.6 Unite further recommends more widely:
- Government needs to talk to companies in the manufacturing sector and trade unions to ensure a pragmatic, sustainable and long term strategy for key industries within the sector
- The commitment of the present government is the key to ensuring that public procurement works in an advantageous way for UK manufacturing companies
- Government needs to show its support for industry and ensure that social clauses are used successfully to support local businesses, communities and workers.
- Government must emphasise public procurement as a lever of skills, training and apprenticeships for suppliers and especially SMEs.
Appendix - Thameslink tender timeline

Official Journal of the European Union notice issued and pre-qualification
questionnaire received April 08
Bombardier Response June 08

Invitation to tender issued Nov 08
Original Response Date April 09
Actual Response Date June 09

Supplementary Instruction 1 - Bid Extension
Received Feb 09
Submitted June 09

Supplementary Instruction 2 - Batching, Re-financing, introduction of 20 trains per hour scenario
Received Feb10
Submitted Mar10

Supplementary Instruction 3 - Revised depot base schemes
Received Feb10
Submitted Mar10

Supplementary Instruction 4 - Revised depot base schemes, revised diagrams and fleet size, refresh debt terms, revise programme (number of trains at the strategic, number of full length/reduced length units etc)
Received Apr10
Submitted May10

Supplementary Instruction 5 - Revised depot base schemes, revised diagrams, revised programmes, development of contract documents (populate schedules etc)
Received Nov10
Submitted Jan11

Preferred Bidder Announcement
(planned) Oct 09
(actual) June 11

Contract Award
(planned) March 10
(actual) tbc

The first and final delivery dates moved with the SI dates (with the occasional 1 or 2 month variation)

September 2011

13 giving more development time to Siemens.
Written evidence from the Railway Industry Association (RSP 11)

Executive Summary

ES1 The Association represents the railway supply industry in the UK, including the three historic suppliers of rolling stock, Alstom, Bombardier and Siemens, although not Hitachi. The Association is regularly consulted by major clients and stakeholders for rolling stock in the UK. The Association makes no comment on the outcome of the Thameslink procurement so far, but welcomes the favourable decisions which the Government has made to support major investments in the mainline railway.

ES2 The Association does however have substantial concerns about the volatility in demand for mainline rolling stock and other causes of uncertainty, and the difficulties and costs which result from such uncertainty. A more predictable and consistent flow of work would lead to significant cost reductions through the optimisation of tendering costs, production planning, supply chain management and the financing of new train projects. The Association also favours strengthened dialogue between clients and suppliers to optimise the timing of procurements.

Full Paper

1. The Railway Industry Association (RIA) would like to thank the Select Committee for the opportunity to present evidence on rolling stock procurement.

2. The Association is the trade body representing the railway supply industry in the UK. It has more than 160 member companies of all sizes. Manufacturers, contractors, consultancies, leasing companies and providers of specialist services to the railway are all members. They include most top tier companies from the principal railway discipline supply chains, such as track, electrification, signalling and rolling stock. They therefore account for the great bulk of the sector by turnover; numerous lower-tier companies and SMEs (Small and Medium-sized Enterprises) are also members.

3. Member companies supply to the principal railway client bodies in Great Britain and export worldwide. They hold in-depth expertise in many aspects of the railway itself; indeed the supply sector is believed to account for some 40% of the employment base of the railway industry as a whole. The Association and its members hold regular discussions with client-side organisations such as the Department for Transport, Crossrail and London Underground.

4. There is much to be said that is very positive about the investment in mainline rolling stock that has taken place since the mid-1990s. Some 5000 new vehicles have entered service, approximately 40% of the fleet, such that this country has the youngest train fleet in Europe, and more have been refurbished. The ROSCOs (Rolling Stock Leasing Companies) have been central in providing finance for this investment; two – Angel Trains and Eversholt Rail Group – are members of the Association. Their success in attracting funding from the capital markets has demonstrated the importance of their portfolio ownership approach and ensured that the lifetime value of trains is taken into account at all stages.

5. At the same time, the trainbuilders have demonstrated their capability to supply modern, efficient and significantly improved rolling stock, which has been accompanied by the development of a range of service models to support the new fleets. More recently, the Department for Transport’s Technical Strategy of 2007, and its implementation through procurement, have been key in encouraging manufacturers and their supply chains to develop the next generation of EMU’s
Electric Multiple Units) that by contrast with the first generation will be more energy efficient, lighter, do less damage to the infrastructure and cost less on a whole life whole system basis (as opposed to the traditional focus on rolling stock capital costs only).

6. Such trains were specified for the Thameslink project. The Association cannot comment on the outcome of that procurement so far: RIA members were consulted during the lead up to the tender process, but RIA has not been party to the negotiations, which have been conducted on a confidential basis between the DfT and the tender participants. Moreover, the shortlisted bidders, Bombardier and Siemens, are both members of the Association, as is Alstom.

7. On behalf of all its members, however, RIA very much welcomes the outcome of the 2010 Comprehensive Spending Review for the mainline railway. So far as rolling stock is concerned, the confirmations of for example the Thameslink and Crossrail projects, and of the major renewal of the Great Western Main Line, were much needed, and we recognise the scale of the investment that the Government is making.

8. Nonetheless the Association believes that the Committee may find it helpful to be aware of some of the less positive aspects confronting its train builder members operating in the UK, and the supply chains of smaller companies that depend upon them.

9. RIA member companies are well-versed in competing for workload, and the UK rail market is probably one of the most open and competitive markets worldwide. But members’ capability to compete effectively is seriously harmed if major and unexpected changes or delays are made to the workload facing the sector. Such changes have repeatedly occurred in the volume of orders placed for the mainline railway over the last twenty years. The extreme volatility is shown in Figure 1:
For three years during the period of privatisation no mainline orders were placed. During this period the Association believes that at least 10,000 jobs were lost by the train builders and their supply chains. Over time, and for a number of reasons, the number of major production sites in the UK fell from ten to one.

10. This period of orders famine was followed by very large orders for new trains associated with the first round of franchising and then with the decision to replace all slam-door trains on the network. Both of these were matters of public policy. They were followed by a further period of famine, then by relatively subdued activity.

11. Volatility on this scale is costly both for train builders and for companies in the supply chain: in times of low demand expensive plant is under-utilised, trained staff are made redundant, skills are lost, and smaller specialist suppliers withdraw from the railway supply chain either voluntarily or through closure. When demand is restored, firms then have to recruit, train, re-open moth-balled facilities, seek new sources of sub-supply and reclimb the learning curve. The process is expensive, wasteful of human and other resources, strongly discourages innovation, drives up the cost of capital and can make long term skills development impossible to achieve.

12. The volatility is difficult enough for the train builders to accommodate. Companies in their supply chains have even less visibility of future demand and often find themselves continuously ramping up or ramping down production, both of them costly processes.

13. The Association has advised Sir Roy McNulty’s review of the Value for Money of the Railway that the lack of continuity of production has added roughly 20% to the general cost of rolling stock in Great Britain.

14. Unnecessary uncertainty is not restricted to ordering patterns only. For example, when procurement exercises have been launched, substantial uncertainty still
remains. Thus, in December 2008 a procurement notice was issued for 200-250 Diesel Multiple Units (DMUs) with the contract to be awarded in March 2009; the procurement was cancelled in August 2009 because of the change in policy on electrification, but after bids had been submitted. Timing is also a source of major risk: in April 2008 the Thameslink contract was to be signed by summer 2009; it has not yet been let, having just reached preferred bidder stage. Similarly, at the launch of the Intercity Express Programme (IEP) competition in 2007, contract let was forecast for early 2009. The contract has yet to be signed.

15. These delays and changes of direction are not cost-free; they waste resources that often cannot be redeployed or put to optimal use. They have a more insidious damaging effect also. The GB market is significant, but substantially smaller than the markets in a number of our most important competitor countries. Moreover, for reasons of gauge it requires specialist train building equipment not needed by other railways. Yet the railway supply industry is substantially now globalised; none of the headquarters of the train builders is located in this country, and the same is true of many of their subsystems suppliers. The frequency of changes to policy and to project timescales is inevitably damaging to the credibility of any forecasts of the GB demand for rolling stock. That in turn undermines the credibility of the market, and therefore companies’ willingness and ability to invest in research and development, production plant and skills development in or for this country.

16. There is nothing inherent about rolling stock that requires such uncertainty or such large bursts of feast and famine as are seen in this country. For example, Figure 2, provided by the Japan Association of Rolling Stock Industries (JARI), shows rolling stock production there over the last twenty years:
17. It is emphasised that the data relate to production rather than orders, so the comparison with Figure 1 is not totally direct, but it is evident that even with some weaker years the overall pattern is substantially more smooth than that seen in GB. Even in the very lowest years, production has never fallen below half that in the highest peak year; the baseload has been high throughout; and the UK years of zero workload (matching zero orders) have not been seen. Moreover, in a number of years of low orders by the Japan Railway (JR) companies, volume was compensated by work for the private railway companies in Japan and for exports, suggesting a good degree of market flexibility.

18. Within the UK, we note that the draft Network Route Utilisation Strategy for Rolling Stock, prepared by Network Rail and the subject of recent consultation, urges consideration of procurement at more consistent and predictable levels of workload and with fewer designs of trains. We agree with this view, and with the conclusion that substantial industry savings could be obtained by so doing.

19. Finally in his July 2010 report to the Secretary of State on the Intercity Express Project, Sir Andrew Foster noted with approval that:
20. We have already noted that substantial dialogue exists both within the industry and between train builders and client bodies. As Sir Andrew implies, however, that dialogue is less strong in relation to issues of capacity in advance of the launch of procurement exercises. We recommend that in future the capacity issues should be addressed earlier in the process and in a more formalised manner, so that the timing of procurements can be optimised to the benefit of both clients and suppliers.

August 2011
1. INTRODUCTION

EU law on public procurement aims to increase competition and transparency in a key sector of the European economy: total public expenditure on goods, works and services amounted to over €2 trillion in 2009 (19% of EU GDP). The EU public procurement directives establish common rules and procedures for high-value procurements, which represent around one fifth of total procurement expenditure (€420 billion in 2009).

The current generation of public procurement Directives are the latest step in a long evolution that started in 1971 with the adoption of the first Directive on public procurement. The Directives apply common principles of transparency, open competition and sound procedural management to public contract award procedures which are likely to be of interest to suppliers across the single market. EU procurement rules govern the way that public money is spent – rather than what the money is spent on. The focus of EU legislation is therefore primarily on the procedures that individual contracting authorities must follow when organising a public purchase for an expected value above the thresholds laid down in the Directives.

Modernising and opening up procurement markets across borders mean more opportunities for businesses and better value and higher quality services for the taxpayer. According to a recent Commission evaluation\(^1\), total estimated savings stemming from all the procedures covered by the EU Directives amount to €20 billion in 2009, without including any allowance for improvements in quality and wider environmental or social benefits. UK companies are the second most successful in the EU when competing cross-border outside their home country, winning 17% of all EU public procurement contracts awarded directly to companies from other Member States. At the same time, UK procurement markets are not more open to suppliers from other Member States than the EU average.

