Passenger rail services: competition policy project – consultation responses

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Background

1. On 17 July 2015, the Competition and Markets Authority (CMA) published a consultation document in relation to the possibilities for greater competition between train operators in Great Britain's passenger rail services. In particular, that document invited responses on the CMA's four suggested options for possible reform to the system of competition within the passenger rail sector. The CMA set respondents a deadline of 16 October 2015 to make representations.

2. In Part A of this document we have split the responses to the July 2015 consultation document into six categories for ease of reference:

   (a) responses from the industry;

   (b) responses from the government and regulators;

   (c) responses from regional bodies and other groups;

   (d) responses from international respondees;

   (e) responses from consultants and academics; and

   (f) responses from private individuals.

3. The CMA has published the responses which were provided in letter format (excluding confidential information) on its website. The responses which were provided in email format (again excluding confidential information) are published below.

4. On 4 January 2016, the Office of Rail and Road (ORR) published an impact assessment of the four options for increasing competition between passenger rail operators that were set out in the CMA's July 2015 consultation document. The CMA invited further responses on its four suggested options in the light of that impact assessment, with a deadline to respond of 25 January 2016. In Part B, we have published the 12 additional responses received following the publication of the ORR's impact assessment (excluding confidential information). These responses are split according to the categories set out in paragraph 2 above (with the exception that we did not receive responses from any respondents falling under the category of 'regional bodies and other groups' or 'international respondees').

5. The publication of the evidence of any party on the CMA website does not indicate in any way endorsement by the CMA of the views expressed in the evidence or acceptance of that evidence. Publication in this way is designed to assist public understanding of the issues.

PART A: Responses to the CMA's July 2015 consultation on the possibilities for greater competition between train operators in Great Britain's passenger rail services[1]

1. Industry

Arriva

16 October 2015

First Group

15 October 2015

Stagecoach

16 October

Network Rail

16 October 2015

RDG

16 October 2015

6 November 2015

2. Government and regulators

Department for Transport

19 November 2015

ORR

20 November 2015

[1] Any responses in Part A which are not provided in full below are available on the consultation page.

Transport Scotland

12 October 2015

3. Responses from regional bodies and other groups

ASLEF

16 October 2015

Campaign for Better Transport

13 October 2015

CILT

16 October 2015

Mid-Wales Transportation Partnership

15 October 2015

Newark Business Club

13 October 2015

Peninsula Rail Task Force

16 October 2015

Powys County Council

16 October 2015

PTEG

16 October 2015

RMT

15 October 2015

Scottish Association for Public Transport

12 October 2015

SEStran

15 October 2015

Sherborne Transport Action Group

16 October 2015

Torbay Line Rail Users Group

14 October 2015

Transport Focus

21 October 2015

Transport for Greater Manchester

16 October 2015

Transport for London

16 October 2015

Which?

2 November 2015

4. Responses from international respondees

CNMC

13 October 2015

Regutrain

18 October 2015

5. Responses from consultants and academics

Tony Bolden and Reg Harman

30 September 2015

Introduction

We are independent consultants and commentators on transport policy and practice in general and on railway performance and practice in particular. We have had published a series of articles on transport policy and practice over the last 15 years or so. We have also in that time submitted papers in response to consultation by the Department for Transport and to Parliamentary Select Committees on transport matters.

We are regular users of rail services in Great Britain as well as overseas, particularly in Europe and the USA.

We therefore see ourselves as informed and interested consumers of rail services and able to look at effective competition from the eyes of the rail user.

Competition

Competition has always existed within rail services. It may have taken different forms over the 185 years that railways have been running passenger services. Your historical look back could have benefitted from a longer scan over what has happened.

Before 1914 there were many railway companies offering competing services to many cities and towns throughout Great Britain. Of course at that time competition was between the railway companies themselves rather than through other modes of travel. Some of that competition came obviously through the pricing of journeys where two companies served the same pair of cities. But this formed only part of the competitive picture. There was equally competition over the quality of service, the frequency, reliability and punctuality of services, the routes taken and the comfort of the trains themselves. A notable example was the Midland Railway in the 1870s. Unable to match the East Coast and West Coast routes for directness and speed between London and the main cities of Northern England and Scotland, it eliminated 2nd class, charged 3rd class fares for accommodation to former 2nd class standards and introduced Pullman dining cars. In that way it generated step change in the standards for passenger train accommodation.

The late Victorian and Edwardian eras may have been described as the golden age of rail travel but, whilst there were notable exceptions, many services were of poor quality. Many rail companies were derided in music hall jokes for the lamentable

services they provided. Competition in whatever form that took did not provide the best practice overall for the passenger.

After the 1st World War the railways were in a poor condition. Many companies were close to bankruptcy, the infrastructure was in a sorry state. The Railways Act 1921 saw the amalgamation of the railway companies into four major companies (the Grouping) but these were still privately owned. Whilst there was still competition between services to some of the larger cities and towns, the level of investment and the generally poor state of the infrastructure meant that the quality of services, with again notable exceptions, was not of a particularly high standard. What is more competition from other modes was increasing, particularly in urban areas through the arrival of the tram, the trolleybus and the bus. The new 'Big Four' companies struggled to make profits.

After the 2nd World War which again left the railway infrastructure in a very bereft condition the Government decided to nationalise the railways. The four railway companies were abolished and British Railways took their place. Competition by that time was rapidly increasing not only through motorised passenger public transport but also, as the 1950s and 1960s passed by, through the acquisition of a motor car in many households, the large investment and improvements in roads, particularly motorways, and the introduction and availability of air travel. British Railways found it difficult to compete in price and in quality of service. This led in the 1960s to the Beeching Report and the subsequent pruning of the rail network. Many competing lines were axed so that places could only be reached in the vast majority of cases by one particular route.

British Rail, as it was now rebranded, continued to struggle financially. In the 1970s consistent revenue support (Passenger Service Grant, PSG) was introduced to prevent further line cuts. But investment in the system remained limited and, whilst many services were improved through the dieselisation and electrification programme, service quality remained patchy. A second radical review in the early 1980s, the Serpell Report, recommended further substantial cuts with the aim of reducing public funding but its proposals were not implemented because of widespread concerns over their impact on the economy and society.

In the 1990s the Government of the day decided to privatise the railways. A new franchising regime was put in place by which private companies could bid to operate services for a specified length of time. This essentially is the structure that exists today. But the railways face strong competition from other modes – be it road, bus or air – and that continues to govern choice by the consumer.

Given that, it is important to recognise, as your document does, that in the last 10-15 years rail travel has expanded enormously and that passenger satisfaction levels remain high. Rail travel now is as high as in the 1920s when of course the level of

choice and availability of means of travel was not as great as they are today. In that sense the passenger rail companies must be doing something right and that must be acknowledged. Having said that it should be remembered that rail travel as a proportion of total travel is only about 15%, although, it is recognised, it is higher for longer distance travel.

Objectives

We note the objectives listed in your document. We do not disagree with them. They are perfectly laudable objectives. The question remains, however, how can they be achieved, given the circumstances in which rail operators have to perform in today's conditions.

Options

The document lists four options. We do not see them as feasible or workable options in the circumstances portrayed in your document. We are not against competition itself – indeed we welcome it in the right areas – but not in the way you outline it in your document. Let us explain why and where we believe better competition would be more valuable.

Your options relate to three inter-city operations – the West Coast Main Line; the East Coast Main Line; and the Great Western. All three have to operate within fixed limitations and which have to be shared with other operations – be it commuter services; regional services or freight services. The infrastructure is fixed and can vary along the inter-city routes in question between 2-track to 6-track availability. The sharing of that track infrastructure between different types of operations conditions how many trains can operate at any given time. The more varied the nature of services on offer the more limiting is the number of trains that can be operated along any single track (or route). Thus to take the East Coast Main Line (ECML) as an example the number of tracks are limited between Welwyn and Knebworth, between Huntington and Peterborough and from Stoke Tunnel northwards. There are conflicting movements at various junctions along the same route. All these limit the number of trains that can use that route. In other words infrastructure capacity limits the availability of competition.

By only considering competitive service arrangements between inter-city services it presupposes that there are available slots for alternative inter-city services. These may not be available as other services (commuter, freight) might be viewed as offering better use of whatever spare train paths are available. New competitive arrangements in such circumstances are neither desirable nor feasible.

Substantial infrastructure changes and expansion would be needed to afford sufficient capacity for competitive services on the inter-city trunk lines. These take a very long time, require very large investment funds and need to be underpinned by a

large corps of experienced people and appropriate equipment. Thus they need wide acceptance by all parties and can only realistically be achieved through a consistent long term strategy. Great Britain has always lacked this approach and has followed an uneven stop-go approach over the decades, the latest example being the major cuts proposed in the current inter-city trunk line electrification and re-equipment programmes. This contrasts sharply with our neighbours on the European Continent. For example, the Netherlands has doubled capacity through the core part of the country (the Randstad) by consistent investment since the Government approved a strategic plan in the early 1990s; in consequence the main inter-city services operate at frequencies of six trains per hour. In France a similar long term investment programme has produced the high speed network enabling high speed trains (trains a grande vitesse, TGV) to dramatically cut times between the main cities; this has been complemented by local investment programmes round the city regions which has supported much improved regional services and prevented congestion on city lines delaying TGVs.

