



Department
for Transport

Updating Rail Markets Regulations Implementing Part of the Market Pillar of the Fourth Railway Package

Moving Britain Ahead



April 2018

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1. Executive summary

1.1 Part 1 of this consultation is seeking your views on how the UK should implement Directive 2016/2370¹ (the Directive), part of the Market Pillar² of the Fourth Rail Package, into UK law. Part 2 of this consultation seeks your views on the technical amendments that will need to be made to rail markets legislation following the UK leaving the EU.

1.2 The deadline for transposition of the Directive is 25th December 2018. Transport policy is fully devolved to Northern Ireland and they will make their own legislation to implement the requirements in the Directive. Views from all rail stakeholders with an interest in this area will be gratefully received.

1.3 As set out in our recent Strategic Vision for Rail³, Great Britain has had a highly competitive and liberalised rail market for a number of years, leading to a wide range of benefits for passengers and freight shippers, meaning that overall the Directive will have little impact on our rail market. For example, subject to balancing the benefits for passengers with the wider impacts on performance and financial implications, open access is available, and infrastructure managers are independent of train operating companies.

1.4 The main objective of the Market Pillar Directive is to improve competition within the EU single market by extending access rights into domestic passenger services and to further protect the independence and impartiality of infrastructure managers while still allowing for alliancing and joint working between the infrastructure managers and train companies. Given our already liberalised rail markets we anticipate that the Directive will have minimal impacts. The Market Pillar was adopted by Member States in December 2016.

1.5 The Directive is focused on facilitating open access to domestic Member State rail markets. Subject to important safeguards to avoid compromising the viability of a franchised (public service contract) route, open access enables new rail operators to bid for access to routes which have an existing franchise operator. The Directive also contains clarification and transparency requirements in relation to "vertically integrated structures", those structures where the rail infrastructure and rail passenger services are operated and owned by a single body. Rules for the competitive tendering and direct award of rail franchises are set by separate EU Regulations. The Railways Act 1993 provides for rail franchising on designated routes in Great Britain and section 25 of that Act prohibits state-controlled train operating companies from bidding for rail passenger franchises in England

¹ A copy of the Directive can be found here <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016L2370&from=EN>

² The "technical pillar" of the fourth package is being taken forward separately

³ <https://www.gov.uk/government/publications/a-strategic-vision-for-rail>

and Wales. This Directive includes new requirements for domestic rail markets to be open to competition, and strengthens protections in relation to independence of infrastructure managers (e.g. Network Rail). Other parts of the Market Pillar of the Fourth Railway Package set out rules on competitive tendering of franchises. This Directive will have little impact as we already have a liberalised market.

Our proposed approach to implementation

1.6 It is the government's policy to adopt a "copy out" approach to the transposition of European requirements wherever possible, to avoid placing any additional regulatory burdens or costs on UK business. We regard a provision as being copied out if it is implemented by cross-reference or the language of the Directive is used with modifications only where necessary.

1.7 A strict copy out approach was not followed in the 2016 Regulations, which the Directive amends, so using copy out for this Directive to implement what are relatively minor changes, would require a complete review of the 2016 Regulations. Therefore to reduce the burden and costs on businesses of adapting to new copy-out regulations, on this occasion the Department is proposing not to use copy-out.

Who is likely to be interested in responding?

1.8 These changes are likely to be of interest to all passenger and freight railway operators, all infrastructure managers, operators of service facilities, the rail regulator and Devolved Administrations.

How this links to the UK's exit from the EU

1.9 Implementation of the Directive also needs to be considered alongside the UK leaving the EU. Exit negotiations are ongoing and until we leave the UK remains a full member of the EU and all the rights and obligations of EU membership remain in force. During this period the government will continue to negotiate, implement and apply EU legislation, seeking the best outcomes for the UK. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in the future once the UK has left the EU.

1.10 Part 2 of this consultation asks for views on the technical amendments that will need to be made to the UK's rail markets legislative framework when we leave the EU.