2. KEY PRINCIPLES OF EU PUBLIC PROCUREMENT LEGISLATION

a) Applicable EU rules

Public procurement in the EU is regulated by the Treaty principles of equal treatment, non-discrimination and transparency, which have been further developed in the secondary legislation. The main legal instruments are Directive 2004/17/EC coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (the "utilities" Directive) and Directive 2004/18/EC on the coordination of procedures for the award of public contracts relating to the supply of goods, services and public works (the "classical" Directive). In order to ensure that they are complied with, Directive 2007/66/EC (the Remedies Directive) was adopted so as to ensure that economic operators everywhere in the EU would have access to effective procedures for seeking redress where they consider contracts have been unfairly awarded. Finally, Directive 2009/81/EC on defence and sensitive security procurement sets EU rules for the procurement of arms, munitions and war material for defence purposes, the procurement of sensitive supplies, works and services for security purposes. As this is tailored to the specificities of defence and security equipment and markets, it will not be further discussed in this note.

b) Thresholds

\(^1\) See http://ec.europa.eu/internal_market/publicprocurement/modernising_rules/evaluation/index_en.htm
EU procurement rules have to be followed when organising a public tender for an expected value above the thresholds laid down in the Directives. The thresholds in the utilities Directive are currently set at 4,845,000 EUR (GBP 3,927,260) for works, and at 387,000 EUR (GBP 313,694) for supplies and services contracts. In the classical Directive, the same threshold has been set for works, but for services and supplies purchased by the central government authorities the threshold is set at 125,000 EUR (GBP 101,323) while for services and supplies purchased by sub-central contracting authorities this is higher at 193,000 EUR (GBP 156,442).

The Directives impose a number of steps that public purchasers must follow for awarding public contracts, the most important of which are briefly outlined below.

c) Transparency

For the purpose of improving transparency, all the standard procedures require the publication of a contract notice in the Official Journal of the European Union (OJEU) via the TED (Tenders Electronic Daily) website, in any of the official EU languages. This can be found at: http://ted.europa.eu/TED/main/HomePage.do

d) Exclusion, selection and award criteria

The Directives also provide for specific grounds of exclusion criteria. These take two forms; mandatory and non-mandatory exclusion criteria, and may exclude the participation of an economic operator from a public contract. The mandatory criteria include cases of final convictions for certain serious crimes such as for corruption and fraud. The non-mandatory ones concern other situations such as bankruptcy and convictions for offences affecting the professional conduct that render the economic operator unable or unsuited for the task.

In addition, economic operators have to meet certain selection criteria. These have to be set out beforehand in the contract notice, and relate to the requirements to be met in order to participate in the tendering procedure. They aim at verifying the economic operators’ suitability, by ensuring that they have the required minimum levels of technical, financial and economic capacities. They must also be related and proportionate to the subject-matter of the contract.

Public purchasers also have to apply the criteria for the purpose of assessing the tenders and thus designating the preferred bidder. These award criteria have to be published in the contract notice or documents. Public purchasers have a choice between two award criteria; the lowest price only or the most economically advantageous tender. When the award is made to the most economically advantageous tender, the criteria used must be objective and linked to the subject-matter of the contract. These may include factors such as technical merit and cost-effectiveness, environmental criteria and social criteria.

With regard to social policy considerations, it should be noted that these may also be taken into account, in principle as conditions governing the performance of a contract. However, they have to be compatible with EU law and must be indicated in the contract notice. In order to provide further guidance to the national authorities, the Commission has issued a communication and a guide on how to integrate social considerations into public procurement (Buying social – A Guide to Taking Account of Social Considerations in Public Procurement, 2010; Commission communication - Integrating social considerations into public procurement, 2001).

e) Procurement Procedures

The Directives contain provisions setting out the different types of procedures for the award of public contracts. They do not harmonize every aspect of the procedures. While
the EU legislation establishes common rules and procedures for high-value procurements, Member States have considerable discretion in implementing the provisions of the public procurement Directives, within the limits provided therein – in particular as regards the mechanisms and administrative arrangements that are put in place to ensure compliance with those provisions.

By contrast, and subject only to the general provisions and principles of the Treaty, Member States retain full discretion for the regulation of public procurement outside the scope of the EU Directives (for example for procurements with a value below the EU thresholds).

The procedures foreseen by the Directives are the following: 1) the open procedure, 2) the restricted procedure, 3) the negotiated procedure with the prior publication of a contract notice, 4) the negotiated procedure without the prior publication of a contract notice and, 5) the competitive dialogue (in the case of the classical Directive only).

The "Classical" Directive identifies 5 different types of procedures:

1) Contracting authorities are free to choose the open procedure. In the context of this procedure, any bidder may submit a full tender as a response to the contract notice. The suitability of the bidders is verified after the tenders have been presented. Following this, the tenders are assessed in the light of the award criteria.

2) The restricted procedure is another procedure which contracting authorities are free to choose. Those economic operators who meet the minimum requirements are invited to tender. However, contracting authorities retain the power to limit that number in line with objective and non-discriminatory criteria. In restricted procedures the minimum number of economic operators to be invited to tender is 5.

3) The negotiated procedure with prior publication of a contract notice may only be used under the restricted circumstances which are set out in the Directive. It is incumbent on those who invoke them to prove that use of this procedure is justified. The main characteristic of a negotiated procedure is that, unlike the open and restricted procedures, substantial negotiations may take place, as contracting authorities can negotiate the tenders submitted in order to adapt them to their requirements and to seek out the best tender. The negotiated procedure with notice involves a first stage in which the economic operators who have requested to participate are selected. It is also possible to limit the number of candidates that contracting authorities intend to invite to participate in the negotiations. However, the minimum number of candidates must be 3. The classical Directive offers to contracting authorities the possibility to announce in the tender notice that they intend to gradually reduce the number of tenders to be negotiated.

4) In certain exceptional cases, exhaustively listed in the Directive and restrictively interpreted, contracts may be awarded directly by a negotiated procedure without prior publication.

5) The competitive dialogue was introduced in the classical Directive only, with regard to the award of particularly complex contracts. Economic operators, who have requested to participate in the procedure, are selected in the same way as described above concerning the restricted and negotiated procedures. It is also possible to limit the number of candidates that contracting authorities intend to invite to participate in the dialogue. However, the minimum number of candidates must be 3. The main characteristic of a competitive dialogue is that it includes a dialogue stage the aim of which is to identify and define the means best suited to satisfying the contracting authorities’ needs. They may discuss all aspects of the contract with the chosen candidates during this dialogue. The main difference compared to a negotiated
procedure is that no further substantial negotiations may take place once the dialogue stage has been closed and the participants have been invited to submit their tenders.

With 2 important exceptions, the Utilities Directive identifies the same procedures. First exception, this Directive does not contain the competitive dialogue, and second, it gives contracting entities the freedom to use the negotiated procedure with prior publication of a contract notice, as they like.

3. ECONOMIC AND STATISTICAL DATA

In 2009 total EU public procurement expenditure was estimated at €2.3 trillion (19% of EU GDP). Almost a fifth of this amount, €420 billion (3.6% of EU GDP), concerned contracts above the value of the EU thresholds and should therefore be awarded according to the EU Directives. Approximately 39% (= €165 billion) was spent on works, 38% on services (= €160 billion) and 23% on goods (= €95 billion). Around 20% of the procurement advertised at EU level originates from Utilities operators.

The total cost of the procurement process (including all the bidders’ costs plus those of the awarding authority\(^2\)) for those procedures covered by the EU Directives has been estimated at €5.6 billion per year or 1.3% of the total value of contracts published. This is more than offset by the estimated savings, which are around 5% of the total i.e. €20 billion in 2009, without making any allowance for improvements in quality and wider environmental or social benefits.

In 2010, nearly 162,000 contract notices and over 143,000 contract award notices (CANs – i.e. notices with the results of the award procedure) were published in the OJEU via TED. On average, each of these contract notices receives 5-6 offers (compared to 2-3 bids in the private sector). The number of bidders varies significantly across countries; Spain has the highest number of bidders (8.8) and the Slovak Republic has the lowest (2.1)\(^3\).

Across the EU, the open procedure is most commonly used, generally for contracts of relatively low value (73% of CANs; 52% of the total published value). The second most popular procedure is the restricted, which is used for contracts of much higher value (9% of CANs, 23% of total value). The negotiated procedure with publication was used in 8% of CANs and accounted for 14% of the total value published. Again, there is marked variation across Member States – three Member States (France, Poland and Germany) awarded half of the contracts during 2006-2010 while half of the value of these contracts was awarded by the UK, France and Spain. The UK is the most frequent user of the restricted procedure and the competitive dialogue is the lowest user of the open procedure. It also tends to award larger value contracts. The procedure followed is one of the factors influencing the time taken to procure (others include contract value and complexity). In the UK the average time taken from the dispatch of a contract notice to the award was 161 days, which is higher compared to an EEA-30 average of 108.

Procurement markets remain largely national with direct cross border procurement (i.e procurement where a firm operating from its home market, bids and wins contracts launched in a different Member State) accounting for just 1.6% of the contracts awarded (roughly 3.5% of the total value). Direct cross-border procurement seems to be influenced by geography, history and a common or similar language and in general, 

\(^2\) The cost of complying with the EU directives is only a part of this total – it should be noted that the cost would not reduce to zero in the absence of the EU rules.

\(^3\) UK 6.4, France 5; Germany 7.6
smaller countries have a higher than average shares of direct cross-border procurement.

The UK direct procurement figures are very close to the EU averages – 1.5% of the public contracts published by the UK at EU level are awarded to companies from other Member States (3% of UK total value)⁴. UK companies are also very successful in competing in these cross-border markets, winning 17% of all EU public procurement contracts awarded to companies from other Member States⁵. UK suppliers are particularly successful in Ireland (74% of all direct cross-border contracts); Poland (46%); Malta (37%), Denmark (26%) and Germany (22%).

4. CONSISTENT APPLICATION OF THE EU LEGISLATION ACROSS THE EU

The application and the implementation of the EU rules is the joint responsibility of the European Commission and the Member States.

The European Commission is entrusted with the task to oversee the application of EU law under the control of the Court of Justice of the European Union and for therefore ensuring its consistency across Member States. In this context, the Commission, as guardian of the EU Treaties, has always the discretion to launch an infringement procedure foreseen by article 258 of the Treaty on the Functioning of the European Union, in case of a Member State wrongfully transposing the Directives into its national law or in case there are violations of the EU public procurement legislation by a Member State during a specific tendering procedure. In this respect, it should be underlined that the assessment by the Commission of a specific case of alleged violation of the public procurement rules on the basis of article 258 TFEU, does not aim at the protection of individual rights but at the correction of violations of EU law which have important implications for the functioning of the Internal Market.