Use of limited capacity also raises questions as to what services are on offer. From a consumer's perspective it is better if more capacity (i.e. more seats) were available per train. Lengthening existing services would be a better objective for passenger than allowing new but short-formation trains to be operated just in order to satisfy the need for a number of different operators. This issue has been under discussion for some years. To take the ECML again, allowing competitive services to operate has on occasion prevented the franchisee from increasing its inter-city trunk service frequency. Furthermore, the open access services have been run with shorter trains of diesel powered rolling stock, preventing optimum use of investment in electrification and upgrading as well as adding to pollution.

Indeed from a consumer's perspective what is relevant is the quality of service on offer. This is not just a matter of price (i.e. fares) but whether the service is going to be punctual, reliable and frequent yet still offer a comfortable seat for the journey. Seating arrangements on board train these days are also an important consideration. Does the service offer wi-fi; does it offer comfortable rather than cramped travelling conditions; does it offer a view out of the window?

Delays to services are the bane of any traveller so any new competitive arrangements must offer inter-transferability when and where services are cancelled or heavily delayed. There must be agreement between operators in such circumstances.

The accent in the document is on increasing competition between certain inter-city services. This is too limiting and perhaps rewards the cherry-picking approach of trying to encourage more services with London as one destination point. We are concerned that it can affect the agreed franchise arrangements and where this is

detrimental it is the customer (i.e. the tax-payer) who suffers the disbenefits. This would be the wrong approach to pursue.

We feel that there may be greater opportunities for more competitive (and thus hopefully better) services on some regional routes. This should be addressed at the franchise bidding stage where such routes could be separated out. We offer two examples: Portsmouth – Bristol- Cardiff and Sheffield – Brigg- Cleethorpes. One currently is an hourly service but of mixed quality; the other operates on Saturdays only.

Franchise operators (and bidders) are now expected to meet quality of service conditions. This reform has been long overdue but we expect any franchise holder to be held to account on the service quality throughout the length of the franchise. Monitoring arrangement on good and bad practice should be stepped up to inform the potential traveller of perspective travelling conditions. This should be a GB wide practice.

Greater competition could also be encouraged at the bidding stage by restricting the number of franchises that any one operator can hold. It is suggested that the maximum is three.

This competitive element could also be encouraged by splitting up some of the existing franchises. Some of the more successful franchises have been on non inter-city lines e.g. Chiltern services and the London-Tilbury-Southend-Shoeburyness services where improvements to services have been particularly notable, following substantial investment in new rolling stock. Perhaps those services classified as Community Rail Services might benefit if these were seen as separate franchises.

If changes are made that affect existing or new franchises, any new open access operator should pay its appropriate share of track access and fixed charges as the franchise holder does. At the moment the arrangement seem unfairly based against the franchise holder.

Finally, it is important that operators are aware and take account of changes to spatial dispositions, which might lead to the need for additional (or altered) service patterns. It is critical that franchise agreements allow for new and innovative services to be introduced during the lifetime of any franchise. This of course might increase the cost of franchises if franchisees felt that they might not be able to secure all of the line capacity needed to perform the franchise (an issue with the ECML franchise discussed earlier).

Conclusions

We are not convinced that the options the document puts forward would help the consumer enjoy better services. If the growth in rail travel is to continue its upward

path then the key factor must be an increased emphasis upon quality of service. This can take many forms and it is not just a matter of “lower” fares. Government in any case can regulate fare levels. As it happens a recent report has claimed that the average price of a ticket has risen by only 6.7% (in real terms) over the last 15 years.

In any event any changes and improvements to inter-city services are dependent upon sufficient capacity being available to enable growth to occur. Such capacity gains in the form of improved infrastructure and/or better more comfortable rolling stock are necessary and critical ingredients to enable that growth and improvement to take place. Without it, competitive changes, as suggested in your document, would inhibit rather than improve.

Nick Brooks

10 October 2015

I am a UK citizen working as a passenger rail consultant in Germany as well as being a part-time MSc Transport student at Imperial College in London.

From a more ideological perspective, I am interested in increasing the efficiency of long distance passenger rail so that this mode of transport becomes the first choice for people traveling up to 400 miles.

Previously, I worked several years as Head of Sales & Business Development at the German long distance open access operator HKX.

Here is my response to your current consultation:

My recommendation: multiple licensed open access operators are the solution for UK long distance passenger rail

On July 17th 2015, you started an industry consultation on four possible options to increase such competition (for UK long distance passenger rail).

1. Existing market structure but with significantly increased open access operations.

2. Two franchisees for each franchise.

3. More overlapping franchises.

4. Licenced multiple (open access) operators.

In my opinion, any solution should aspire to meet three key goals: (1) provide attractive and affordable services (2) reduce the burden on the taxpayer and (3) get travellers off the roads, which helps the environment.

I would like to argue in favour of the 4th option – licensing multiple open access operators – but I think that this could work even better in combination with new innovation in pricing, sales, ticketing and fares.

Here are my arguments -

Over the past decade, open access operators have demonstrated that they can deliver long distance passenger rail more efficiently. Your own econometric analysis concluded that there is “lower overall cost if services are switched to open access from the (franchised) incumbent, even though the incumbent loses scale and density benefits from becoming smaller”.

Based on this, I see no real need for franchise operators anymore. Instead, multiple open access operators should be able to compete on the same tracks under licenses allocated fairly by a neutral body. These can be publicly or privately owned, as long as two operators owned by the same transport group do not compete directly against each other.

It should be ensured there is at least two licenses for each intercity flow. Popular routes, such as the East Coast Main Line, should have multiple operators, each with a smaller bundle of services, around the size of the present open access operators.

How should this work? –

- Licensing regime: operators should receive licenses to run services, paying track access charges that reflect the fixed & variable costs of the infrastructure. With every license, they would also commit to run a number of unprofitable, subsidised services. The general idea would be that profitable services help cross-finance some loss-making ones.

- Some licenses would still need a subsidy. The biggest change is that there should on-rail competition on all intercity flows, including those that lose money. It may be the case that not all of these can be cross-subsidised by profitable services - some licenses might still need taxpayer help. However, evidence suggests that competition would bring down prices, increase passenger volumes and consequently reduce that level of subsidy.

- Shorter service commitments. If a (non-subsidised) service does not perform, the operator should have the flexibility to withdraw it, with notice periods similar to coaches and airlines. Conversely, if a route performs well, then a neutral track access mechanism should allocate more paths.

This way, the rolling stock leasing market could become more efficient too. Train sets could be painted in a generic livery, with panels & displays being inserted to indicate the operator of the service over a particular period of time. In a more competitive market for passenger services, “secondary trading” of rolling stock might take place; operators might even become new entrants in the rolling stock market themselves.

All of this would work better if supplemented by further innovation in -

1. Pricing: There should be no upper or lower limit on prices. In other words, there should be yield managed, dynamic pricing that reflects potential demand while also helping to shape it. Passengers should pay more for travelling during very busy periods, thereby addressing overcrowding problems (and earning more profit fort he TOC to cross-subsidise weaker services). During off-peak hours, lower prices should lure price conscious travellers off the roads. On subsidised services, the aim should be to fill every last seat (without overcrowding). Yield management technology that can make this happen already exists, for example by the Dutch firm Sqills, which powers the dynamically priced rail ticket booking system of the Irish national rail incumbent, Irish Rail.

2. Sales: Station ticket offices should be tendered to independent companies that specialise in retail. Indeed, this reflects a recent proposal by the UK government. Individual TOCs should no longer be allowed to magnify their brand over other TOCs through the management of an essential facility. By comparison, it is completely obvious why airlines should not be allowed to sponsor & operate busy airports - this would distort the ability to provide equal marketing and a fair service to rivals. After all, British Airways does not run Heathrow. There is no justification for individual TOCs to continue to operate railway stations; it is anti-competitive and unnecessary.

3. Inter-Available Ticketing: Split ticketing of cheaper, train-tied dedicated fares across different operators should be explicitly welcomed. That means: if a connecting service is missed (due to a delay with the first operator), passengers should be able to travel on the following service. This way, the national UK rail network would benefits all travellers, not only holders of the more expensive "anytime" tickets (valid on all services of all operators). Prices would be then more competitive, rivalling cheap deals on coaches and low-cost airlines.

Why is this justified? Trains do not have the same geographic flexibility as planes or coaches - they cannot (1) turn off from their assigned path or (2) quickly start operating a completely new route. This policy would help compensate a big strategic disadvantage for railways.

4. Fares: Dedicated, dynamically priced, train-tied fares for a specific long distance train service should be made available right up until the departure of that service. UK

Rail needs to move away from the mind-set that last-minute tickets must always be expensive. This may be true in peak hours – probably they should even become more expensive. However, in off-peak hours, cheaper last-minute fares have the potential to attract customers that currently use the road, low-cost airlines or choose not travel at all.

This may sound revolutionary, but dedicated, service-tied fares available right up until departure has standard practice for airlines and coaches for decades.