Legal Disclaimer

1.11 This consultation document is intended to explore proposals for transposing the requirements of the Directive. It is not a legal document and should not be relied upon as a primary source of rights or obligations, nor as an interpretative tool. Consultees should refer to the source legislation and take their own legal advice concerning interpretation

2. How to respond

2.1 We were very grateful that stakeholders were willing to share their experience and views with us as the Fourth Railway Package was negotiated. We look forward to this collaborative approach continuing during this consultation. This consultation may also be relevant to other EU Member States.

2.2 When responding, please use the consultation response form provided at Annex A

2.3 The consultation period began on 24th April 2018 and will run until 8th June 2018. Please ensure that your response reaches us before the closing date. If you would like further copies of this consultation document, it can be found at www.dft.gov.uk/consultations or you can contact Jonathan Gay at jonathan.gay@dft.gsi.gov.uk if you need alternative formats (Braille, audio CD, etc).

Please send consultation responses to:

Jonathan Gay
 Department for Transport
 Rail Strategy, Reform and Analysis Directorate
 Rail Markets Strategy Team
 3/18 Great Minster House
 33 Horseferry Road
 London SW1P 4DR

jonathan.gay@dft.gsi.gov.uk

Please ensure that you let us know whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

If you have any suggestions of others who may wish to be involved in this process please contact us.

We would like to take this opportunity to thank those who have considered and responded to the Department's consultation in advance. We do not intend to acknowledge individual responses unless by request.

Freedom of Information

2.4 Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

2.5 If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

2.6 In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

2.7 The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Consultation Principles

2.8 The consultation is being conducted in line with the government's key consultation principles. Further information is available at:
www.gov.uk/government/publications/consultation-principles-guidance

If you have any comments about the consultation process please contact: Consultation Co-ordinator
Department for Transport
1/29 Great Minster House
33 Horseferry Road, London SW1P 4DR

Or email: consultation@dft.gsi.gov.uk

3. Part 1 - Implementing the Market Pillar Directive

Background

3.1 Directive 2012/34/EU⁴ was transposed into law in 2016. It repealed and "recast" a number of previous EU Directives putting them into one place. It also made substantive changes to the law, establishing a single European railway area with common rules on the governance of railway undertakings and infrastructure managers, on infrastructure financing and charging, on conditions of access to railway infrastructure and services and on regulatory oversight of the rail market.

3.2 The guiding principle behind the single European railway area is the extension of competition to domestic rail markets and reforming the governance of infrastructure managers with the objective of ensuring equal access to the railway infrastructure.

3.3 The Directive builds on and amends Directive 2012/34 and introduces part of the Market Pillar⁵ of the Fourth Rail Package. The Directive aims to further liberalise railway markets within EU Member States by establishing the principle of "open access" to domestic rail markets while providing the right to limit this access should the "economic equilibrium" of existing public service contracts, known as rail franchises in the UK, be compromised.⁶

3.4 The Directive also introduces additional measures to safeguard the independence and impartiality of those "infrastructure managers" within "vertically integrated" structures. Some of the provisions in the Directive are mandatory to implement, some already exist in law so no additional legislation is required to implement them and some allow flexibility on how or whether the provision is implemented.

3.5 This consultation splits these mandatory and flexible provisions into different themes, numbered 1 to 7. The mandatory provisions in the Directive are contained in themes 1 to 5 while those provisions where we have some flexibility on implementation are contained in themes 6 and 7.

⁴ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32012L0034&qid=1500536936148&from=EN>

⁵ The other part of the Market Pillar is Regulation 2016/2338 which came into force in the UK in December 2017. A copy of this Regulation can be found at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R2338&from=EN>

⁶ This is consistent with the UK approach to open access as set out in guidance to the ORR.

3.6 Our preferred approach is to implement the mandatory provisions in the Directive and the provisions contained in theme 6, as we believe these have the potential to reduce costs for business. At this time we do not propose to implement the flexible provisions in theme 7 as we believe there is a risk that they could increase costs to business. However, we are keen to hear views from all interested parties on this proposed approach.