In addition, the Remedies Directive put in place a decentralized remedies system, in which Member States bear primary responsibility for ensuring that rapid and effective means of redress are available at national level. In particular, the Directive strengthened the accessibility of remedies, through measures such as the introduction of a mandatory stand-still period that has to be observed by public purchasers between the award and the conclusion of the contract, and the possibility to declare contracts ineffective where they were entered into illegally.

Because of the high number of procedures and the importance of the EU public procurement rules, these two lines of implementation at the level of the European Commission and at the Member States' level are equally important for the purposes of ensuring a consistent and effective application of EU law.

5. APPLICATION OF THE EU RULES IN THE TRANSPORT SECTOR

⁴ DE – 1.5% of awards, 1.7% of value; FR – 0.9% of awards, 1.5% of value

⁵ Only German companies win more- 26%.
The utilities Directive applies to contracts awarded for the pursuit of activities relating to urban transports by buses, by metro and by tram, but also to transport by railways, whether urban or not. The Directive covers both the operation of the transport service as such, for example moving persons and goods from one place to another, as well as the provision of the network infrastructure. In the transport sector, the Directive will thus apply to procurements of rolling stock as well as contracts for the construction of new railway lines. Furthermore, other contracts for the pursuit of the relevant activity, for instance the purchase of ticket issuing machines or the purchase of office furniture for the company headquarter, are also subject to its provisions. It should be noted that other transport modes such as air transport, is not covered by the Directive, apart from the operation of the airport facilities. Similarly, waterborne transport is also not covered, apart from the operation of ports facilities for both river ports and maritime ports. Finally, it should be noted that Regulation (EC) 1370/2007 regulates certain aspects of the national and international operation of public passenger transport services by rail and by road.

Further information on the EU public procurement rules can be found at the following link: http://ec.europa.eu/internal_market/publicprocurement/index_en.htm

September 2011
Written evidence from Margaret Beckett MP (RSP 13)

Executive Summary.

1. The Government’s original decision to make Siemens the preferred bidder for the contract for Thameslink trains fails a number of highly relevant tests.
2. Further their refusal to accept that they had or have any flexibility in making that decision is hard to justify on scrutiny of the tendering process.
3. The decision; spurns the opportunity to expand and upgrade existing train-making capacity; leaves the UK at grave risk of losing the capacity we now have; places thousands of jobs in skilled manufacturing in jeopardy; is clearly contrary, not only to any sensible industrial policy, but to the Government’s own recently declared aim of rebalancing our economy towards manufacture.
4. It should be reviewed & reversed.

Evidence

1. The Bombardier factory is, and always has been in my constituency, though its own employees are drawn from across the area, and thousands more employed in its supply chain are constituents of many other MPs, including those in other regions of the country.
2. I have represented the constituency since 1983, and dealt with a number of different owners from British Rail to the present day.
3. In my considered judgment, Bombardier have been the best, showing a consistent commitment to investment in skills and in equipment, and to maintaining a viable capacity for design and development among the workforce even in lean times.
4. The company has been a valued corporate citizen throughout, not just in helping to establish and maintain the Derby & Derbyshire Rail Forum – a unique cluster of relevant companies – but in supporting the city’s role as a centre for skilled manufacture, - something the Prime Minister brought the whole Cabinet to my constituency to celebrate just before this decision was announced!
5. This is not just a matter of importance to the city of Derby - though the city is, as a result, facing one of its worst ever economic crises. The rail business cluster and its linkage with the aerospace and automotive sectors is of substantial value to the region and to the whole of the UK, as shown by the 2010 report by EMDA, the City Council and the Chamber of Commerce.
6. This is not special pleading on behalf of a failing industry or of a failing company. Nationally and internationally the demand for rail products is strong.
7. And at national and at international level, Bombardier is a successful bidder, including in competition with Siemens. In the domestic and the global marketplace, Bombardier is consistently and competitively able to secure contracts. But, in the last 4 bidding processes where the DfT was in charge of procurement, they have not won a single order.
8. The company is not ill-regarded in other quarters. The BIS Secretary has praised the apprenticeship scheme which Bombardier shares with Rolls Royce.
9. The Education Department is keen for Bombardier to support their proposals for technical education for 16 – 19 year olds.
10. The Managing Director is the choice of business and community leaders to chair the Local Enterprise Partnership, and is asked to advise Ministers at BIS on exports and trade policy.

11. At the beginning of August, I was notified by the Institute for Mechanical Engineering that the company has been shortlisted for this year’s Mechanical Excellence Awards.

12. As the deadline for the announcement on Thameslink approached, the company gave further evidence of their confidence in and commitment to their UK workforce. Although they did not then make it public, the company decided, at the highest level, that, if successful, they would establish in Derby a new global Centre of Excellence for the design, development, and manufacture of the next generation of rail cars for high speed rail, in the UK. This would have meant not just more jobs but jobs at even higher levels of skill and capacity. This was made clear to DfT civil servants.

13. The rejection of the bid and the handling - and costs - of the procurement process has caused the company to review and reconsider its place in the UK.

14. Since that rejection, it has emerged that it may be the strength of Siemens’s balance sheet (it is now a bank), and financial engineering capacity which has been the decisive factor – perhaps making the cost of finance rather than overall value for money the decider.

15. It also appears that Siemens does not yet have in existence a bogie (key to meeting the weight demands of the contract). At a meeting with the Minister of State just prior to the Recess, the most senior civil servant present stated that the Siemens bogie was an ‘evolutionary design, based on tried and tested components, which will be tested for the first time next year’.

16. A recent contract, won by Siemens from Deutschebahn required them to use a Bombardier bogie because Siemens lacks a proven lightweight bogie.

17. Alstom was excluded from the procurement process at a very early stage because they did not have a tried and tested bogie. (The Bombardier design was tested in many countries and over ten years, before it could be used on passenger rolling stock).

18. I have repeatedly called on the Government, including the Prime Minister, to review this decision. Questions remain about the weighting of finance in the contract and the ability to separate out financial issues - an opportunity apparently foregone; questions remain about technical capacity - Siemens is a great company, but had problems with Scotrail of which the DfT seems unaware; questions remain about the impact on the supply chain.

19. The Government seems never to have seriously considered such requests. They appear to be relying on the political get-out clauses of both blaming the terms of the procurement on the previous Government – rather than getting the credit for putting them right - and blaming their own rigidity on EU rules.

20. They appear too to think that they are calling the company’s bluff and that, no matter how badly treated, it will not close its sites across the UK. If they are wrong it will not only be the end of train-making in a place where it has been successfully undertaken almost since trains were invented. It will jeopardise a centre of manufacturing excellence of the kind we are supposed to cherish.

August 2011
The National Union of Rail, Maritime and Transport Workers (RMT), the Transport Salaried Staffs’ Association (TSSA) and the GMB welcome the opportunity to submit written evidence to the Transport Select Committee in advance of their evidence session of 7th September 2011 on UK rolling stock procurement. Our respective organisation’s support for an integrated, environmentally sustainable and publicly owned rail network is well documented.

**Executive Summary**

In our submission we will consider;

- The impact the award of the Thameslink contract will have on direct employment in the rail industry and the wider supply chain.

- We will also bring to the Committee’s attention the issues RMT/UNITE have raised with the Secretary of State for Transport and our attempt to secure information from the Department for Transport (DfT) under the terms of the Freedom of Information Act.

- Finally we will highlight the unhelpful culture in the DfT’s procurement division.

**Introduction**

As the Committee will know the decision to award Siemens preferred bidder status for the Thameslink rolling stock contract has placed in serious jeopardy the future of UK based train manufacturing. Following their unsuccessful bid for the contract, Bombardier, the last remaining UK based manufacturer has announced 1400 redundancies at their plant in Derby and is reviewing their future in this country. Should the company decide to leave the UK an additional 1600 directly employed jobs will be lost at Derby, Bombardier maintenance depots will close around the country as well. Additionally up to 12,000 in the supply chain will also be at risk.

We are also seriously concerned about the future of fleet maintenance and train cleaning staff currently employed at First Capital Connect. As part of their bid Siemens announced that they will build two new maintenance depots at Hornsey and Three Bridges to maintain
and refit the stock once in comes into service. However, First Capital Connect currently operates the ‘Thameslink’ franchise and employs 500 train maintainers and train cleaners at depots based at Hornsey and Bedford. A recent parliamentary answer confirmed our fear that TUPE regulations might not apply to these workers. We will therefore continue to seek assurances that all staff currently employed will have their jobs protected should Siemens be confirmed as the winner of the Thameslink contract.

Bombardier’s Derby plant is so reliant on this one contract to secure its future because privatisation of Britain’s railways has created great uncertainty in train manufacturing, with alternating periods of feast and famine.

Train manufacturing requires a steady flow of orders to ensure stability, and to ensure job security and retention of highly skilled engineering staff. It is largely for this reason that Britain now has only one rail vehicle manufacturing plant left (Bombardier Derby), the others having been closed.

Despite the current economic crisis, Britain’s railways are booming, with passenger numbers rapidly increasing and now at levels not seen since the 1920s. Many trains across the country are very overcrowded, not just in London and on commuter routes. The trains that are running are in too many cases well over 25 years old, and many are completely unsuitable for the routes they run on.

Therefore, much of the existing rolling stock needs to be replaced, and the current pool of vehicles needs to be expanded rapidly to cope with increasing demand. The future of Bombardier’s factory should therefore be secure, but it is not. If projected passenger demand is to be met, that must change.

Furthermore, Bombardier has recently been awarded the contract for the signalling upgrade on the Sub-Surface Lines on the London Underground. This work could also be in jeopardy should Bombardier decide to discontinue UK operations. Additionally, the company is delivering the new rolling stock for Sub-Surface, walking away from UK operations will mean that the carriages are manufactured not in the UK but at one of Bombardier’s other plants on mainland Europe.

The decision to award preferred bidder status to Siemens has been met with a widespread condemnation. Together with our sister trade union at the plant UNITE we have been campaigning hard to have the decision reversed. The Conservative-Lib Dem leadership of
Derby City Council has opposed the decision as have local and national newspapers, the Labour front-bench and MPs from all three main political parties have called for the decision to be reviewed.

The National Audit Office has explained that it is undertaking preliminary work to see if the contract award raises issues that will trigger a value for money inquiry. A copy of the NAO’s letter is attached.

**Supply chain**

Around 900 domestically based firms make up the Bombardier supply chain. Whilst many are based in Derby and the East Midlands; many are not. Businesses that could lose work and therefore jobs as a result of the DfT’s decision are based in the constituencies of the Prime Minister, the Deputy Prime Minister, the Chancellor of the Exchequer and ten other Cabinet Ministers including the Secretary of State for Transport. Additionally, several members of your Committee have firms in their respective constituencies that are part of the Bombardier supply chain and are therefore potentially exposed to cancellation of contracts, loss of work and the prospect of having to make staff redundant.

Details of the firms in the Bombardier supply chain are attached.

**Representations to the Secretary of State for Transport**

RMT and UNITE wrote to Philip Hammond on 4th August 2011 raising a series of issues about the contract award. Our concerns and questions included;

- Is it correct that the government has chosen to contract for, and consider which was the most economically advantageous bid for, a single contract comprising the production, manufacturing and maintenance of the rolling stock/trains and the ability to organise the finance? If that is the case, why was it done on that basis?