Incidentally, this does not mean that more expensive anytime fares should be abolished. Some customers value the flexibility to change plans, and anytime tickets valid on any long distance train could still be offered (as a kind of “parallel” ticketing system)

5. Smart Media Ticketing: As mentioned above, those passengers who just want to “turn up and go” should be able to purchase dedicated, train-tied tickets right up until departure of a service - either through "traditional" sales channels, namely ticket offices, ticket machines and website or through new technologies, such as a smartphone or a pre-loaded smartcard or contactless card.

Furthermore, in order to improve convenience, it should be the same smartcard or contactless card that passengers use to purchase AND travel on local transport too (i.e. bus, tram, tube & local rail). The last several years of the Oyster card has proven that the sheer convenience of a smartcard has vastly benefited Greater London public transport - people have left their cars at home for this reason, which is good for the environment.

Incidentally, so that revenue is allocated to the correct long distance TOC, smartcard/contactless readers should be located inside moving long distance trains so that the passenger can "tap" both in and out when he or she BOTH boards AND disembarks the train (this is technically possible; for example it already takes place on buses in Singapore).

To conclude, I am convinced that licensing multiple operators would offer the most potential for truly transformative change.

Parallel to this, innovations in pricing, sales, ticketing and fares would create an attractive and convenient system that coaxes people out of cars, flights and coaches and into the trains.

A combination of all these changes would benefit the consumer, the taxpayer, the rail industry and, last but not least, the environment. Such a “single UK rail market” could become a role model for (1) the stagnating, monopolistic rail markets of Continental Europe and (2) the rest of the world.

Dr. M J Foster

10 September 2015

I am writing to submit my views as part of your current consultation process in regard to the above noted topic.

In essence I have two points to make which are: that there is an underlying false premise to your review; and, that none of your four proposed options are fit for purpose in economic/operational terms.

On the first point, it is an economic truism that some industries or areas of business activity are best served as a monopoly or by an oligopoly. The rail industry is one such, not least because of the sequential nature of delivery across a railway's infrastructure on the one hand and because its services have a social component which is not well reflected by fragmented competition across multiple providers. The mere act of privatising the railway necessarily imposed additional costs on the industry which could have been avoided by maintaining British Railways as a public body, namely the need for monies available for disbursement as dividends to shareholders in competing rail operating companies – Stagecoach have to try to pay me a dividend. Moreover, the more fragmentation that is present, the greater the frictional costs occasioned at the interstices of the fragmented web of ownership. These simple economic truisms appear to have been ignored in generating your four options 'for consideration'.

As for the options themselves, the first is undesirable, the second and third fly in the face of the basic industrial logic which might attract potential franchisees, and the fourth is just plain silly, being as it is a formula for a kind of anarchy on the rails – one might even say it is economically illiterate. In one sense, one could sum up your options as constituting a view that the franchise by routes model adopted for privatisation was not how the privatisation of BR should have been enacted. However, we are where we are and so the objective must be to not do any more damage than has already been done (which has been considerable).

Going back to option one as the least bad of the four options, it fails to recognise that allowing more 'open-access' (OA) operators on to the rails of itself makes scheduling services increasingly difficult (they will all want as near 'prime slots' as they can get) and is necessarily abstractive of franchisees' revenues, increasingly so the more directly an OA operator is allowed to compete on precisely the same route. Given that fact, how would the CMA suggest that bidders for franchises might try to forecast their likely ridership figures (for passenger franchises) in a world of great OA operator presence; would you perhaps propose to supply all bidders with a crystal ball?

Having reflected at length on what you seem to be about, I am driven to ask whether you have any idea at all how a railway operates as a complex system. To review competition in this complex system is not akin to reviewing competition amongst traders on the high street. Apart from anything else it does matter if an operator folds/fails: there is potentially no service left: or D.O.R. has to ride to the rescue again – novel idea there, public ownership of a railway company!

If you really want to be a force for good you could espouse the view to government that it really needs to view the actual rail network, i.e. the sleepers and rails and their signalling kit basically, as an infrastructure asset on which TOCs may operate their services, just as the road network is provided from the public purse. Then you should ask the question: 'what do potential passengers and freight movers want from a rail service?' I think you will find the answer to be: a predictable, frequent if possible, and reliable service at reasonable cost (ticket price for passengers). This is most likely to be provided by a TOC system which is simple. Every time you add more complexity to the system, in the name of the flawed God 'competition', you increase the frictional costs inherent in the overall operation of the complex system and those additional costs will necessarily have to be met by higher passenger fares and higher freight charges. Those higher fares will in turn tend to make people look to road based alternatives which will in their turn give rise to yet more pollution without which we can certainly do!

My considered advice is to leave well alone unless you can come up with something which is simple, economically literate and likely to serve the interests of the public which is me and my fellow citizens, you even.

Mike Garratt – MDS Transmodal

16 October 2015

Chris Gidden – CRAG Consultants

29 August 2015

I have read with interest the outlines given in your consultation document, however the big picture of the system as a whole has not been clearly explained. We have not discussed the input and output finances of the whole infrastructure system.

As I understand so far from information available the infrastructure as a whole has two inputs, government from taxation and user incomes, user incomes are passenger fares and freight access charges. The outputs are capital expenditure -

infrastructure buildings, rolling stock and track infrastructure and also payments to operating entities. The result is not neutral and the competition end result does not help, the players here extract a profit from this regime and the cost is hived away as a debt for National Rail, the debt increase is more than the profit of the entities, so there is a subsidy to the entities which is being paid for by borrowing, this is not realistic and we cannot continue in this way.

Either the Railway produces a natural profit to the treasury offsetting the loan increase or the subsidy be removed from the players.

If the competition model was to work then it would mean better profit for the treasury and the public purse and a reduction in fares to the passenger and the freight hauliers but this is not happening.

The first problem as far as fares go for the passenger, they should be simple, obvious and easy to apply, if there was a standard controlled charge for all fares it would be a good deal for the passengers but at present it is not.

Option four is basically pre war scenario where initial capital investment is created and maximum extraction without maintenance or renewal - that did not really work in the long run as proved in the 50's.

Options 1,2 and 3 all fail to make a realistic payment for wear and tare and replacement, none of the franchisees actually pay a true cost of operation and just make maximum extraction of profit (standard is it not), the debt is still left with the taxpayer.

The CMA needs to look at the big picture, the arrangements as in option one with the competition abstraction fee of revenue lost is an unworkable fudge and certainly this is not going to continue to work.

The way to make the system to work for passengers is to have a fixed fare across all boundaries which are fair and honest, then the operator can offer cheaper or dearer options with additional services. All rail tracks have a franchisee with the minimum level of service stated, this ensure even unprofitable route are served. The most important part is all fares are fixed, the minimum service is supplied and the rail debt is not increased and charging for open access return a public profit to contribute to the debt burden before a private profit otherwise we the public purse is paying for the private profit.

Tony Lodge – Centre for Policy Studies

16 October 2015

Professor Chris Nash

7 October 2015[2]

Malcolm Pheasy – Nash Pheasy Consulting Ltd

24 September 2015

Introduction

The Competitions & Markets Authority has issued a consultation on extending the open access activity in the GB passenger rail market. There is a full Discussion Document plus a Summary Report proposing series of four options upon which views are sought by October 2015.

This response is submitted by Malcolm Pheasey, managing director of Nash Pheasey consulting Limited. Malcolm has had a long and varied career in the rail industry. Highlights relevant to this consultation are:

- London Underground - Operations, service planning and investment management
- British Rail - Service and resource planning and investment management (included sponsorship of BR's West Coast upgrade project)
- Railtrack Investment management, Train Planning and Track Access account management
- National Express - Franchise Bid Director and Rail Policy director– in this latter role was a participant in the cross-industry steering group for Periodic Review '08.

Generic overview

The CMA takes as its starting point the contention that competition provides benefits for customers through better and/or cheaper products. It is not proposed to review this contention here. This response focuses on the practical application of the CMA's proposals.

In order for competition to exist there has to be a surplus of supply. Procuring additional rolling stock is not insuperable and is likely to become easier as HSTs and

[2] This response was published in Rail Professional, September 2015 and appears with the permission of the publishers.

MkIV coaches are released by the arrival of IEPs. What is less easy however is to increase the number of available paths in which to run additional services. From the 1980s until privatisation there was a policy of shrinking network capacity to eliminate duplication or unnecessary facilities, to correspond to the then-envisaged declining traffics. Post privatisation, the growing demand for travel has led to a continued investment in capacity expansion. However this has always been underwritten (even if not directly funded) by the Government and thus public sector rigour has been applied to the investments. This has resulted in the network playing catch-up with capacity provision, always providing just enough for the immediately foreseeable future and nothing for potential further service expansions (other than fortuitously where a step change has been made that over-provides initially). The only exception to this is the HS2 project. The current funding arrangements for franchisees and open access operators have made the Government unwilling to invest for open access requirements/aspirations. It is most unlikely that any passenger open access aspirations could finance capacity expansion in their own right due to their economics. Freight customer economics do enable additional sidings to be provided although major capacity upgrades (eg Carlisle-Settle line upgrade for new coal flows) are still funded by the DfT. All this means that even now there is 'only just enough' network capacity for today's demand.