3.7 Overall we consider that such an approach to implementation is consistent with our approach to rail, including that set out in the recent Strategic Vision for Rail.

Impact Analysis Data Collection

3.8 This consultation particularly seeks information on whether and if so how we should implement the flexible provisions in the Directive (themes 6 and 7). In addition, to inform our final impact assessment the consultation seeks information from stakeholders on the potential costs and benefits to them of implementing both the flexible and mandatory provisions in the Directive (themes 1 to 5).

3.9 Our consultation stage impact assessment is available to view online alongside this consultation. In drafting this document there were a number of areas where quantitative information was not available to inform our assessment. Consultees are invited to highlight when responding the estimated costs or benefits to them of implementing these proposals in the response form. Further detail on the mandatory and flexible provisions in the Directive are below.

Consultation Questions

Small and Micro Businesses

3.10 Section 1.6.1 of the Better Regulation Framework Manual describes a small business as a business with up to 49 full-time equivalent employees. A micro business is described as having up to 10 employees.

Question 1: Are you considered to be a small or micro business according to the Better Regulation Framework Manual?

Implementation of the Directive

3.11 As per paragraph 1.6 in the Executive Summary above, wherever possible it is the government's policy to adopt a "copy out" approach to the transposition of European requirements. However, as a strict copy out approach was not followed in the 2016 Regulations, which the Directive amends, using copy out to implement the Directive would require a complete review of the 2016 Regulations. Therefore, to reduce costs and impacts on firms we are not proposing to use copy out to implement the Directive.

Question 2: We have assessed the approach of not using copy out as being the least burdensome and the least costly to businesses. Do you agree with this assessment? If you do not agree with this assessment please provide evidence on the likely benefits of using a copy out approach to transpose the Directive.

Theme 1 – New independence and impartiality requirements

3.12 New Articles 7, 7a, 7b and 7c introduce new requirements designed to ensure the independence and impartiality of the infrastructure manager, whilst still enabling alliancing and joined up working. In particular the provisions cover decisions made in relation to "essential functions"⁷ when they relate to those undertakings that can be defined as vertically integrated.

3.13 The Directive defines vertically integrated undertakings as:

- an infrastructure manager that is controlled by an undertaking that at the same time controls one or several railway undertakings that operate rail services on the infrastructure manager's network;
- an infrastructure manager that is controlled by one or several railway undertakings that operate rail services on the infrastructure manager's network; or
- one or several railway undertakings that operate rail services on the infrastructure manager's network that are controlled by an infrastructure manager.
- an undertaking consisting of distinct divisions, including an infrastructure manager and one or several divisions providing transport services that do not have a distinct legal personality.

3.14 Our infrastructure managers are already aligned with the independence and impartiality requirements being introduced by the Directive. We therefore estimate that at this time the costs of implementing these proposals will be zero.

Question 3: Do you agree with our initial assessment that the introducing the new requirements in Theme 1 will have zero impact?
If you disagree please give further details including the potential cost to you of implementing the requirements.

Theme 2 - New financial transparency requirements

3.15 New Article 7d extends the requirements surrounding financial transparency for infrastructure managers, in particular for those within vertically integrated undertakings.

3.16 UK policy is already aligned with these requirements so we estimate that the impact of implementing them will be negligible.

Question 4: Do you agree with our initial assessment that the introducing the new requirements in Theme 2 will have a negligible impact?
If you disagree please give further details including the potential impacts of implementing the requirements.

Theme 3 – New co-ordination and cooperation requirements

3.17 New Articles 7e, 7f and 57 add to existing requirements on co-ordination and cooperation. In particular the Directive requires that processes are put in place to ensure infrastructure managers and railway undertakings are able to co-operate on issues such

⁷ Capacity, allocation and infrastructure charging

as interoperability and access conditions. The Strategic Vision for Rail sets out proposals for closer more joined up working.