- Did Siemens win the contract on its ability to organise the finance of the rolling stock, as opposed to its ability to produce, manufacture and maintain the trains?

- Is it open, at this stage, for the government to exclude the finance element of the offer and award the contract on the basis of the best bid to produce, manufacture and maintain the trains?
• Is it fair and equitable to include the criteria of the provision of finance when this would automatically advantage a company such as Siemens benefit from a wholly owned subsidiary finance company and are thereby able to obtain financial arrangements at preferential rates?

• Is it correct that the government has awarded Siemens “preferred bidder” status notwithstanding the fact that it has not yet developed a “bogie” to use for the fleet it is going to produce?

• If it is the case that Siemens has not yet produced this “bogie”, how is it possible that it was awarded” preferred bidder” status?

For the benefit of the Committee a copy of the RMT/UNITE letter is attached.

**Representations to the Mayor of London**

After the Thameslink contract the next large rolling stock tender is for Crossrail, the procurement process for which is being handled by Transport for London. RMT has written to the Mayor of London seeking a meeting with him to discuss the Crossrail rolling stock contract with a view to discussing with the Mayor, within the framework of the relevant EU Directives, the critical importance of social and economic impact clauses in the ITTs, similar to those used so widely in Germany and France to secure domestic production; amongst others both Bombardier and Siemens have been made shortlisted bidders for the contract. A copy of the letter to the Mayor of London is attached.

**Freedom of Information**

RMT submitted a Freedom of Information request to the DfT asking for minutes, papers, reports and notes of meetings (both paper and electronic) held since May 2010 at which Department for Transport Ministers or DfT officials discussed the award of the Thameslink rolling stock contract and its effect on the local and national economy.

Regrettably the Department replied that Section 12 of the Freedom of Information Act does not oblige the Department to comply with requests that exceed an appropriate limit, in this case £600. The Department went on to explain they were refusing the Freedom of Information request because the review of papers would require significant staff time and would cost more than £600.
We are bitterly disappointed that the Department does not consider the loss of 1400 jobs at Derby and potentially thousands more in the supply chain worthy of spending £600 in staff time retrieving the information requested.

In response to the DfT’s refusal of our Freedom of Information request we refined our requests, a copy of which is attached. Furthermore, RMT wrote to the Secretary of State offering the following;

*Please be advised that the RMT will consider paying for this question to be answered. Please take this letter as us asking you to review your refusal of our request and as the RMT agreeing to your reasonable costs on the understanding that you notify us of the approximate full cost in advance. I am sure that given that the decisions around the Thameslink train order are going to lead to large amounts of public expenditure, you will understand that there may be a strong public interest in disclosure.*

To date we have yet to receive a reply from the Secretary of State.

**DfT procurement culture**

It is apparent that the DfT is at best unaware and at worst utterly ambivalent about the effect of the award of rolling stock contracts to non UK based manufacturers. The Department seems content to apply EU Directives, designed to promote open markets and competition, in the most neo-liberal way possible. There appears to be no consideration of the critical importance of social and economic impact clauses in the Invitation to Tender documents sent to prospective bidders similar to those used so widely in Germany and France to secure domestic production. Indeed it appears to be seen as a virtue by DfT officials that UK based manufacturers are not protected or supported in any way possible when large contracts are on offer.

Some years ago RMT was appalled to be told by the senior DfT procurement official that should UK based manufacturers lose out on the contract to build the replacement stock for the High Speed Trains currently operating on the East Coast and Great Western Main Lines any jobs lost in rail manufacturing would be made up for by additional jobs in the docks and ports sector as the new trains arrived for import.
Dear Mr Hammond MP

Award of Thameslink contract “preferred bidder” status to Siemens plc

We write further to our recent meeting in relation to the UK government’s, and specifically the Department of Transport’s, recent decision to award Siemens plc ("Siemens") “preferred bidder” status for the £1.5 billion train building contract, for the new fleet of trains required for the Thameslink Programme. This letter is drafted jointly by Unite the Union ("Unite") and the Rail Maritime and Transport Workers Union (the “RMT”).

Unite, as you are no doubt aware, is a trade union representing 1.5 million workers across the United Kingdom and Ireland and is the union with the largest membership of those employees currently employed at Bombardier Transportation UK Limited’s (Bombardier) Derby site.

The RMT is a trade union representing more than 80,000 members in almost every sector of the transport industry. It is the second largest union at Bombardier’s Derby site.

As a result of the decision to grant Siemens “preferred bidder” status, you will no doubt appreciate that a significant number of our members currently stand to lose their jobs. We understand that it is proposed to make 179 jobs redundant from a shop-floor workforce of 480 and 446 redundancies in total from a workforce totalling some 3000 employees. We also note 983 temporary contract staff will be affected. Consultation in respect of these redundancies has already begun.

In addition, it is also imperative to consider the detrimental impact this decision will have on the city of Derby where many other workers now stand to lose their livelihoods. This is happening at a very difficult time, in a very poor economic climate, and the re-employment prospects of workers in Derby is not high.

As the Centre for Research on Socio-Cultural change has made clear Bombardier has been allowed to suffer both public and private sector neglect. The lack of national rail investment in the 1980s and clumsy privatisation of the network in the 1990s has left train builders exposed to the erratic flow of orders. However, notwithstanding the historical problems of Bombardier, we write this letter specifically in relation to the Thameslink contract which could sustain the future of Bombardier and its Derby plant.

The number of potential redundancies arising from the decision to grant Siemens plc “preferential bidder” status and have the trains built overseas, is unacceptable and not something we are prepared to let happen without doing all that we can for our membership, by whatever means are available to us.

As we make clear above, Bombardier had been relying on obtaining this contract to sustain its own future and specifically the future of the Derby plant. By the end of 2011, the only ongoing work Bombardier will be continuing to undertake will be for the supply of metro cars for London Underground’s SubSurface Lines. This obviously means that in addition to the
present job losses which are wholly unpalatable, the very future of Bombardier remains precarious.

On this basis, we write this letter with a view to obtaining further information as to how this appalling decision has been reached, which once again undermines the United Kingdom’s manufacturing base. It is imperative that we fully understand this, so that we can speak to our membership about it and consider what steps can be taken in relation to the decision to select Siemens as the preferred bidder.

The Process

We understand that it is proposed to award the contract under the Utilities Contracts Regulations 2006 (the “Regulations”). Pursuant to these Regulations, in seeking offers and selecting the party to be awarded the contract, the UK Government, and specifically its Department for Transport, has the choice of procedure to use (open, restricted, or negotiated with or without advert) under regulation 14. In this instance it appears the government chose a negotiated process and the contract was advertised in an official EU Journal.

Once requests to be selected to negotiate are obtained, we understand a short listing process then ensues where the government determines which interested parties are going to be invited to negotiate for the contract. That process may involve excluding potential bidders at various stages and may involve selecting a preferred bidder prior to the contract finally being awarded. We understand that the selection of the preferred bidder would be done by means of the same criteria used to determine the award of the contract.

The contract has to be awarded on one of the following basis:

1. Lowest Price
2. The offer which is "the most economically advantageous" having regard to various published and specified criteria.

We understand the government has chosen to invite requests to negotiate and to award the contract pursuant to the second option.

We further understand that the contract was to be awarded comprising the production, manufacturing and maintenance of the rolling stock and the ability to organise the finance necessary for the acquisition of the rolling stock. It appears however that in the advert inviting bids, the government reserved the right to accept a bid without regard to the ability to organise financing. We note that there was no obligation on the government to contract on the basis that it was seeking a bidder to produce, manufacture and maintain the trains and to organise the finance and that this was something the government chose to do. The preferred bidder was of course thereby placed at a substantial advantage through being able to rely upon a sister company which provides loan facilities.

We also understand, and find it remarkable if this is correct, that Siemens has not yet even developed a “bogie” or wheel axle for the trains it will supply. Indeed, it appears that Siemens has actually approached Bombardier and asked it to supply this “bogie”. It took Bombardier over 10 years to develop its “Flexx Eco bogie” which is lighter than any other “bogie” on the market and is therefore considerably better for the environment than other
models currently available. It will simply not be possible for Siemens to produce a comparable “bogie” in a 2 year timeframe.  

The process that we understand has taken place leads us to a number of unanswered questions that we would be grateful to receive a response in relation to. These are as follows:

**Questions**

1. Is it correct that the government has chosen to contract for, and consider which was the most economically advantageous bid for, a single contract comprising the production, manufacturing and maintenance of the rolling stock trains and the ability to organise the finance? If that is the case, why was it done on that basis?

2. Did Siemens win the contract on its ability to organise the finance of the rolling stock, as opposed to its ability to produce, manufacture and maintain the trains?

3. Is it open, at this stage, for the government to exclude the finance element of the offer and award the contract on the basis of the best bid to produce, manufacture and maintain the trains?

4. Is it fair and equitable to include the criteria of the provision of finance when this would automatically advantage a company such as Siemens benefit from a wholly owned subsidiary finance company and are thereby able to obtain financial arrangements at preferential rates?

5. Is it correct that the government has awarded Siemens “preferred bidder” status notwithstanding the fact that it has not yet developed a “bogie” to use for the fleet it is going to produce.

6. If it is the case that Siemens has not yet produced this “bogie”, how is it possible that it was awarded “preferred bidder” status?

**Request for Further Information**

We would be grateful if you could supply us with all the contractual documentation including the invitation to tender and negotiation documentation. Please note that we intend to make a Freedom of Information request if this is not supplied and therefore trust that you will be willing to provide it forthwith.

**Details for Reply**

We would be grateful if you could acknowledge receipt of this letter and confirm you will provide a substantive response to the questions raised within the next 14 days. We would be grateful if you could address your response to both Mr L McCluskey, General Secretary of Unite, 128 Theobald’s Road, Holborn, London, WC1X 8TN and Mr B Crow, General Secretary of the RMT, Unity House, Chalton Street, NW1 1JD.

We look forward to hearing from you by return.

Yours sincerely

Len McCluskey (General Secretary of Unite)

Bob Crow (General Secretary of the RMT)
Appendix 2 – Letter from Bob Crow, General Secretary of the RMT, to Boris Johnson MP

Dear Mr Johnson,

Bombardier and the future of UK train manufacturing

I am writing following the decision of the Department for Transport to award Siemens preferred bidder status for the Thameslink rolling stock contract.

In light of the award, the sole remaining UK based train manufacturer, Bombardier, is now reviewing the continued future of their UK operations, placing in serious jeopardy the future of domestic train manufacturing.

As you will know, the decision to award Siemens preferred bidder status has provoked widespread opposition across the political spectrum. I am keen that all parties do all we can to secure the future of UK train manufacturing and it is with this in mind that I raise the following issues.