The CMA consultation recognises this and has indicated that its proposals will be fully effective only as network capacity expands. Unfortunately, it relates this to the introduction of 'on-board electronic signalling'. This actually relates to moving-block signalling which is currently only a potential aspiration in NR's plans. I have serious doubts about the potential for this to increase plannable capacity as junctions and stations do not move, so become fixed points – unless significant investment in creating conflict-free junctions is undertaken.

At present, open access exists in a 'manufactured' market whereby their access charges are lower than for franchised operators. Some time ago Michael Beswick (then of the ORR) confirmed that the ORR allowed this different treatment as 'otherwise there would be no open access as their economics would fail'. I think this is significant as my understanding is that Grand Central has rarely made a profit and of course Wrexham&Shropshire withdrew from the market for financial reasons (interestingly, although referred to, this latter is not explored in greater detail by the CMA report which I think would have been helpful). I note that the CMA report acknowledges the differential treatment and addresses it in some of their Options.

There is reference to the coach industry within the document. Some points can be made here:

a) There is no network access differential cost (all pay similar vehicle taxes and there is no direct recovery of Highway's England maintenance and expansion costs) – compare and contrast to the rail industry

b) Taking National Express as the ‘incumbent’ and Megabus as the ‘open access’ equivalent, Megabus has a policy of short notice introduction of services on lucrative flows only, with equally short-notice withdrawal if insufficient profit accrues; NX will often respond in ways that would make the CMA cheer (price reductions, service increases) until such time as patronage shares level off. Either both operators continue to exist or one blinks first as we revert to a single operator. This short-term effect and flexibility is less easy to accommodate within the rail industry’s planning timescales. Note that these timescales are driven by the need to ensure good, network-wide connections and accommodation of services on a highly congested network.

c) Competition is only on the lucrative trips but can mean a reduction in ‘spare’ funds to cross-subsidise less popular services. This could have implications for rail competition where the franchisee currently has obligations to run the less popular services (evenings in particular).

The CMA report refers to the reduction in on-rail competition from the time of the SRA era. A particular example would be the combining of Anglia Railways with Great Eastern Railways on the GE Main Line into Liverpool Street. This certainly reduced competitive pressures but was done, inter alia, because of the poor use of scarce paths on the Line – a three-car train was occupying a path that could have been, and subsequently was, used for a 12 car outer-suburban train.

Much is made of competition driving cost efficiencies within the operators. I suggest that such efficiencies are not huge. A better analysis of why such that there might be have not been realised would have been helpful. In many cases it is because of the industry’s structural characteristics (eg DfT will not stand behind DOO moves; TUPE applies to franchise re-letting, locking in current high wage levels) rather than a lack of incentives. Only by changing such characteristics will those efficiencies be realised.

Not thoroughly considered within the CMA document is the mechanism for collecting revenue. There is reference to ‘Smart’ ticketing making allocation of revenue to train used more precise. This possibly requires 100% seat (or at least train) reservation and/or 100% ticket inspection on-board. The GB passenger is much wedded to having turn-up-and-go opportunities and this is catered for by inter-available fares, which leads to the need for a system such as ORCATS. Does the CMA assume all tickets will be sold on-line in the future? I do think the revenue collection system impacts need thinking through for each Option.

The above background observations are incorporated in the commentary on the Options below.

Option 1 – existing market structure, but significantly increased open access operations

Key suggestion here is that the open access operators pay higher access charges. This appears a possible solution but it is not clear to what extent those higher charges will exceed the open access operator's ability to pay. It is implicit (removal of the ORR's 'not primarily abstractive' test) that restrictions on calling patterns will be lifted, allowing greater ORCATS raiding of franchisee's revenues (and hence potential franchise premium payments to DfT). The (wishful?) thinking seems to be that the OAOs' higher access payments cover the reduction in premium payments. This seems an ambitious objective as one is revenue based and the other is administrative so it is likely that ne'er the twain shall meet.

There remains the problem of how to allocate capacity between franchisee's and OAO's bids for paths/calling patterns. Traditionally this has been done incrementally from current patterns but this will lead to pre-emptive game playing by all parties (as seen currently with DfT including most paths in franchise specifications). To start from a blank sheet (as I suspect the CMA envisages – or hasn't thought through) would be extremely difficult as not all paths are equivalent (unlike most landing slots) and even if such an exercise was conducted once, pragmatism would dictate status quo (with only incremental change) for later timetables. A far worse solution would be for someone (NR?) to prepare a timetable with predetermined paths and calling points and then offer them to competing parties. It is unlikely the Government (ie taxpayers) would welcome this – they would probably be left with the less remunerative paths, requiring subsidies.

Option2 – two franchisees for each franchise

Clearly another possible option and could easily be done now. There would be increased franchise letting costs for the DfT and it is uncertain if the operator fraternity would be prepared to incur the increased bidding costs (and there may not be sufficient skilled resources for preparing bids – a phenomenon that is already emerging).

Conceptually, the assumption is that there would be competition during the running of each franchise leading to passenger benefits. However, in practice, such opportunities will be written into the franchise premia offered as part of each bid (effectively the revenue benefit is pre-committed to go to DfT) and both franchisees could end up committing the same passenger's revenue. This could lead to either or both franchises failing financially with DfT left holding the ring – or potentially both offering less than they might otherwise have done, leaving the DfT net worse off.

I am not sure the inherent risks would be worth the low competitive benefits.

Option 3 – more overlapping franchises

This is actually the same as option 2 except that it is not for a whole franchise area. Similar concerns exist. If however additional capacity is created and available then some extension of one franchisee's area into another area could be possible, or the additional opportunities themselves competitively tendered (as Regional Railways ran competitions between sub-sectors for the use of class 158 units when they were built). Of course this does require additional capacity. I do not think the benefits from more competition alone could justify the expenditure on additional capacity - however when HS2 comes along……

Option 4 – licensing multiple operators, subject to conditions (including public service obligations)

This Option would be a nightmare to administer. There is no indication of how long the licences would last. As indicated it is likely to require a centralised train plan with paths bid for. Centralised planning is far removed from the customer responsive approach that the CMA sees competition promoting. Awarding of licences as described sounds remarkably like awarding of franchises (permission to run certain services alongside obligation to run PSO services). Bidding for individual paths (how frequently? for how long?) is not a realistic prospect and would lead to cherry picking with those paths perceived to be less remunerative left un-requested. This latter would lead to an administratively imposed obligation to run less remunerative paths which is effectively franchising by another name.

Michael Schabas – FCP Rail Consultants

27 October 2015

Jonathan Tyler – Passenger Transport Networks

19 October 2015

Response to CMA Consultation on competition in passenger rail services in Great Britain

1 GENERAL COMMENTS

This document is deeply flawed.

It opens [¶1.1-1.4 and repeated at ¶2.31] with the assumption that because traffic has grown substantially and satisfaction has improved therefore "the arrangements

for passenger rail services … since the mid-1990s have broadly yielded successful outcomes". This is an illegitimate correlation because many other circumstances have changed – employment patterns, the ability to work on trains, road congestion and attitudes to it, young people's travel preferences, and of course development of the quantity and quality of the service-offer in ways which British Rail had shown itself perfectly capable of achieving pre-1994.

Nowhere does the document mention the universal and intense competition that the rail passenger business faces from the dominant mode, the private car. The presumption that competition from other public modes [see ¶4.3] and *within* the railway is all that matters is absurd in the context of how managers have to respond to challenges. The document should not quote the tendentious remark in the 1992 White Paper that "the rail industry was more insulated from the demands of the market than other [public] forms of transport" [¶2.26].

It is an imperative of Government policy to achieve modal transfers from car to rail as a key element of its carbon-reduction targets. If the proposals could demonstrably contribute to that (although we doubt they would) they might be interesting, but the topic is not addressed.

The tone of the discussion of evidence on the claimed benefits of competition is relentlessly biassed. Every conceivable example is introduced with no allowance for the vested interests of the sources, no weighing of counter-factual possibilities (what might have happened anyway) and no judgment on how transferable to the railway each example may be.

Great play is made of the experience of competition in the rail-freight sector, in the European airline business following deregulation and between Heathrow and Gatwick Airports [Chapter 4]. These case-studies are irrelevant to the rail passenger business since the operational circumstances are utterly different. It is time for regulators to recognise this fundamental fact. Moreover, the tenor of the arguments is neatly summarised in the contrast in one paragraph [4.6] between "none of these examples offers a precise analogy" and "the evidence … taken together is *richly* [our emphasis] suggestive of … significant benefits … from greater on-rail competition".

Just because travel by rail has increased and satisfaction (among users – the general public are not surveyed) is at highish levels (though value-for-money persistently scores much less well) does not prove that there is general contentment with the prevailing system. On the contrary, clear majorities of those polled express support for 'renationalisation', which for all its vagueness almost certainly points to dismay at the fragmentation of the network, the perceived self-interested behaviour of the train operating companies, the complicated fares system and the constant reorganisations of franchises. And no brand loyalty has been created.