3.18 In addition the Directive also requires that a lead infrastructure manager is nominated for the European Network of Infrastructure Managers⁸ and sets out new requirements for cooperation between regulatory bodies in respect of international rail services.

3.19 Our infrastructure managers are already required to co-ordinate and consult on a number of the new requirements being introduced by the Directive. The Office of Rail and Road (ORR), the UK's regulatory body for rail, already cooperates with the French regulator in respect of international services through the Channel Tunnel.

3.20 We therefore estimate that these new requirements will have negligible impact on infrastructure managers and regulators.

Question 5: Do you agree with our initial assessment that introducing the new requirements in Theme 3 will have negligible impact?
If you disagree please give further details including the potential cost to you of implementing the requirements.

Theme 4 – Additional powers for regulatory bodies

3.21 The Directive amends Article 56 and requires the regulatory body to ensure that discrimination against applicants is prevented. The Directive also extends the circumstances in which applicants can appeal to a regulatory body if they think that they have been treated unfairly. The Directive adds traffic management, renewal planning and scheduled and unscheduled maintenance and compliance with independence, impartiality and financial transparency requirements to the existing list of circumstances in which appeals can be made.

3.22 The Directive also extends the powers of regulatory bodies to carry out audits of vertically integrated undertakings, including all legal entities within them and new requirements for the regulatory body to monitor competition in rail.

3.23 As the UK's regulatory body, The Office of Rail and Road⁹, already has an appeals process and as the rail market is already fair and open with no vertically integrated undertakings within our domestic rail network, we believe the impacts of these new requirements will be negligible.

Question 6: Do you agree with our initial assessment that introducing the new requirements in Theme 4 will have a negligible impact on regulatory bodies?
If you disagree please give further details including the potential impacts of implementing the requirements.

⁸ Network Rail is the UK's lead infrastructure manager

⁹ <http://orr.gov.uk/>

Theme 5 – Extending the requirements to limit the right of access to railway infrastructure

3.24 Railway undertakings that operate international services have a right to pick up passengers at any station located on the international route and set them down at another. This right can be limited if the "economic equilibrium" of a franchised service would be compromised.¹⁰

3.25 The Directive amends Articles 10 and 11 and introduces a new Article 11a. The Directive extends this right to all passenger services unless the economic equilibrium¹¹ of a franchised operator would be compromised by the proposed service. The Directive also requires the regulator, where it has found that the economic equilibrium of a franchised operator would be compromised, to indicate changes to the intended passenger service provider which would ensure that these compromises can be avoided.

3.26 We believe that impacts will be minimal as the proposals are consistent with current practice and will therefore have limited effect. However, we are keen to hear views of respondents.

Question 7: What is the impact, if any, on the regulator of providing further information to intended passenger services providers on ensuring the economic equilibrium of a franchise operator is not compromised?

Theme 6 – Optional and deregulatory exemptions

3.27 Local and regional standalone networks for passenger services, networks intended for the operation of urban or suburban passenger services, regional networks used for regional freight services and privately owned infrastructure that exists only for the use by the infrastructure owner for its own freight operations are currently excluded from the requirements in Articles 7¹², 8¹³ and 13¹⁴ of Directive 2012/34. Article 2 of the Directive allows Member States to extend this exclusion to include the new independence, financial transparency and outsourcing requirements (themes 1 and 2).

3.28 We are minded to extend the exclusion to these services, reflecting their particular circumstances. However, before we make a final decision we are keen to hear feedback from stakeholders on what the costs and benefits might be.

¹⁰ This is consistent with the UK's existing non-primarily abstractive test.

¹¹ The EU Commission will introduce a new Implementing Regulation to set out the procedure and criteria to be followed when assessing impacts on economic equilibrium.

¹² Independence of the essential functions of an infrastructure manager

¹³ Financing of the Infrastructure manager

¹⁴ Conditions of access to services

Question 8: Do you agree that we should extend the exclusions from the independence, financial transparency and outsourcing requirements to the services described above?

Question 9: What is the impact, including costs or benefits, of extending the exclusion?