Crossrail
The next large train manufacturing contract to be awarded is Crossrail. As I understand it, the Transport for London subsidiary Crossrail Limited will issue Invitations to Tender (ITT) to shortlisted bidders in late 2011 with the contract for approximately sixty new trains being awarded during 2013.

Bombardier, which manufactured the stock for London Overground, is one of the shortlisted bidders; should the firm be unsuccessful in securing the contract then the future of the Derby plant and its whole UK operation is in serious peril.

Given the importance of the Crossrail procurement process, I am seeking an urgent meeting with you to discuss, within the framework of the relevant EU Directives, the critical importance of social and economic impact clauses in the ITTs, similar to those used so widely in Germany and France to secure domestic production.

Resignaling contract
In June this year Transport for London formally announced the award of the £354million London Underground Sub-Surface Line signalling upgrade contract to Bombardier. I am extremely concerned that should the Company leave the UK as a result of losing the
Thameslink contract or because it does not win on Crossrail then the signalling upgrade could be seriously delayed.

I would therefore welcome the opportunity to discuss this matter with you as part of the requested meeting on Crossrail.

I look forward to your response.

Yours sincerely,

Bob Crow
General Secretary
Appendix 3 – Freedom of Information request sent by RMT to the Department for Transport

1. To request correspondence between the Department and Prime Minister's Office during May, June and July 2011 in respect of the Thamselink Rolling Stock contract.

2. To request notes of meetings between held between Ministers and/or Departmental officials and representatives of a) Siemens b) Bombardier in May, June and July 2011 in respect of the Thamselink Rolling Stock contract.

3. To request the legal advice sought and received by the Department for Transport in respect of the review of the Thameslink rolling stock contract project during May, June and July 2011.

4. To request notes of internal DFT meetings and meetings between the Department and other departments during May, June and July 2011 in respect of the Thamselink Rolling Stock contract.

5. To request a full copy of all Secretary of State and Minister of State meeting notes for meetings about Thameslink and for train rolling stock meetings (where Thameslink was discussed) between 11 May 2010 and 16 June 2011. If any exemptions are sought then can documents be released when they are available, rather than an exemption delaying the release of everything.

6. To request full details and copies of any Department for Transport risk assessment or risk register which officials or advisers in the Department for Transport have created in the past or are maintaining at present which contains assessments of the risk associated with the assessment and awarding of the Thameslink Rolling Stock Project contract

7. To request full details and copies of any Department for Transport risk assessment or risk register which officials or advisers in the Department for Transport have created in the past or are maintaining at present which contains assessments of the risk associated with the implementation of the Thameslink Programme

8. To request copies of all emails sent by/exchanged between rail, legal and private office officials - which contain the term "Siemens" and one or more of the following words: "TUPE"; "RMT"; "TSSA"; "trade union". Furthermore, if the Department for Transport can fulfil an additional request within the scope for reasonable costs, then can they also provide copies of documents generated by the rail and legal departments which contain the term "Siemens" and one or more of the following words: "TUPE"; "RMT"; "TSSA"; "trade union".

September 2011
Further written evidence from RMT (RSP 14a)

Further to the joint submission sent last Friday, we would like to inform the Committee of another development.

RMT wrote to Southern railways in mid August asking if the franchise intended to take up an option to purchase 109 additional carriages. We believed that such an order could play a role, albeit relatively small, in providing the Derby plant with additional work.

The Company has now replied explaining, the Bombardier electrostar units operating at Southern are good quality trains, but there is no option in the Service Level Agreement with the Department for Transport to purchase additional units.

We are of the view that the Department should be reviewing the Service Level Agreements it has with franchise holders who operate services using Bombardier trains to see if amendments to the SLAs can be made with a view to placing additional orders with the company. This may give the Bombardier plant a lifeline.

A copy of the correspondence from Southern is below for the convenience of the Committee.

Appendix 1 – Letter from Bob Crow to Chris Burchell, Southern Railway Ltd

Dear Mr Burchell

Bombardier and the future of UK train manufacturing

I am writing following the decision of the Department for Transport to award Siemens preferred bidder status for the Thameslink rolling stock contract.

In light of the award, the sole remaining UK based train manufacturer, Bombardier, is now reviewing the continued future of their UK operations, placing in serious jeopardy the future of domestic train manufacturing.

As you will know, the decision to award Siemens preferred bidder status has provoked widespread opposition across the political spectrum. I am keen that all parties do all we can to secure the future of UK train manufacturing and it is with this in mind that I am writing to you.

I understand that Southern Railway has an option to buy around 109 carriages from Bombardier as part of the additional 1,300 carriages programme announced by the previous government and taken forward substantially by the current administration. Such an order would provide work for the Bombardier plant at Derby and could go some way to encouraging the company to retain its UK operations. I would therefore be grateful if you could let me know whether Southern intends taking up the option on the additional carriages.

I look forward to your reply.

Yours sincerely,

Bob Crow
General Secretary
Appendix 2 – Reply from Chris Burchell, Southern Railway Ltd to Bob Crow

Dear Mr Crow

Thank you for your letter dated 24 August 2011.

Like you, I think it would be a considerable disappointment, both for the industry but also, obviously, for those people who are directly affected by it, if the UK were to lose its train manufacturing capability. As you know, we operate many Bombardier electrostar units and we find them to make a good quality train.

You ask about an option within my existing franchise agreement to order 109 new coaches. I should say that our current franchise agreement already makes provision for what fleet capacity is to be used to provide the various Service Level Commitments agreed with the Department for Transport. There is no option in this agreement to purchase additional rolling stock that Southern could take up unilaterally and so therefore, we are not in a position to place a new trains order with any supplier as things stand.

Yours sincerely

Chris Burchell
Managing Director

September 2011
Written evidence from Peter Cousins (RSP 15)

I understand that the Committee is currently holding an enquiry into UK Rolling Stock Procurement, with an oral evidence session planned for Wednesday 7th September.

If it is possible I would like to draw the committee's attention to one specific order for 40 additional coaches for the West Coast local services which the Department for Transport is expected to authorise later this year.

1. Network Rail's recent West Coast Main Line RUS has considered the crowding on local services running into Euston and confirms that there is a good business case for providing 40 additional vehicles to lengthen these services to 12-cars. However it appears that it is the Department's intention that the new carriages will be purchased as 10 x 4-car new trains rather than used to lengthen some of the existing fleet to 6-car trains. There does not appear to be any fundamental reason why as 12-car train should not be formed of 2 x 6-car units rather than 3 x 4-car units.

2. Network Rail's recent West Midlands and Chilterns RUS considered the inadequate capacity on the Coventry corridor where passengers are expected to be standing for more than 20 minutes by 2020 (Para 6.8.3., page 135) and concluded that there was not a business case to lengthen an additional peak hour service by 1 x 4-car unit to 8-cars. Surprisingly no analysis is presented of lengthening this train to 6-cars which might have been a value for money option.

3. Network Rail's West Midlands and Chilterns RUS also analysed the possibility of lengthening a Birmingham - Liverpool service by 1 x 4-car unit (to 8-cars) and concluded that there was not a business case for this investment. (Para 6.8.9, Option 18, page 162). The possibility of utilising a 6-car train on this service was not analysed.

4. Network Rail's recent Northern RUS considers the capacity which will be required on Manchester - Scotland services after electrification is completed and states (p 110) that the assumed provision of 4-car electric units will raise some capacity issues on the busy Manchester - Bolton - Preston corridor; noting that a few 6-car units may be needed.

In summary it appears to be perverse that DfT is intent on purchasing 40 or more new carriages formed as 10 x 4-car complete trains when ordering the same number of carriages as center cars to be inserted into the existing 4-car Class 350 Desiro fleet would almost certainly cost less - as the equipment for 10 driving cabs and possibly some toilets would not be needed [\*]. The resulting units would also probably have more seating capacity as a result of the space saved.

[\*] The cost of extending some facilities at Kings Heath Depot, Northampton, to cater for the longer trains would have to be set against this saving but depot investment may be needed in either case.

September 2011
Written evidence from DATUM (RSP 16)

1. DATUM is a Derby based firm, which supply GRP Components & Tooling to the Rail industry and has developed as a key supplier to UK rail companies including Bombardier & Siemens. The business was formed in 1997 and is profitable and successful. The Company employs over 40 skilled engineers. I have 27 years of experience in High-end Engineering and have supplied into the Rail Industry for the last 12 years directly. I have extensive experience in the sector of manufacturing supply. I have a firm understanding of the supply chain and the impact this is going to have on the East Midlands and the wider UK.

2. It is my position that if the decision to procure Thameslink from abroad stands, then the UK faces a 99.9% risk of losing Rolling Stock manufacture within the UK and along with it 10’s of 1000’s of UK jobs.

3. I submit this not to back either of the two bidders but as a passionate supporter of UK manufacturing. I accept my personal business risk that Siemens may not appreciate my submission but feel that my German counterparts would appreciate fully my position if they were faced with the same prospect of a German manufacturing contract going to the UK when they have not only the capacity to fulfil the contract but also faced losing an entire industry as a result of the contract award. If Siemens were to be manufacturing these Trains in the UK then I would have no argument against the procurement.

4. How is it that the economic impact of this decision to the East Midlands and the wider UK was not considered at all in this?

5. Phillip Hammond among others, blame the Procurement of the Labour Government for this – has not the current Government had over 14 months to look at this, why didn’t their procurement specialists analyse the tender documents and correct this? The Government have had the opportunity to change the financing of this contract at least twice, March 2010 & January 2011, making the actual bid fairer for comparison but this was not taken, why? The Government has reviewed the project as part of the Value for Money programme, why was this not picked up then?

6. The Prime Minister and the Chancellor have, quite rightly, stated that the economy needs to be re-balanced towards manufacturing. The PM having even visited Derby to re-enforce this message. The UK does not manufacture enough and with a trade deficit in excess of £30bn the decision to award Thameslink abroad can only be viewed as a disaster for the UK.

7. Professor Chris Bovis is an expert in European Business Law of the University of Hull has said publically;

8. "There are no EU laws against including socio-economic factors in any procurement process. In fact, the EU is also very flexible on this matter. All significant procurement projects should include the details of the socio-economic impact if the work does not go to home market, just as much as the procurement document should include details on health and safety compliance, ethical trading, social responsibility and employment requirements. The EU law allows all of this – and that is why countries like Germany and France always include this in their procurements. They look at the bigger picture and factor in what would happen to their home market if the work went abroad. And it is not done in a clandestine way. This data is not hidden."

9. He point blankly refutes the claims by Transport Secretary Philip Hammond that there was nothing he could do.

10. Who has assessed the risk in the use of the untried and unproven Siemens bogie?
11. The `bogie` is the actual running gear (wheel mounting) of the train. It bears the load of the vehicle and runs the train on the track. It is an item deemed as `Safety Critical`. The reality here is Siemens do not have an inner frame bogie which is required for Thameslink. They are designing one and I have no doubt that they can achieve this but can they do it in the required time frame? Bombardier’s `Flex Eco` (B5000) is an inner frame bogie which took a full 10 years of design and testing before it went into service in the year 2000. This bogie has been in service now for 11 years and has completed nearly 1.5bn service miles and is tried, tested and proven.