This mood may well match opinions in mainland Europe where networks designed in the public interest have a stronger tradition and European Commission attempts to liberalise the market are being resisted (whatever may be said [in ¶1.28] about greater on-rail competition). Note the significance of the proposed clause about new access not being allowed to compromise the 'economic equilibrium' of a public service contract [see ¶2.121] – this is code for concern about the stability and integrity of the networks on which people and communities rely.

Questions of price, quality, ancillary services and innovation are certainly important, but the document is remiss in not considering examples of how they have been or could be delivered under regulatory regimes other than vertical separation and on-rail competition, such as via public authorities and concessions. This is especially true since the downsides of competition are barely mentioned and since the document does not discuss the big issue of the type of network and pattern of services which communities expect – and may expect even more in the future as the use of cars has to be moderated and rethought.

It would have been particularly interesting to ask why Switzerland, a pillar of free markets and liberalisation, remains absolutely committed to a network planned consensually within a context of social and communal values but without disregarding efficiency and economic benefits. Delivery is predominantly by arms-length publicly-owned companies, satisfaction appears high and open access is barely considered.

The remit of the Competition and Markets Authority is to promote competition. That is accepted. But to produce a document that is not objective and often blatantly ideological and that reads in part like a jejune undergraduate essay is unworthy. The issues facing the future of Britain's railway are too serious to be addressed in this manner.

DETAILED COMMENTS [paragraph references ¶x.x are to the CMA text]

¶1.6 : achieving downward pressure on fares is not necessarily a pre-eminent objective since income from passengers is an important source of funds for enhancement of the system.

¶1.8 : it is right that recommendations need to be implemented “without any operational impact”, but there is little sign that regulators understand that railways are a complex system, that this is immensely difficult to identify in advance and that the legal processes must take into account the interests of users spread over a wide geographic area and making a wide variety of journeys.

¶1.13 and ¶1.30 : “the risk of 'free-riding' on investment in the network infrastructure and the risk of 'cream-skimming' the more profitable services” is recognised, but it is ironic that the first is what Grand Central have been able to do as a result of a

convoluted legal judgment in 2006 (which may be overturned by the recast of an EU directive [see ¶2.125]), and the second what Alliance Rail (owned by a foreign state railway !) are attempting with their application for Edinburgh <> London paths.

¶1.14 : in stating just three competition-oriented duties out of the 24 duties that ORR is charged with the document ignores several that have a broader public purpose. A fuller list appears later [¶2.80] but is still selective: it does not include, and is therefore misleading,

* "to promote improvements in railway service performance (which includes, … journey times that are as short as possible)" [Railways Act 2005, 3 (3) and (11)(b)];

* "to contribute to the development of an integrated system of transport of passengers" [Transport Act 2000, 224(2)(c)];

* "to contribute to the achievement of sustainable development" [*ibid*, 224(2)(c)]; and

* "to promote measures designed to facilitate the making by passengers of journeys which involve use of the services of more than one passenger service operator" [Railways Act 1993, 4(1)(e)].

¶1.20 : it is stated that the government has introduced flexibility into franchise competitions in order to encourage efficiency and innovation – judging by the continuing prescriptive nature of the Invitations to Tender [ITTs] this has not happened, and the scope for serious overhaul of poor and obsolete timetables is tightly constrained by the Train Service Requirements [see also ¶2.24] which were introduced to protect the government from decisions about unpopular changes..

¶1.28 (and ¶2.30) : the CMA (and ORR) seems to have fallen for hype about future increases in capacity – enhancements to the existing network are barely keeping pace with growth in demand, HS2 (which is of course not yet certain to be built) is unlikely to release as much capacity as is claimed for reasons to do with the mix of traffic remaining on classic routes [see the qualification at ¶3.24], and 'on-board electronic signalling' has yet to be proven as an instrument for running more trains (note that HS2 does not expect to operate more trains per hour than a conventionally-signalled main line). However a later reference [¶3.20] is distinctly more cautious – and rightly so since capacity on open track is not the primary determinant of overall capacity.

¶1.32 : it is welcome that the report recognises that if on-line competition is to be extended all operators must pay proportionate contributions to fixed costs (though it is odd that ORR ducked this in 2013 [¶2.66]), and it would have been helpful to have given some thought to how this would have influenced the open-access business models had it been in place from their introduction; as for the idea of a 'universal

service levy' to fund unprofitable services, that is bad economics – support should come from taxation, not from a surcharge on customers on profitable routes that may discourage modal transfer [see ¶4.116 and Table 11].

¶1.35 : the statement that the East and West Coast Main Lines and the Great Western Main Line “have fewer capacity constraints than commuter routes” is simply wrong, as the players in the ECML timetabling saga are finding out.

¶1.38 : recognising current commitments while looking ahead has its merits, but it is not very useful to be proposing a plan that cannot be implemented until 2023 at the earliest – major decisions about the role, priorities and structure of the railway will have to be taken more urgently than that and cannot sensibly take so distant a prospect into account (and there may be big external changes, such as a very different government or Britain withdrawing from Europe). Given the number of changes in the structure since 1994 a little humility about yet another major and ideological change imposed on an industry with problems would not come amiss.

¶1.40 : the CMA may believe that on-rail competition could yield “potentially significant prizes for our society”, but those prizes may not be the ones most wished for by the public, and there may be better ways of realising them – this should be a matter of wide debate rather than something left to a few specialists in arcane and undemocratic documents.

¶2.5 : the proposition that privatisation freed the railways from bureaucracy is laughable while the suggestion that it led to “a wider choice of services more closely tailored to what customers wanted” is at best a simplistic interpretation of history and at worst traduces BR's record.

¶2.18 : it is odd that the arrangements for London Overground and Merseyrail are relegated to a footnote [19], given that concessions are a significant alternative to franchises, widely used to good effect in mainland Europe and in the case of London a huge success by a public body acting in the communal interest.

¶2.27 : franchisees have indeed “the freedom to provide the extent, type and quality of service which they believe best meet passenger demands”, but they also have profits to make for their shareholders, which means that their actions are not necessarily in the wider interest – public transport has a deeper significance for the community and the economy than individualistic consumerism.

¶2.34 : in discussing why the franchising system has not yielded all of the hoped-for benefits it is mentioned that the envisaged scale of on-rail competition has not materialised – it was surely incumbent on the authors to consider whether railways have intrinsic characteristics that make access difficult, such as unavoidably high entry costs, the difficulty of finding paths on congested routes and public perception of the consequences of excessive fragmentation.

¶2.52 : “[franchise] competition does not begin afresh for each contract” – really ?

¶2.52 : if franchise competitions are expensive what is to suggest that the necessary organisation of more on-line competition will not be so too – and thus continue to waste precious resources and management time ?

¶2.74 : “engines, carriages and trucks” – engines are what provide power, carriages has gone out of use and trucks are what Thomas plays with. The usual terms are “locomotives, coaches and wagons”.

¶2.75 : “rolling stock's interoperability with train operators' requirements” is a misuse of the technical term 'interoperability'.

¶2.93 : it may be valid to argue that since passengers are now funding a larger share of the industry's costs they should have an increasing say in services, but it is irrational to then jump to the case for on-rail competition. There are other models, for example concessions specified by democratically-accountable bodies, consensual commitments involving many parties to clear national service standards (as in Switzerland) and, at least for small and local lines, cooperative consumer + employee organisations.

¶3.1 : double use of the term 'rail miles' is confusing – it seems to mean train-miles in the first instance and passenger-miles in the second.

¶3.6 (repeated at ¶6.13) : it is stated that “there is potential for load factors on trains to increase … allowing more passengers to be carried … without expanding capacity” – that is either a truism or it implies that some paths might be available to hand over to new operators. If the latter then it begs many questions such as the loss of the convenience of regular standard-hour patterns and the effective reduction in frequency that operator-specific tickets introduce.

¶3.9 - 3.17 : the account of Network Rail plans is rather odd because it lists a number of projects that are not relevant to inter-city competition, was evidently written by someone unaware of the gathering clouds over the CP5 programme, includes reference to the much-criticised and almost-forgotten 'Electric Spine' and imagines that Welsh electrification will reach Carmarthen. It also states that the High Speed Trains are “sometimes known as the 'InterCity 125' fleet” – the authors do not know their history since that was the hugely successful branding of a very successful train introduced by that bureaucratic and incompetent public monolith, British Rail [see footnote 201].

¶3.22 : footnote 96 reports that “The DfT has made the point that there are potential risks to the HS2 business case, such as reduced timetable coordination, that could arise from greater on-rail competition. The DfT also made the point that open access competition could limit the government's ability to secure the financial benefits of the

major, upfront investment." This is an extraordinary statement since it exposes a huge muddle (which some of us have previously pointed to with no effect) at the very heart of British railway policy. More transparency on the part of the Government and a public debate on what we are trying to achieve would be helpful.

¶4.10 : if French and Spanish rail freight has declined while that in Britain has grown that could well be because Britain shed unsuitable traffic much earlier than these comparators.

¶4.15 : what does the phrase 'load usage' mean ?