3.29 The Directive also allows member states to exclude the following from the theme 1 and 2 requirements:

- Local low traffic lines not exceeding 100km that are used for freight by a single freight operator, that are not managed by an infrastructure manager and where the essential functions in relation to the line is carried out by a body not controlled by a railway undertaking. This exemption can be applied equally to lines for local passenger services.
- Regional low traffic networks managed by an entity other than the main infrastructure manager and used for the operation of regional passenger services provided by a single railway undertaking other than the incumbent railway undertaking of the Member State. This exemption can be applied equally to regional lines used for freight services.

3.30 We are minded to introduce these exclusions. However, before we make a final decision we would like to fully understand the costs and benefits.

Question 10: Do you agree that we should exclude the above services from the requirements in the Directive?

Question 11: Do you think you would take advantage of the exclusions and if so what would be the benefits to you of doing so?

Theme 7 – Optional requirement to operate common information and through ticketing schemes.

3.31 New Article 13a allows Member States to introduce common information and integrated ticketing schemes. The Directive leaves open the interpretation of what a common scheme might look like so we could legislate along the lines of existing domestic schemes. However, the Directive also allows the Commission to make legislative proposals should a Member State introduce common schemes.

3.32 The existing franchise and licensing regime already contractually requires operators to participate in a common information and ticketing scheme which are tailored to benefit passengers. Given the risk that legislative proposals may not be compatible with existing schemes, potentially leading to increased confusion for passengers, we are not minded to introduce this optional legislative requirement.

3.33 Article 13(a)(3) requires member states to ensure that railway undertakings operating passenger services put in place contingency plans in the event of major disruption. We are also interested in hearing views on this requirement.

Question 12: Do you agree that we should not implement the new requirements detailed in Theme 7?

Question 13: If you disagree, what are the benefits of introducing the requirements in the Directive?

Any other areas

Question 14: Are there any areas which we have not covered where you believe there will be either positive or negative impacts?
If so please give further detail.

4. Part 2 - Preparing to leave the European Union

4.1 As part of preparing to leave the EU, subject to Parliamentary progress of the EU Withdrawal Bill, we are proposing to lay three statutory instruments (SIs) to amend the various pieces of EU rail markets legislation that are listed in Table 1 below.

4.2 We anticipate that the vast majority of these amendments will be to replace references to "EU Member State" or to remove references to the "EU Commission". We also anticipate removing and replacing references to previous EU legislation and replacing them with references to domestic legislation. Whilst we anticipate such amendments to be technical in nature we are keen to hear views from all interested parties on them.

4.3 We will also continue to closely liaise with the Devolved Administrations to ensure their views are fully taken into account in respect of the EU Exit SIs and any impacts on their own legislative frameworks are properly assessed.

4.4 We are keen to hear views from stakeholders on what they anticipate will be the technical corrections required in our rail markets legislative framework arising out of the UK's exit from the EU. It is important that we ensure that all of these amendments are identified to ensure a smooth process of exit from the EU. We will carefully consider any views raised to inform our drafting.

4.5 Annex B contains the response template for our EU Exit questions. Consultees are invited to comment on what they see as the main technical inoperabilities in the legislation we are amending following EU Exit.

4.6 In the interests of transparency we set out below our current proposed general approach to making corrections to aspects of our rail markets EU Exit legislation that would no longer operate appropriately once the UK has left the EU.

- An SI to make corrections to EU Regulation 1370/2007¹⁵, as to be amended by EU Regulation 2338/2016¹⁶, which contains rules on how competent authorities¹⁷ may award passenger rail services contracts containing "public service obligations" (those non-commercial services in the public interest that are set by the public authority awarding the contract).
- An SI to make corrections to The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 to be amended by legislation arising

¹⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32007R1370&from=EN>

¹⁶ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R2338&from=EN>

¹⁷ Those bodies that award public service contracts

out of Part 1 of this consultation. These domestic Regulations implement or will implement two EU Directives, Directive 2012/34/EU and Directive 2370/2016 which amended Directive 2012/34/EU. This SI will also make corrections to a number of directly applicable EU Implementing Regulations and Decisions made under these Directives,

- An SI to amend the Railway (Licensing of Railway Undertakings) Regulations 2005 (S.I. 2005/3030)¹⁸ to ensure that those parts that relate to operator licensing work effectively after the UK leaves the EU.