12. Section 1.2 of the Thameslink ITT states:

"The Rolling Stock will require higher capacity, improved performance and energy efficiency, high reliability, improved infrastructure and operational interfaces and provide a high quality passenger environment compared to the current Thameslink rolling stock. To deliver these requirements will require rolling stock that exploits advances in technology and adopts world class proven solutions in one package."

13. Siemens are producing ICX trains in Germany and are sub-contracting out to Bombardier 40% of the contract. The customer has chosen to use the Bombardier bogie, it is my belief this decision will be driven by risk. Why risk the use of a new item such as this which is safety critical on an order for 1200 vehicles? What will the economic impact be if the bogie fails in service and all vehicles have to be recalled? What if there is a catastrophic failure in service and God forbid, a serious accident?

14. The UK government is taking a very serious Health & Safety risk which must be visibly shown to have been adequately assessed by independent experts.

15. How is it that spending £1.4bn in the German economy is somehow seen as better than spending it in our own?

16. Every £1 spent in the UK by the government will pass through the economic cycle up to 7 times making the £1.4bn worth more like £10bn to the UK economy. This is a loss to the UK economy many times greater than the £1.4bn contract value. Datum alone spend £0.4m in the local supply chain of goods and raw materials for Rail products, this will repeated throughout the cluster of rail specialist companies in the East Midlands / UK. The ripple effect in this area and sector is going to be catastrophic. Bombardier UK source around 70% of their material in the UK.

17. Siemens have stated their trains will be built and tested in Germany. They will use established sub-contractors and supply chains. UK companies will see precious little of this work and it is naive to presume otherwise.

18. How much money is this going to cost an already stretched welfare system?

19. Bombardier UK employ 3000 people in Rolling Stock manufacture and some commentators estimate that for every one job in Bombardier a further eight are employed in the supply chain in the UK. I estimate this ratio is more like 1 – 4 so some 12,000++ are employed in the supply chain. Research carried out by the Derby & Derbyshire Rail Forum which canvassed 100 member companies revealed over 1100 jobs losses as a direct result of the Thameslink award to Siemens.

20. Bombardier currently have on their approved supplier base 1147 suppliers of which 110 are overseas based, leaving 1037 approved and currently being used, UK suppliers. If we take out the 100 members of the Derby & Derbyshire Rail Forum this leaves 937 suppliers. Through calculation of around 11 job losses per company, based on the DDRF researched figures, the job loss totals will be in excess of 10,300 in this group of suppliers.

21. In total we are likely to see 3000 staff directly employed at Bombardier lose their jobs, with a further 11,500 job losses in the supply chain making a total of 14,500. These positions will be permanently lost from our economy. This is something which the UK Government is currently just not `taking on board`.

22. It should be pointed out here that it is not only job losses that need to be considered but also lost job creation. To meet the Thameslink requirements my own Company, Datum would have expected to double in size its Rail operation and this is factor being reported across the supply chain. So it is also a requirement to consider that as
well as not losing 14,500 jobs, the UK supply chain of Bombardier and Bombardier itself could be creating anything up to 14,500 NEW jobs, this figure is subjective.

23. It is almost incalculable to ascertain the actual cost to the UK economy of this project going abroad. Assuming Bombardier leave the UK as a result, we will lose rolling stock manufacture in the UK. There will be 14,500 UK job losses with people claiming dole and other hand-outs. More crucially the Tax Revenue stream that will be lost as this sector of manufacture ceases will be staggering.

24. Job seekers allowance costs for these individuals = £50m PA / Lost tax revenue stream (av. Salary) = £55m PA (source Office of National Statistics). If you start to add in lost Corporation Tax revenues, lost business rates, reduced VAT revenues and other knock on effects, the ripple out into our economy will conservatively cost UK plc in excess of £2.5m per week! This is WITHOUT factoring in any job creation.

25. It is now fully understood the impact of Bombardier not being able to finance this deal as cheaply as Siemens and that over the 35 year life of the trains the finance interest amounts to some £700m – a significant amount. Over the contract term this equates to £20m per year which actually pails when you now factor in the staggering job losses and lost Tax Revenue stream of this sector. This can be accurately estimated to be around £130m per year.

26. Over the 35 year life of the vehicles the Siemens bid is £700m cheaper on financing only. Over the same period the lost revenue from taxation, welfare payments and the sector wealth creation could amount to some £4.5bn and still counting in the years that follow. If we factor in the Job Creation values (every one job saved will be one job created also as P.22) then this figure of UK losses could potentially be in the region of some £9bn.

27. It would be better value for the Taxpayer if the Thameslink contract was cancelled and the bid process re-started. The UK could be expected to pay a fine to the EU for the lost profit incurred by Siemens estimated at 20% = £280m. This figure needs to be added to the £700m financing saving from Siemens to arrive a loss figure of around £1bn in reversing the order and awarding the contract to Bombardier. Compare this loss to the £4.5bn (arguably £9bn P.26) loss the UK will incur should Bombardier withdraw Rolling stock manufacture from the UK.

28. It is simply not value for money for the Taxpayer when the wider context of the decision is considered. It is painfully clear that cancelling this order is not only a commercially viable option but a necessary one. Surely it is preferable to have the trains late than lose £billions.

29. Bombardier UK have stated that they were to build a UK `Centre of Excellence` to be based in Derby paving the way for Derby to be key in the Companies supply of Transport solutions globally. Train making in Derby has been in existence for 170 years and this would have secured its future here for the next century and beyond.

30. Datum work closely with Bombardier and regularly deal at board level within the UK, Europe and Canada. I am 99.9% convinced that as a result of this decision Bombardier will pull out of Rolling Stock Manufacture in the UK for good and who could blame them. They may as well make trains in `Timbuctu` for all the advantage it gets them. The UK then will not be able to make trains anymore and this will not be reversed, ever. Modern business thrives on partnerships and working together. Bombardier has been loyal to Derby and the UK and is a partner business to the UK in the success of the country as a whole. Not only does Bombardier work in the home markets but it also exports having recently completed the GAU train project for South Africa, improving UK Trade Deficit. We simply cannot treat such wealth creating companies in this way if we are to prosper as a nation.

31. What message does this send out globally in terms of attracting inward investment – who in their `right mind` would invest here when we don’t consider home markets in public procurement?

32. How can the UK government be taken seriously when we export away `top end` manufacturing like the Thameslink Project after the Prime Minister has said: “My
approach is clear, British business should have no more vocal champion than the British government and that’s why I have put the promotion of British commerce and international trade at the heart of our foreign and economic policy.” From October 2010

33. There have been recent revelations regarding Siemens in Corruption resulting in bans from bidding in World Bank projects. The EU rules and our own ITT allows for the removal of such a Tenderer

34. Extract:- Article 45 Personal situation of the candidate or tenderer

1. Any candidate or tenderer who has been the subject of a conviction by final judgment of which the contracting authority is aware for one or more of the reasons listed below shall be excluded from participation in a public contract:

(a) participation in a criminal organisation, as defined in Article 2(1) of Council Joint Action 98/733/JHA(20);

(b) corruption, as defined in Article 3 of the Council Act of 26 May 1997(21) and Article 3(1) of Council Joint Action 98/742/JHA(22) respectively;

(c) fraud within the meaning of Article 1 of the Convention relating to the protection of the financial interests of the European Communities(23);

35. 2. Any economic operator may be excluded from participation in a contract where that economic operator:

(d) has been guilty of grave professional misconduct proven by any means which the contracting authorities can demonstrate;

36. I cynically observe that a UK company called 3i are a finance partner of the Siemens bid for Thameslink. The Chief Executive, Mr. Michael Queen, also has a position on an elite panel called the ‘Business Advisory Panel’. This panel was said up by Mr. David Cameron to advise the government on UK economic policies etc. Is there not some element of a conflict of interest here? Siemens have been proven to have been involved in corruption and the Chief Executive of one of their key partners sits on a government advisory panel reporting directly to the Prime Minister.

37. Just how is it that the Government cannot review this decision?

38. Phillip Hammond and Vince Cable have written to the PM in the wake of this decision to say the way government procure and award contracts needs urgent review. They also comment that other EU countries manage to operate within the rules and consistently award such contracts to domestic suppliers. The fact that they have written such a letter, suggests to me that they actually know this decision is a bad one and that we must avoid similar errors in the future. My concern here is that the future may be too late as Bombardier and our ability to make trains in the UK maybe lost forever as a result of Thameslink. The Hitachi IEP bid has been reviewed twice, first by Sir Andrew Foster and secondly by the coalition, why can’t the Thameslink be reviewed also?

39. There are Health & Safety risk issues (ITT clauses applicable), socio-economic factors and corruption issues (ITT clauses applicable), conflicts of interest issues, which must be enough to now trigger off a full review.

40. Professor Chris Bovis of the University of Hull, I quoted earlier in this submission, is an expert on public procurement and in the past has acted on behalf of foreign governments and the defence sector. He has stated “What the Government could do is scrap this contract and start again. Then they could come up with a new procurement process that would take into account socio-economic factors. There is no EU law that I’m aware of that could prevent them from doing this.”

41. It is my personal belief that even if the UK Government did face a legal action it could be successfully defended on the grounds that this Contract going abroad would have meant the end of an entire manufacturing sector in the home market.

August 2011
Introduction

1. The decision to award the Thameslink contract to Siemens will have a devastating impact on my Derby North constituency. The reserve bidder, Bombardier, employs hundreds of my constituents while many, many more are employed by supply chain companies sure to be affected. Those people deserve to know that this highly contentious decision has been properly examined, and it is my role as MP for Derby North to lead that challenge.

Executive summary

2. There are numerous issues relating to EU procurement law, national interest and the success of the Thameslink project that make Siemens a controversial choice. The greatest are the doubts it casts over the future of the British rail industry and the hard-hitting economic impact it will have on the UK. Those issues should not be dismissed simply because they are not strictly applicable to the original tendering document. They highlight the need for the decision to be referred to the National Audit Office on the basis of more technical but very valid failings in the tendering process.

3. Siemens has been convicted of corruption in the United States and Germany. Article 45 of the European Parliament Directive 2004/18/EC states that any tenderer who has been convicted of corruption can be excluded from participation in a public contract.

4. The original Invitation to Tender (ITT) indicated that the award decision remained with the Secretary of State and that the tendering process could be changed to take account of socio-economic impacts. It states that the Secretary of State reserves the right to award the contract to any bidder at any time. The ITT document also states that the Secretary of State reserves the right to amend the ITT and any related instructions.

5. A key component of the Thameslink rolling stock procurement is the lightweight bogie. Bombardier has a very successful lightweight bogie which took more than 10 years to develop (1991-2001). It is now in service across the globe. The Siemens bogie remains at design phase and is unproven. This could put the project or the public at risk.

6. The decision will have a dire economic impact on the UK, the East Midlands and in particular Derby. The city has been at the heart of British train manufacturing for over 150 years and is home to Britain’s last train manufacturer, Bombardier. The company directly employs more than 3,000 people at its Derby works. A conservative 1:4 ratio for supply chain workers reveals the actual number of highly skilled engineering jobs affected is closer to 15,000.