¶4.16 : comparisons between staff productivity in the freight and passenger businesses are meaningless since the work required is totally different – and the increase in numbers on the passenger side may be because the TOCs did what entrepreneurs are supposed to be good at and improved (labour-intensive) customer service.

¶4.14, footnote 108 : use of *gross* tonne miles (ie. including the weight of locomotives and wagons) is unusual, and the quoted statistics may refer to the more relevant *net* tonne miles.

¶4.17 : it should have been mentioned that [Toby] Lodge works for an ideologically-directed think-tank and is not an objective observer.

¶4.19 : if the freight industry received over £500 million of government funds during CP4 the analysis should have considered whether that influenced the efficacy of the competitive regime.

¶4.21 : it is unclear why the nature of timetabling for freight occurs in the conclusions.

¶4.26 - 4.33 : the Heathrow / Gatwick competition saga may tell us about competition in general, but it tells us nothing useful in context, since the technical realities of a railway severely limit the scope for rail companies to respond to each others' behaviour in respect of the fundamentals of the service offer, as distinct from secondary features. Changes may also have unacceptable public disbenefits of which government has to take cognisance. In any case the uncritical manner in which the evidence of tit-for-tat responses is presented leaves one wondering whether the story is quite so straightforward.

¶4.39 : Grand Central does not serve Grantham.

¶4.40 - 4.44, ¶4.51 and ¶4.53 : the now-familiar argument that franchisees' fares have been lowered or risen less where there is on-rail competition than where it is absent is at best unconvincing. It would be natural for the franchise incumbent to

seek to recover shortfalls on the former by maintaining or raising fares on the latter, given that it has to sustain its premium payments to the government. Moreover, franchisees are bound by a plethora of rules under cross-industry agreements which prevent them from exercising the same freedoms as open-access operators [see for example ¶4.62].

¶4.45 : it seems improbable that a franchise agreement would need to be amended, or that if so it would be difficult, in order to introduce an information system (which has incidentally been commonplace on public systems in Switzerland for some years) – this is either an urban myth or the franchise system needs amending now (without the upheaval of widespread on-rail competition in 2023). And access to television on board is hardly a game-changer.

¶4.47 and ¶4.53 : the high position of the open-access companies in the satisfaction tables is noteworthy, but it has to be borne in mind that their operations are a great deal more straightforward than those of franchisees and hence easier to consistently get right.

¶4.49 : Hull Trains may have introduced much better services for business travellers, but it would be interesting to know whether this has had any discernible effect on Hull's economy.

¶4.51 : care should be exercised when quoting fare differentials since so much depends on particular options – in this instance the comparison of a Grand Central fare of £20.80 with a Virgin East Coast fare of £49.50 is discredited when a quick check for five days ahead showed £37.50 on Grand Central's 08:02 from Kings Cross to York and £38.50 on Virgin's 08:30.

¶4.52 : it is not true that extra capacity on the East Coast was only identified as a result of competitive pressures since the then-franchisee, GNER, already had its own clear aspirations (some of which were frustrated by the granting of paths to Grand Central).

¶4.54, ¶4.56 and ¶4.59 : it is patently obvious that the methodology of a study comparing stations with and without competition is flawed since the former includes those that acquired much-enhanced through services, a known factor in dramatically raising modal share (and indeed a strong argument put forward for permitting open access).

¶4.63 : this analysis is interesting, but it has limited relevance to ideas about head-to-head competition since, as admitted, most of the variation in fares quite sensibly reflects real differences in journey-times, frequencies, rolling-stock, on-board facilities and station locations.

¶4.66 : the changes following the decision to remove competition between Ipswich,

Colchester and London may have caused some deterioration in service, but what matters is that the competition was wasteful of resources while the improvement in performance cannot be ignored.

¶4.64 - 69 : we note how the evidence from franchise overlaps is inconclusive but wonder why there is no analysis of successful competition by 'monopoly' franchisees against other modes, for example captures from car or air (on the Scotland routes) by virtue of pricing or accelerations.

¶4.73 : these large increases in fares cannot be assumed to result solely from the behaviour of a new monopolist – they may largely reflect government policy to raise the passengers' share of costs, especially on a route undergoing large infrastructure investment.

¶4.74 - 4.123 : the discussion of experience in mainland Europe illuminates the positive effects that on-track competition can certainly achieve. However it once again fails entirely to convince because of what it does not address. It does not clearly admit how small the open-access sector is and ask why (though it hints at one reason by noting that not many profitable routes exist [¶4.88]). It does not report on the countries that have not allowed open access or simply not had a call for it and on the characteristics of their passenger services. It does not look for evidence of public attitudes toward the rail offer, including the important question of whether there have been losers from or critics of the open-access interventions (the outcome of the review in Sweden [footnote 150] may be significant here). And as already noted it does not examine the success or otherwise of free tendering for services, despite listing a number of examples of the practice in the context of Public Service Obligations.

¶4.82 : forcing an incumbent to open its depots and stations to a competitor is a rather aggressive act for a state to take (and would not be contemplated in other sectors), so it does require more substantial justification in terms of public benefits than have yet been proven and of course assurance of proper cost-recovery.

¶4.83 and ¶4.99 : reducing access charges and exerting downward pressure on fares for services on high-speed lines implies that part of their cost has been transferred from (probably better-off) travellers to the state – it should be asked whether this is equitable and justified by any benefits.

¶4.97, footnote 156 : the practice in Germany of giving priority in timetabling to longer-distance services is not a means of protecting DB Fernverkehr but a sensible approach to planning paths, since otherwise such trains have to be fitted into predetermined regional plans with the likelihood of needing the insertion of time-wasting margins (witness the CrossCountry timings in Britain).

¶4.102 : claiming the introduction of technologically advanced rolling stock as a

virtue of competition is a nonsense since the state operators have a great record, for example with DB's ICE trains and SNCF's TGVs (all the example quoted does is to show that the incumbent had a fleet bought earlier which it could hardly abandon just because a competitor had new trains).

¶4.105, ¶4.106, 4.107 : it is astonishing that transfers from car are mentioned here while the general competitive impact of cars and the best means of responding to it are ignored.¶

¶4.111 (and ¶6.5) : why an incumbent should be expected to allow a competitor access to its ticket distribution or reference in its timetable is not explained – Sainsburys are not expected to award customers Tesco points or to open their website to Waitrose. Either each company should do its own thing, as in other consumer sectors, or, if the state deems the benefits of competition to be so great, it should itself or via a third party set up shared marketing and sales sites.

¶4.113, Figure 10 : given the fact that the three countries that share with Britain very high network-usage intensities (The Netherlands, Denmark and Belgium) have not had or have actively discouraged open-access interventions the question should surely be asked as to why, and in particular whether they judge open access to be incompatible operationally in such circumstances or undesirable in the context of the public benefits of a dense network. Incidentally Switzerland tops the European table with 146 trains / route-km x day, and the figure for Britain should be about 97 because the inclusion of Northern Ireland is a distortion.

¶4.116 and Figure 13 : could there be any connection between Britain's uniquely high average fare per passenger-km and not only government policy on cost-recovery but also the fragmented, quasi-competitive, profit-driven structure of the industry ?

¶5.10 - 5.23 : the reported econometric analysis is of excellent academic quality, but so complex a methodology and one so dependent on problematic data cannot yet be definitive [see eg. ¶5.15], and it should be noted that the claims for widespread inefficiency in the McNulty Report [¶5.6] have been queried. Moreover the discussion attributes the poorer record of franchisees to characteristics of the contracts – which could of course be changed to deliver better outcomes. It also seems that much of the quoted evidence came from the two open-access operators while the franchised incumbent was apparently not invited to explain the many reasons why fair comparisons are difficult and why their performance may in many respects be perfectly sound.

¶5.22 : yield management systems are not the preserve of open-access firms, and indeed were first introduced by state-owned British Rail. Tailoring services to demand is a luxury open to marginal operators but is not available to franchisees so

long as regular-interval services are specified, which most managers, analysts of traveller behaviour and the general public believe to be vital in creating an attractive and convenient service. And while it was managed by a public body East Coast offered one of the most loyalty-stimulating and journey-stimulating schemes imaginable; the new privately-owned operator destroyed it in favour of non-rail benefits.

¶5.24 : does using jargon like “the upstream level of the rail industry value chain” to describe Network Rail's role help to advance public understanding of the issues ?

¶5.25 - 5.30 : these examples of companies, including franchisees, identifying opportunities to increase capacity are selective and merely demonstrate that the industry could be a great deal more effective in evaluating timetable options across the network, but this is not an exclusive function of competition, must take into account wider public-policy issues and must recognise the technical constraints on capacity that are outlined in PTN's response to ORR's consultation on system operation.

¶5.26 and ¶6.4 : reform of access charges for all the reasons cited is indeed urgently required, but the case for competition may need reassessing once it is seen what the effect of fairer charges is on the business models of the open-access companies.

¶5.32 - 5.43 : examples of the effects of competition from the airport, airline and water industries are interesting, but they cannot be translated to the railway industry simply on then basis of faith in competition *per se*, since its characteristics are completely different (and evidence about the post-liberalisation growth in air travel needs to be tempered by consideration of what would have happened had travellers been required to bear the substantial external costs they cause).