4.7 We would welcome any comments from stakeholders on this proposed approach.

4.8 A list of the domestic and EU legislation that might need to be amended in these SIs is below.

Table 1 – List of Rail Markets Legislation to be amended for EU Exit

The Railway (Licensing of Railway Undertakings) Regulations 2005
The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016, as to be amended - see Part 1 of this consultation.
Commission Implementing Regulation (EU) No 869/2014 - On new rail passenger services (relating to Article 10 of Directive 2012/34/EU), detailing the procedure and criteria to be followed by the rail regulator in determining aspects of open access applications regarding international services.
Commission Implementing Regulation (EU) 2015/10 - On criteria for applicants for rail infrastructure capacity (relating to Article 41(3) of Directive 2012/34/EU), setting out requirements for financial guarantees to be provided by applicants, and criteria to assess the capability of applicants to bid for infrastructure capacity.
Commission Implementing Regulation (EU) 2015/1100 - On the reporting obligations of the Member States in the framework of rail market monitoring (relating to Article 15(6) of Directive 2012/34/EU), establishing content and format of the data to be submitted to the Commission by Member States.
Commission Implementing Regulation (EU) 2015/171 - On certain aspects of the procedure of licensing railway undertakings (relating to Article 17(5) of Directive 2012/34/EU), setting out the details for use of a common template for licence documents, and certain aspects of the procedure for granting a licence

¹⁸ http://www.legislation.gov.uk/ukxi/2005/3050/pdfs/ukxi_20053050_en.pdf

Commission Implementing Decision of 20.2.2015 on the strategic importance of local railway infrastructure pursuant to Article 2(4) of Directive 2012/34/EU

Commission Implementing Regulation (EU) 2016/545 - On procedures and criteria concerning framework agreements for the allocation of rail infrastructure capacity (relating to Article 42(8) of Directive 2012/34/EU).

Commission Implementing Regulation (EU) 2015/909 - On the modalities for the calculation of the cost that is directly incurred as a result of operating the train service (relating to Article 31(3) of Directive 2012/34/EU), setting out such modalities for the purpose of the setting the charges for access to infrastructure connecting services facilities referred to in the Directive.

Commission Implementing Regulation (EU) 2017/2177 on access to service facilities and rail-related services (relating to Article 13(9) of Directive 2012/34/EU),

Commission Implementing Regulation (EU) 2018/XXXX - On the Economic Equilibrium Test (relating to Articles 11 and 11a of Directive 2012/34/EU, as to be amended by Directive 2016/2370).

To be voted on and adopted later in 2018. The UK is continuing to negotiate this regulation, working closely with relevant stakeholders to meet national interests.

Regulation (EC) 1370/2007 of 23 October 2007 on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70, as to be amended by Regulation (EU) 2016/2338.

4.9 In addition we will make consequential amendments to primary legislation to correct references to the above EU legislation and references to related provisions of the EU Treaties

Question 15: What are the main technical inoperabilities that we will need to address in these EU Exit SIs?

Annex A - Part 1 Consultation Response Template

We would welcome responses to the questions below (any or all) as well as any other comments respondents may wish to make.

Please e-mail or post the completed response form to:

Jonathan Gay
Department for Transport
Rail Strategy, Reform and Analysis Directorate
Rail Markets Strategy Team
3/18 Great Minster House
33 Horseferry Road
London SW1P 4DR

Telephone: 07966 513257
Email: jonathan.gay@dft.gsi.gov.uk

The closing date for responding to the consultation is 8th June 2018. Responses received after this date may not be considered.