7. The Thameslink contract being awarded to Siemens could signal the end of train building not just in Derby but in Britain. Beyond this autumn, Bombardier would only have work for 300 staff and would be unlikely to justify the continuation of the Derby works. The only hope for the future of the British train building industry is the reversal of the current decision. One step towards that is to refer it to the National Audit Office. This is an issue where there is huge public and cross party support for the decision to be reversed as demonstrated by the 50,000 signatures collected in a few short weeks for my parliamentary petition.
Corruption

8. Corruption is always a serious issue and is definitely something we don't want our bidders for public contracts connected to. Yet Siemens has been involved in several incidents of corruption in recent years, two in particular where they were forced to pay large fines. There have been cases worldwide including the United States and Germany, more recently allegations of corruption in Kuwait have arisen which has led to further arrests.

9. Siemens was charged with corruption in 2008 and fined $800 million in an American court settlement. The US Justice Department described the case as it’s furthest reaching foreign corrupt practises trial. The fines were “for knowingly circumventing and failing to maintain adequate internal controls and failing to comply with the books and records provisions of the U.S. Foreign Corrupt Practices Act (FCPA),” which allowed Siemens to pay bribes for contracts.1

10. Siemens were also fined €395 million in 2008 and €201 million in 2007 by German courts. In 2008 the fines were for failing to fulfil its supervisory duties whilst the 2007 fine was for similar charges against its telecommunications group.2

11. The most recent case is in Kuwait where former managers are alleged to have attempted to bribe officials at the country’s energy and water ministry with €1.25 million. This case has already led to the arrest of two former managers in Munich.3

12. There are strong suspicions that this was a systemic issue and that senior managers had set up a massive system of slush funds containing €1.3 billion used to bribe officials to win contracts across the world. It is hard to believe that a company which has allowed recent corruption on such a scale is fit to bid for public contracts in the UK. The corruption was at its height in 2007-8 when Siemens was allowed to prequalify for the Thameslink contract. The DfT should not have allowed this to happen.

13. Article 45 of the European Parliament Directive 2004/18/EC on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts, states: “Any candidate or tenderer who has been the subject of a conviction by final judgment of which the contracting authority is aware for one or more of the reasons listed below shall be excluded from participation in a public contract:
   a. (b) corruption, as defined in Article 3 of the Council Act of 26 May 1997 (2) and Article 3(1) of Council Joint Action 98/742/JHA (3) respectively;” This clearly indicates that Siemens could be excluded as a bidder on grounds of corruption.

Invitation to Tender Document

14. Looking at the Invitation to Tender (ITT) document from 2008 two paragraphs stand out those are page 16 paragraph 4 and page 17 paragraph 4. They indicate that Secretary of

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1 BBC News: [http://news.bbc.co.uk/1/hi/business/7784512.stm](http://news.bbc.co.uk/1/hi/business/7784512.stm)
3 Financial Times: [http://www.ft.com/cms/s/0/c0c7177e-9380-11e0-922e-00144feab49a.html#axzz1V68mU4F8](http://www.ft.com/cms/s/0/c0c7177e-9380-11e0-922e-00144feab49a.html#axzz1V68mU4F8)
State has significant powers to alter the tender process and the ability to decide who the contract is given to.

15. Page 16 paragraph 4 states “The issue of this ITT in no way commits the Secretary of State to award the TRSP to any person or party. The Secretary of State reserves the right to terminate the competition, to award the TRSP without prior notice, to change the basis, the procedures and the timescales set out or referred to in this document, or to reject any or all Proposals and to terminate discussions with any or all Bidders at any time.” This clearly suggests that the Secretary of State could choose any bidder and change the basis of the competition at any time.

16. Page 17 paragraph 4 states: “The Secretary of State reserves the right at any time to issue further supplementary instructions and updates and amendments to the instructions and information contained in this ITT as it shall in its absolute discretion think fit.” This implies that the Secretary of State could amend the tender process at any time to include extra factors an example being socio-economic circumstances.

17. The Secretary of State should consider using these reserved rights to change the competition to take into account the socio-economic impacts. Doing this would almost certainly be in the best interest of the country.

18. Bombardier was badly disadvantaged by the way the tendering process was undertaken. The rolling stock and project financing were bundled together which gave a huge advantage to Siemens, which is so large it has its own bank. Having its own bank means that it did not need any external finance allowing it to offer a finance deal with 1.5% lower interest. This is quite clearly the wrong way to go as it allows massive companies like Siemens to dominate the market even further squeezing British manufacturers out.

Bogie Design Risk

19. With such an important programme as Thameslink it is unwise to take on unnecessary risks that could throw the project off course. A key requirement is for a lightweight bogie which is dissimilar to a traditional one. The forces and stresses that a lightweight bogie undergoes are radically different to that of alternative types. This means that the traditional formula used to design it cannot be used leading to a significantly longer development process.

20. Bombardier has had a fully operational lightweight bogie for several years; it is now in service with various fleets across Great Britain and abroad. After a long development programme from 1991-2001 it achieved UK safety approval. Siemens on the other hand do not have a developed and operational lightweight bogie, its bogie is still at the design stage. In a recent contract awarded to Siemens the German national railway company, Deutsche Bahn, insisted that Siemens use Bombardier bogies on its new fleet of high speed trains.

21. It won’t be known if the Siemens Bogie is reliable or safe until it has run on British lines. The Department for Transport would be taking a massive risk if they were to choose the Siemens bogie which is unproven and could lead to massive additional costs and delays.
22. It seems an odd decision to risk the project by choosing the unproven Siemens design when there is a clear safer alternative available in the form of Bombardier. There are only four years before the first Thameslink trains need to be operational. It would be a disaster if their introduction was delayed because of safety concerns or development rushed which could put the public at risk. Apart from the effect on Thameslink passengers, there is a serious risk that the cascade of the existing fleet to other parts of the rail network will be delayed.

Economic Impact

23. If Siemens is awarded the contract instead of Bombardier it will be a disaster on a scale not seen in Derby since the collapse of Rolls Royce in 1971, likely meaning the loss of 3000 jobs at Bombardier’s Derby works. When supply chain jobs are taken into account using a ratio of 4:1, then 15,000 could be affected. All at a time when we should be trying to rebalance our economy in favour of manufacturing.

24. The knock on effect to Derby’s local economy from such a decision would be shattering with retail, hospitality and service sectors all taking hits as thousands of residents lose their jobs. It would be an unmitigated disaster blighting the city for years as well as affecting the entire region and country. A report by Centre for Research in Socio-cultural Change at Manchester University clearly shows that if Siemens is chosen then it will lead to increased benefit payouts and reduced tax income that will have a negative impact on UK tax revenue. The need to pay out millions in unnecessary benefits to workers that have lost their jobs combined with the loss of tax revenue and national insurance contributions would be a hammer blow to the economy.

25. The Government’s policy to rebalance the economy in favour of manufacturing flies in the face of the decision to choose Siemens over Bombardier. When the Prime Minister visited Derby with his cabinet in March he said the point of the day was to ask “one fundamental question – what can government do to help the economy to rebalance... to invest and employ people.” It simply does not make sense to throw away so many highly skilled jobs, when they are exactly what the country needs. Modern train manufacturing is a high tech industry that should be encouraged to flourish in Britain. Instead the Thameslink decision could sound the death knell for the British train manufacturing industry.

26. The winner of the Thameslink contract will also be the company best placed to secure the Crossrail contract, putting Bombardier at a further disadvantage. Beyond the autumn, Bombardier will only have work for about 300 workers building trains for the London Underground. There is a real fear that Bombardier would be unable to justify its Derby works as a full train manufacturer, thereby ending the long heritage of train manufacturing in the UK.

27. If instead the Thameslink contract was awarded to Bombardier it would secure thousands of jobs for four years and signal the start of a renaissance in UK train manufacturing. Bombardier would then be in strong position for the Crossrail contract, which could secure its future in Derby for many years to come. With this security Bombardier would be able to establish its planned centre of excellence allowing it to bid for far more advanced contracts such as high speed rail.
A Pattern of Incompetence

34. Bombardier enjoyed great success in the UK rail market until Department for Transport civil servants took over train procurement in 2004. Since then, the DfT has awarded no contracts to Bombardier.

35. Such behaviour suggests a bizarre and deep-seated prejudice within the DfT against Bombardier, which is hugely successful in other markets across the globe, and is even the market leader in Germany whilst being the only train builder to manufacture in the UK for the British market.

36. An example of this irrationality is the Intercity Express Programme (IEP) where some two and a half years have passed since the DfT selected the Hitachi-led Agility Trains consortium as the preferred bidder yet no contracts have been signed and not a single train has been built. During this period Hitachi has been courted by the Government to set up a limited train assembly facility in the UK, and also encouraged to change the design of its train from that which was originally specified. The type of train now being promised for IEP could have been designed and built almost off the shelf by Bombardier in Derby.

Concluding Remarks

37. I have outlined numerous reasons why the decision to select Siemens as the preferred bidder needs looking at again. From the worldwide corruption allegations to the socio-economic impacts, many points of contention have been made. Thousands of jobs, the British railway industry and the future of my home city are all at stake.

38. That is why we must be absolutely certain, without a shadow of a doubt, that the decision made is the correct one. It is right to refer it to the National Audit Office and in the end it comes down to two things, can it be done and should it be done? The answer to both is a simple ‘Yes’.

August 2011
Written evidence from Mark Thurnock (RSP 18)

I’m writing to you about the forthcoming UK Rolling Stock Procurement review on the 7th September.

When the Government announced that Siemens was selected as preferred bidder for the £1.4 billion Thameslink rolling stock order, I was saddened and disappointed by the news because of the effect on manufacturing and jobs and the far reaching consequences for Derby, East Midlands and the UK economic outlook.

I have outlined my concerns below and I would be very grateful if you could take time to review them prior to the Committee meeting.

- It is estimated that job losses at Bombardier and the wider supply chain will total 12,000. http://www.bbc.co.uk/news/uk-england-14026903
- There was no consideration of the economic and social consequences during the decision making. http://www.railnews.co.uk/news/general/2011/06/21-derby-job-losses-were-ignored.html
- The government claimed that they couldn’t consider the economic and social impact due to a “lack of micro economic data”. This is not true as the Office for National Statistics collects detailed statistics at regional and local authority level. http://www.nomisweb.co.uk/reports/lmp/gor/2013265924/report.aspx#tabempocc
- Many young people in Derby consider Bombardier to be a worthy employer with good prospects.
- The loss of jobs will result in reduced tax and National Insurance to the Treasury and an increase in benefit payments.
- A potential loss of corporation tax receipts due to reduced income at Bombardier.
- David Cameron has talked about rebalancing the economy, yet the loss of jobs does nothing to rebalance the economy nor rebalance the country.
- Most areas outside of London and the South East are still in recession and the Government could be pro-active in developing credible long-term plans that invest in industry.
- George Osborne’s budget speech “Made in Britain, created in Britain, designed in Britain” has fallen on deaf ears in the DfT.
- Bombardier announced that if they won the Thameslink order, they would invest in the Derby plant for it to become a centre of excellence.
- The loss of jobs ultimately results in a loss of skills as workers find alternative employment.
- Philip Hammond states that he cannot withdraw the decision because the framework was set by the previous government and would break EU rules. What about the Intercity Express Programme and the Foster review?
- The UK Balance of Payments will be affected.
• 95% of French and German trains are built by domestic suppliers. http://www.rail.co/2011/07/20/the-death-of-british-train-building/
• The role of Michael Queen is dubious and raises questions about conflict of interest and transparency! http://www.thisisderbyshire.co.uk/pound-1-4bn-rail-deal-boss-s-links-Prime-Minister/story-13076406-detail/story.html
• Siemens has been charged with fraud bribery on numerous occasions.