¶6.4, footnote 192 : the statement that efficiency gains from vertical separation are likely to more than offset the separation costs is entirely unsubstantiated, would be challenged by many and deserves more attention than a mere footnote.

¶6.7 : the requirement for Network Rail not to discriminate leads to the absurd situation that a franchisee can win a bid (at huge expense) and then not automatically be allocated the capacity needed to run the services for which it has contracted with government. This situation has arisen because successive governments have failed to reform the conflict inherent in the legislation.

¶6.8 : does the Sale of Access Rights Panel function – it does not appear to have been referenced in the current ECML case ?

¶6.11 - 6.17 : this discussion of capacity constraints is entirely inadequate – it relies on network enhancements beyond what is necessary to keep pace with demand, is

ignorant of Network Rail's problems with the cost of works (which may be more fundamental than its alleged inefficiencies), places too great a faith in new technology (though a mere footnote [196] significantly qualifies this) and quotes irrelevant plans for urban areas.

¶6.18 : "railway engines and carriages" again – please, they are locomotives, coaches and multiple units.

¶6.18 - 6.24 : another simplistic discussion, since the technical issues inhibiting transfer of rolling stock between routes and operators are systematically underestimated and since it might be more efficient than attempting marketisation to have fewer types of vehicle planned by a central body (not DfT !) in the collective interests of the railway (privatisation led to the building of small fleets such as the Class 180 mentioned in footnote 200). Future availability of existing stock is likely to be much less than envisaged because of increasing passenger demand [¶6.21].

¶6.25 - 6.39 : this section appears to be based on the mistaken belief that there is some fixed volume of capacity on a multi-purpose railway waiting to be allocated between operators – in real life capacity is a function of the decisions taken about the arrangement of paths in a timetable, which itself is a function of many different and sometimes conflicting demands, of a great variety of operating circumstances and of managerial and political judgments about priorities.

¶6.27 - 6.28 : it is not obvious why Network Rail as system operator needs incentives to do the job it exists for in respect of providing the capacity to run trains, but insofar as its primary focus is on operational performance that is because politicians and the public have demanded it (a proper transparent debate might open up options for a better balance) and above all, as is noted, because ORR has become obsessive about monitoring performance (with questionable statistics) and a fining regime for shortcomings.

¶6.34 - 6.39 : the implied praise for London Midland in seizing spare paths that might otherwise have been taken by competitors may be classic capitalistic competitive behaviour, but it is not obviously in the wider public interest. And what was done is not uniquely a function of competition, as the introduction of a fifth trans-Pennine path shows (and thereby weaknes the rather unconvincing argument [in ¶6.38] and as Switzerland consistently demonstrates.

¶6.40 - 6.57 : this section first introduces important reservations about greater on-rail competition expressed, one suspects, by experienced railway professionals, but instead of developing them it concentrates on finding possible reasons to challenge them. In doing so it reveals a superficial understanding of railway timetabling.

* Nowhere is there a discussion of the characteristics of timetables that best influence demand and rail's modal share, and in particular of the case for a fully-

coordinated, frequent and regular-interval national network. On the contrary it is implied that a timetable is no more than a bundle of independently-determined proposals by multiple operators.

* It is stated that “Rail services competing on a larger scale would require an increased focus on interconnectivity” [¶6.42]. This is fantasy-land. Competing operators each with their own (profit-maximising) objectives would have no interest in coordinating with each other (witness the mediocre standard of connectivity in the present timetable and see footnote 211). The point is indeed made in the admission that head-to-head competition might focus very largely on key stations [¶6.47], and it is not at all certain that encouraging disparate operators “to be more responsive to passenger demand” will automatically provide the best (in economic and social terms) mix of fast services and those for intermediate stations [¶6.50].

* evidence from franchise remapping about performance is of little value since so many other factors would have affected PPM [¶6.45];

* the effect of a mix of rolling stock [¶6.47] and of service types [¶6.51] is noted but the implications are not followed up;

* the use of the term 'slots' [¶6.53 - 6.57] betrays a fundamental misunderstanding of the complex interactions involved and the airport analogy is quite unhelpful; auctioning [¶6.57] is irrelevant for the same reason, namely that there is no pre-definable bundle to work with; and

* the implications of mentioning 'a cooperative approach' [¶6.57] are missed – it is unlikely to work in the public interest between a group of self-interested competitors, but it could work if undertaken by a public body (a 'guiding mind' in the fashionable phrase) in full consultation with operators, government authorities at every level, users, the wider community and experienced timetablers, with the resulting planned and fully-coordinated service being delivered by whoever under contract (most urban networks in mainland Europe, London buses and of course Switzerland function well under such a regime). But it means abandoning the narrow focus on competition.

Yet at least in conclusion the document is humble enough to welcome responses on this issue.

¶6.58 - 6.85 : this important discussion of the impact of greater competition on the funds available for cross-subsidising 'unprofitable' services (definitions and calculations can be very slippery) and for investment is weakened by being another example of every possible counter-argument to genuine concerns being assembled, with evidence of undue influence from open-access companies. The issue should be approached with great caution. It might however be clarified if responsibility for subsidies were transferred to taxpayers, devolved to appropriate levels and split into smaller units: this would end the undesirable practice of surcharging travellers on the

prime routes and thereby affecting demand (it is surprising that the CMA seems uninterested in this point) and through transparency force people and politicians to accept the cost of their aspirations, which the prevailing crude and centralised system does not do. (Introduction of full-scale road-pricing would greatly assist the rationality of this approach.)

¶6.86 - 6.95 : this discussion of charging methods that better reflect the costs of various activities and effects is to be welcomed, since the present methods are plainly lacking in terms of the incentive messages they convey. However the idea of a 'universal service levy' [¶6.91] makes no sense, for the reasons outlined in the previous note.

¶6.96 - 6.101 : weaknesses in the system of bundling services into territorial franchises certainly need addressing, as noted above, but that should be undertaken on its own merits outside of and long before greater competition is introduced. Reform should also include encouraging franchisees to adopt radical proposals for service changes, including the case for closing little-used stations. However 'socially desirable outcomes' should not be relegated to a footnote [246].

¶6.102 - 6.105 : discussion of interavailable and operator-specific tickets needs to be broadened to include the big questions of what degree of price-discrimination is required to maximise use of the railway as a whole (a large premium on interavailability may be counterproductive in undermining the perceived convenience of a frequent service – as has happened with Virgin West Coast – and there is evidence that intensive marketing of advance tickets has led people to think that all inter-urban rail travel has to be pre-booked), the associated question of customer confusion from a plethora of fares and the environmental implications of a preoccupation with discount offers that promote journeys that would not otherwise have been carried out.

¶6.105 : this analysis contains a fallacy: of course longer-distance services have a lower proportion of interavailable tickets since more advance tickets are offered, for obvious reasons, on such routes. Enthusiasm for 'smart ticketing' should be reserved: it is far from proven.

We do not offer a response at this stage on the options for reform, because, as will be clear from the commentary above, we are a long way from being persuaded of the case for greater on-rail competition, and indeed we believe that there are strong reasons in the public interest for a very different approach. Our submission to ORR in response to the consultation on System Operation accompanies this submission and should be read with it: it explains in more detail the nature and implications of the unique characteristics of a railway as a system and proposes an appropriate means of optimising use through timetable-led planning.

Response to ORR consultation on making better use of the railway network

1 INTRODUCTION

A consultation paper that addresses issues of 'system operation' is welcome and overdue. Since infrastructure and operations were institutionally separated the obvious and paramount fact that any railway is an integrated system has often been overlooked. This submission will argue that the separation model is based on flawed analogies with other modes, but if it is to continue to shape the organisational framework of Britain's railway it is essential that the best possible means of integration are researched, understood and implemented [see ¶8].

The recognition of the importance of a detailed understanding of the network and how different parts interact is significant, especially since system operation supported by those two factors can “maximise the level of plannable capacity … in a way that separate parties could not” [¶45]. Similarly, it is noted that features of a rail network make coordination vital [¶49].

The paper is also right to focus on securing a proper balance between increasing use, improving punctuality and keeping costs down [Figure 2]. Equally timely is the discussion that, inter alia, emphasises the importance of ensuring that decisions to expand the network are well-informed and that costs are kept at an efficient level [¶13+14]. That is not necessarily happening now, not just in terms of Network Rail's difficulties but also because of evidence of poorly-specified schemes.

2 THE CHARACTERISTICS OF A RAILWAY

It is important to be clear about the distinctive characteristics of a railway.

* A railway must operate in a disciplined mode because of the mass and speed of a train.

* Trains are confined to tracks from which they cannot deviate.

* Trains can only overtake each other at dedicated locations where the layout of tracks permits such a move.

* Planning must avoid conflicts, and real-time control must prevent them.

* On a busy multi-user railway trains typically have a mix of

    - power-to-weight ratios

        - rates of acceleration and deceleration

        - running speeds

- available power for managing gradients

- permissible speeds where the condition of the infrastructure requires limits

- calling patterns

- dwell times

- routes at junctions

which collectively create dynamic interactions that it is the task of timetable planners to minimise and the task of controllers to manage intelligently in real time (note that train drivers cannot make independent judgments).