Your details

Name:

Organisation (if applicable):

Job title (if applicable):

Address:

Telephone number:

Email Address:

UPDATING RAIL MARKETS REGULATIONS

Please tick the box from the list that best describes in what capacity you are responding:

As a private individual:

As a business

As a business representative

A Regulator

A government department

I would like my response to be treated as confidential

Please give details why:

Question 1: Are you considered to be a small or micro business according to the Better Regulation Framework Manual?

Yes

No

Question 2: We have assessed the approach of not using copy out as being the least burdensome and the least costly to businesses. Do you agree with this assessment? If you do not agree with this assessment please provide evidence on the likely benefits of using a copy out approach to transpose the Directive.

I agree that with the proposal not to use copy out

I disagree with the proposal not to use copy out

If you disagree please explain why:

Theme 1

Question 3: Do you agree with our initial assessment that the introducing the new requirements in Theme 1 will have zero impact?

If you disagree please give further details including the potential cost to you of implementing the requirements.

I agree that that proposals in Theme 1 will have zero impact

I disagree that the proposals will have zero impact

If you disagree please explain why:

Theme 2

Question 4: Do you agree with our initial assessment that the introducing the new requirements in Theme 2 will have a negligible impact?

If you disagree please give further details including the potential impacts of implementing the requirements.

I agree that that proposals in Theme 2 will have negligible impact

I disagree that the proposals will have negligible impact

If you disagree please explain why:

Theme 3

Question 5: Do you agree with our initial assessment that introducing the new requirements in Theme 3 will have negligible impact in the UK?

If you disagree please give further details including the potential cost to you of implementing the requirements.

I agree that that proposals in Theme 3 will have zero impact

I disagree that the proposals will have zero impact

If you disagree please explain why:

Theme 4

Question 6: Do you agree with our initial assessment that introducing the new requirements in Theme 4 will have a negligible impact on regulatory bodies?

If you disagree please give further details including the potential impacts of implementing the requirements.

I agree that that proposals in Theme 4 will have negligible impact

I disagree that the proposals will have negligible impact

If you disagree please explain why:

Theme 5

Question 7: What is the impact, if any, on the regulator of providing further information to intended passenger services providers on ensuring the economic equilibrium of a franchise operator is not compromised?

Theme 6

Question 8: Do you agree that we should extend the exclusions from the independence, financial transparency and outsourcing requirements to the services described above?

I agree that that the government should extend the exclusions

I disagree that the government should extend the exclusions

Question 9: What is the impact, including costs or benefits, of extending the exclusion?

Question 10: Do you agree that we should exclude the above services from the requirements in the Directive?

I agree that that the government should exclude the services from the Directive

I disagree that the government should exclude the services from the Directive

Question 11: Do you think you would take advantage of the exclusions and if so what would be the benefits to you of doing so?

Theme 7

Question 12: Do you agree that we should not implement the new requirements detailed in Theme 7?

I agree that that the government should not implement the requirements in Theme 7

I disagree that the government should not implement the requirements in Theme 7

Question 13: If you disagree, what are the benefits of introducing the requirements in the Directive?

Any other areas

Question 14: Are there any areas which we have not covered where you believe there will be either positive or negative impacts?
If so please give further detail.

Annex B - Part 2 Consultation Response Template

SI 1 - To make corrections to EU Regulation 1370/2007¹⁹, as to be amended by EU Regulation 2338/2016²⁰.

SI 2 - To make corrections to The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 as to be amended by The Railways (Access, Management and Licensing of Railway Undertakings) (Amendment) Regulations 2016 – see Part 1 of this consultation.

SI 3 - To amend the Railway (Licensing of Railway Undertakings) Regulations 2005 (S.I. 2005/3030)²¹ to ensure that those parts that relate to operator licensing work effectively after the UK leaves the EU.

Question 15: What are the main technical inoperabilities that we will need to address in these EU Exit SIs?

¹⁹ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32007R1370&from=EN>

²⁰ <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R2338&from=EN>

²¹ http://www.legislation.gov.uk/ukxi/2005/3050/pdfs/ukxi_20053050_en.pdf