On Wednesday, I implore you to call into question the decision making behind the selection of Siemens and signal your commitment and belief in British manufacturing by investing in British train building.

September 2011
Since its formation in 1993, the Derby & Derbyshire Rail Forum (“DDRF”) has grown to represent in the region of 100 rail related businesses based in the East Midlands.

Our members directly employ more than 25,000 highly skilled people, supporting many thousands more in their own supply chains and contributing over £2.6bn to the local and national economy.

This wealth of experience is only what should be expected from what is currently the largest cluster of rail companies in the world.

We recognise that the call for the Transport Select Committee to meet on 7 September 2011 follows the recent announcement to appoint Siemens plc as preferred bidder for the supply of the new Thameslink trains. Whilst this decision continues to be a topic of great debate, the DDRF recognises that in order to represent our members we must acknowledge that the supply chain currently supplies to most rolling stock manufacturers and the aim of this letter is not to argue the principles of that decision.

What we do welcome is the recognition that a review is needed with regards to UK Rolling Stock Procurement. As has long been the case, the process of procurement has put a strain on large parts of the industry as peaks and troughs in order placement continue. It was in fact to lobby against these periods of feast and famine that saw the founding of DDRF in 1993. For an industry so heavily influenced by Government decisions and processes to continue to thrive, these processes need to be considered closely as we are currently in real danger of losing a large number of our skilled workers and businesses.

The loss of these skills is not just as a result of the recent Thameslink decision but as a result of years of instability meaning that businesses are unable to plan effectively to deal with the long periods between orders. A perfect example of this is the recent decision to delay the Crossrail tender process and not forgetting the fact that we are currently close to reaching 900 days since the last order was placed in the UK for new rolling stock.

If the rail industry in this country is going to continue to develop, it needs not only a supportive Government but supportive procurement policies. It must be understood that the current threat to the rail cluster does not just apply to the suppliers of rolling stock but there is an inevitable knock-on effect which will impact on the industry as a whole based in and around Derby.

It is for this reason that DDRF believes that the procurement policy currently in use must be changed to take into account the wider economic impact of decisions. That is not to say that we call for a move for the UK to work outside of the European procurement guidelines that we have signed up to. It is true to say that other European countries have worked to safeguard their domestic supplies without being held to have infringed such laws, so it should be expected that we can do the same.

It should also be the case that the UK taxpayer should know that when contracts of this nature are awarded they offer the “best value”. We therefore welcome the BIS Secretary of State Dr Vince Cable’s announcement on 5 July 2011 that he will also be looking at the EU Procurement Rules in the next stage of the Growth Review. Further the National Audit Office’s announcement that it is considering a review of
the Thameslink announcement to ensure that the UK taxpayer is receiving best value is also welcomed.

Notwithstanding the above, we do share the concerns of many here in Derby that ‘best value for the UK taxpayer’ may not take into account the social and economic cost that recent and future decisions may have on Derby.

The policy followed to procure rolling stock has, over a period of time, caused real damage to the industry in this country. The impact of the recent decisions remains to be seen but recent studies suggest the potential loss of up to 13,500 jobs in the sector, many of which are based in the Derby area and the potential loss of a large portion of the £2.6bn contributed both locally and nationally to the economy by the sector.

We note that you have a full agenda at the 7 September committee meeting but should you require any further information from us or wish to meet with us at any time to discuss the contents of this letter or any other aspects of the rail industry and the position of the cluster here in Derby then please do not hesitate to contact me.

September 2011
Written evidence from Brian George (RSP 20)

PREAMBLE.

I have contact the selected committee before regarding transport matters.

I saw late this evening on East Midlands today BBC programme the leader of Derbyshire County Council, who plans to be at your committee meeting tomorrow regarding the matter of the railway carriage contract going to a German company rather than the Canadian company Bombardier.

REASON FOR CONTACTING YOU.

I would like to support the stance being taken by the local authorities in the area who are quite right, in my opinion, in protesting the poor decision taken by Phillip Hammond and his officials, regarding the award of the contract abroad instead of looking after the economic interests of this country. Especially, as I believe, that the German government made a statement to the effect that if the situation was reversed they would never have allowed the contract for their own railway industry, to go outside Germany. Yet they are supposedly bound by EC regulation the same as our government is supposed to be.

MY VIEW.

The Dft need to think urgently about other work that they can allocate to Bombardier. Personally I would suggest four and five car diesel trains to replace ageing stock used by Northern Railway franchise operating out of Sheffield that I used recently to travel from Sheffield to Lincoln on. Bus type bodies, very tinny, on top of a chassis with no suspension that I could see, built in, for passenger comfort.
The very busy line from Exeter to Barnstaple has to put up with the same type of stock. Despite promises by First Great Western to upgrade the rolling stock. Not to mention the drafty old stock used on the Matlock branch. See below also please.

THE RAILWAYS GENERALLY.

Please ask Phillip Hammond what he is doing to expand in depth the secondary transport system. Two suggestions as follows.

Okehampton to Bere Alston.

1) The route from Okehampton through Tavistock to Bere Alston. About ten miles linking up the existing routes in that area and creating a new main line through route for traffic flows between Exeter and Plymouth. An alternative to the very expensive sea wall railway at Teignmouth and Dawlish Warren. The railways are very congested. All the bridges and railway track is extant between Okehampton and Bere Alston, or about 95 per cent of it. Why does he not get on with rebuilding the route??

Buxton to Matlock.
2) The line from Buxton to Matlock in Derbyshire. 8 miles and extant with the Dft having allocated one million pounds recently to refurbish the two tunnels on the route for walkers!
The line from Derby to Matlock is heavily used. Why not extend it to Buxton?

2a) Peak Rail a local heritage line has already re-laid about three miles of it and now accesses Matlock station with the blessing of Network Rail. For a small amount of money to relay the remaining five miles of route, you could recreate a new through route between Derby and Manchester thereby relieving other rail routes to either side and reducing road congestion in the Peak District.

2b) A feasibility study has already been conducted in 2005 by the Strategic Rail Authority who reported that it was quite feasible to reopen the route between Matlock and Buxton.

2c) Why does not Phillip Hammond stir himself to get on with relaying the remaining five miles of so of track for heavens sake!! Allowing thousands of passengers once again travel through the Peak district from Matlock to Buxton via Bakewell. The latter being a town that is very busy all year round summer and winter with tourists. Not to mention outdoor events in the summer attracting thousands. The railway station is still there, large as life. You dont have to build a new one. Just relay the track.

CONCLUSION.

In addition to the railway carriage issue and Bombardier, please get to grips with Mr Hammond and find out why he is dragging his feet and not expanding the secondary cross country and feeder routes. He needs to be doing more that just support HS2 and CrossRail. Preferably by giving employment to British based rail companies and getting the unemployment totals down as a result.

September 2011
Written evidence from Derbyshire County Council (RSP 21)

From the earliest days of railways in the Victorian era, Derby and Derbyshire have placed a pivotal role in rail engineering in this country and around the world. The size and scale of the cluster of rail engineering business locally has been recognised as being unique in world terms, and Bombardier is regarded as pivotal within this cluster. Derbyshire County Council has been supportive of the development of the cluster for many years and has been supportive of the development of the cluster for many years and has been a founder member of the Derby and Derbyshire Rail Forum set up to nurture the cluster following the break up of British Rail businesses in the 1990s.

For the UK rail industry to thrive, it has to have a supportive Government in view of the degree of Government involvement in the investment, administration and regulation of the industry. It was with sadness and disappointment that we learned of the announcement of the significant Thameslink replacement contract to Siemens of Germany as preferred bidder. This contract awarded to Siemens, will again mean that train manufacturing procured by the Department for Transport will be constructed abroad with the consequential detrimental effects on the local rail industry.

We wrote to the Secretary of State for Transport, Rt Hon Philip Hammond MP on 22nd June 2011 setting out the County Council’s proposals to manage the Thameslink decision and a workable recommendation to save UK train manufacturing and the Derby, Derbyshire Rail Cluster:

- A targeted funded rail cluster support programme for those in the rolling stock supply chain for refurbishing existing UK fleets worth £300 million.
- Bringing forward the Cross Rail tender from 2013 to 2012 utilising the £3 billion saved from the re-negotiated Inter-City Programme awarded to Hitachi in 2008. In 2012, Bombardier should still be in a strong position to win this business with a supply chain in place to respond to tender opportunities. Any later then it is likely that they will not be in a position to compete.

We informed the Secretary of State that we intended to remain positive and see the Department of Transport’s decision as a serious concern but to look beyond it and at ways to support the sector over the short to medium term. The most crucial issue was to take measures to retain the skill base and ensure that our only home-based train manufacturer and the supply chain remained competitive into the future.

Our proposals would be a positive step by the Government to support our rail industry which remains crucial to the future of our economy and job prospects for our highly skilled workforce. These proposals taken together, would also provide Bombardier, with the positive business reason to retain its UK based manufacturing operation in Derby.

We support the Secretary of State for Business, Industry and Skills intention to change the Department for Transport’s train procurement rules within the EU Regulations to ensure a full assessment of the local economic effects of not awarding contracts to bidders with an established UK train manufacturing facility. This most cover not just the bidders, but their substantial UK supply chain. In Bombardier’s case, 13,500 jobs are at risk in the Derby and Derbyshire area.
In the immediate future and on the back of our proposal to create wealth, necessary growth and job in the rail cluster, we support the Department for Business, Industry and Skill’s actions, through the establishment of a Local Task Force to ensure vital skilled rail manufacturing workers are retained within the rail industry and not lost from the cluster of world renowned companies locally.

We would, therefore, urge the Committee to support the efforts of all the bodies in the UK to retain the railway engineering cluster at its current employment level in Derby and Derbyshire by following our recommendations to bring forward the Cross Rail contract with a positive view of awarding to a home-based manufacturer, which in turn will allow the world’s largest trail cluster to reduce, even remove, the macroeconomic impact of the Thameslink decision, and provide necessary time for businesses across the supply chin to mobilise for further domestic growth which could be reinvested to gain strong competitive advantage for international business development.

*September 2011*