These factors are both a weakness and a strength. On the one hand they render the railway system relatively inflexible in operation and very expensive to modify, but on the other they make possible a large potential capacity – and generally do so at low environmental cost and with a modest land-take per unit of traffic moved.

They also explain why analogies with ports, airports and roads are mistaken. Those modes afford dimensions of movement that trains do not possess. Ships and planes have almost limitless freedom, and even when their paths coincide at terminals their passages are largely homogeneous. (Failure to recognise this point is why the word 'slot' is inappropriate for railways: 'path' better expresses the complexity and spatial determinism of a railway system.) And unlike roads, where access is at random and interactions between vehicles are largely controlled by individual drivers, railways require external control and constraints on access .

It may be understandable that this analogy grew out of concern in the European Union about inefficiencies in the national railway systems, particularly with regard to international traffic, but that does not make it any less flawed. Moreover the further belief that the best means of making the railways more competitive against the huge challenge from other modes is to introduce competition within the railway does not take proper cognisance of its specific characteristics. One may concede that the concept may have had some legitimacy in the case of freight, but its transfer to the passenger business was essentially ideological.

3 CAPACITY AND ITS MEASUREMENT

The capacity of a port can be readily measured in terms of ship sizes and berth occupancy. The capacity of an airport runway – measured in slots – is defined by the rate of take-offs and landings that is operationally practicable and safe. The capacity of a road is more complex but is primarily a function of speed (and

variations in speed in busy conditions); the mix of vehicles is taken into account by introducing the homogenising metric of passenger-car-units.

The capacity of a railway is more difficult to define. Influenced by the analogies with other modes and by the requirement to manage access to the track once operation of trains had been separated, regulators, infrastructure managers and academics have endeavoured to measure capacity as though it is somehow fixed and hence capable of subdivision into a bundle of paths. This may be true of an urban metro worked by identical trains that always stop at the same stations and that are not impeded by crossing moves or of a dedicated heavy-freight mineral railway. It is not true of most of Britain's national railway.

There are two intertwined issues, one technical and one market-related. On the first

* because most services run through a number of sections, combining and recombining with other services, calculating the capacity of any one section is not particularly helpful and the capacity of the network as a whole becomes an elusive concept ;

* because the railway network is sparser than the road network its effective capacity is influenced or even determined by that of the more constrained sections (whereas in most road cases alternative routes are available); and

* the factors listed earlier [in ¶2.1] profoundly influence outcomes.

Consideration of the market reinforces this point. On a predominantly passenger railway paths need to be planned in such a way that

* their characteristics vary to suit different markets (but not by more than is necessary);

* their sequence minimises interactions and avoids gratuitous waste of capacity (by for example careful positioning of stopping trains and flighting of fast trains);

* market requirements are balanced against almost-immutable features of the infrastructure (for example, one train calling at a station may hold up the following train and thereby consume two nominal paths – this is why headways on open track have little meaning because what controls capacity are station layouts where a train cannot overtake another in the absence of a loop);

* each is used to maximum effect in terms of its economic value, which will be some function of the nature of the traffic carried and the number of passengers or volume of goods (the preoccupation with 'paths' has misled regulators into underplaying this point, with the result that valuablet capacity is being wasted by the running of trains of a smaller-than-norm size);

* overall they offer the most attractive feasible service, make the most efficient use of a national asset and secure through good inter-relationships the best possible connectivity for travellers;

* preferably they follow a consistent pattern hour-by-hour since this is both demonstrably what most passengers expect and respond to and widely accepted as the most efficient scheme (once again, because variation tends to have a disproportionately disruptive effect on capacity); and

* their daily operation achieves a high standard of reliability.

This means that the statements in Figure 6 [p.12] have limited value.

The ineluctable conclusion is that the real capacity of a mixed-traffic railway is a function of a mix of factors and of the decisions taken about how to combine and balance them rather than an abstract predetermined quantum . It has in fact been suggested that railway timetables present one of the most intractable operational problems, and it is telling that no definitively-optimising algorithm has yet been found. Computer-aided human ingenuity and judgment remains the norm.

* The phrase 'notional capacity' appears to mean signalling headway, but the qualification about rolling stock implies use by a single type of train, which is rarely the case on congested sections, and the word 'route' confuses the (not very interesting) situation on one section with the more complicated situation on a string of sections.

* 'Plannable capacity' includes the same weakening qualification about stock and seems to assume an unrealistic homogeneity of trains and service requirements: it may have some relevance to suburban sub-networks (for example, on the Main Suburban Lines into London Waterloo or on Merseyrail), but it is of little value as a benchmark elsewhere.

* 'Throughput' is a post hoc measure that may be useful for monitoring performance but is only relevant to discussions of capacity if systematic trends indicate that the network is operating significantly above or below its sustainable realisable capacity.

* 'Capacity in use' comes closest to what we have outlined above, although it obscures the more fundamental features by framing them in institutional terms such as franchise specifications and track-access agreements that may be the prevailing determinants but are not a given fact .

This tension between different interpretations of 'capacity' can be identified in the terminology used in the document – and was evident too at the Workshop on 2 October. The classic regulatory phrase is that capacity is to be “allocated between

train operators” [an outcome stated in the Executive Summary, p.3] and, making a big assumption, “to competing users” [¶46]. It is assumed when discussing allocation by value (which is in itself an important criterion) that there is some fixed quantity to be apportioned [Figure 8, Outcome 4]. And a reference to Network Rail having only limited incentives to sell more paths seems again to imply that they are there for the asking, just like a plainly unused 'slot' at an airport [Fig. 9, Outcome 2].

Yet it was also necessary to introduce less precise concepts. The first of these phrases is followed by the words “in a fair, economic and effective way”, and the word 'fair' occurs again in “fair treatment of customers” [¶21] and “ensuring that capacity is allocated fairly” [¶46]. It is difficult to see how 'fair' can be defined between multiple applicants for access when accommodating their trains may ripple through the timetable plans with all manner of unintended consequences – let alone how fairness to the many other stakeholders can be evaluated. In a congested network (which much of Britain's system is) most train movements will impact on other movements and affect the connectivity offered to travellers. What is 'fair' then becomes intangible and difficult to measure. Similarly the metrics used to judge fairness call for careful definition: for example, allocation of capacity between different operators on the basis of paths would not necessarily be 'fair' if the number of seats on their respective trains differed markedly.

Similarly, while 'economic' is susceptible to measurement, though often contentiously so, it is not clear whether 'effective' refers to some metric of capacity utilisation, to the supposed benefits of competition or to the satisfaction of wider policy goals. Finally, Consultation question 2 [¶71] asks respondents to consider whether a focus on system operation would ensure that the 'right services' are using the network: that is a fundamental political question, not a mere matter for regulation.

Further ambiguities emanate from references to characteristics of the timetable. The Executive Summary [p.3] refers to customers expecting 'minimal interchange' – which cannot be presumed to arise from an allocation process. This is elaborated later [¶51 and Box 1 at p. 16]: “The timetable would … facilitate so-called [why is this pejorative adjective inserted ?] 'network benefits' so that individual services are coordinated in such a way that passengers can make timely connections to reach their destination”. That begs innumerable questions, since allocation of paths to operators with disparate objectives is most unlikely to yield that outcome and since the idea of a fixed quantum of allocable capacity will evanesce as paths are arranged to meet this essentially public-interest goal.

In sum, access rights cannot be sensibly granted in some abstract fashion without prior awareness of their consequences, nor can it be assumed that the aggregation of access proposals from a range of disparate operating companies will match the specification for optimal use of a congested network . Moreover, it is unlikely that the activities of these companies will combine to yield the best overall public interest.

They may individually succeed in serving the markets they have chosen to target, but given their specific (and typically profit-making) aims it is almost inevitable that the resulting timetable will contain gaps and anomalies.

It would be surprising if this confusion is not costing a great deal in management time, delayed benefits and possibly misguided investment. And because of questionable confidentiality conventions the public are excluded from understanding what a future timetable might offer – except for one draft that has been released that proposes withdrawal of London inter-city services from Berwick-upon-Tweed, Alnmouth and Stevenage (an irony since one of the open-access companies has built its business case on restoring London trains to neglected centres).

This conclusion is vividly illustrated by the case that relates to, namely applications by two open-access operators to compete head-on with the incumbent franchisee. on the East Coast Main Line. The parties involved have markedly differing views on the available capacity of the various sections of route, and Network Rail is unable to undertake the full-scale timetabling exercise that is necessary in order for all the consequences to be understood because staggered franchising dates and other uncertainties mean that it does not have the requisite information from the other operators on the route – ScotRail, Northern, TransPennine Express and Thameslink.

4 THE TIMETABLE

The timetable is the fundamental feature of the product offered to potential customers by any provider of public transport. As a catalogue it states the availability of a vehicle to convey people from A to B at set times. That truism should not need to be reiterated, but it is necessary because it has been neglected while the focus has been on secondary (though not trivial) issues such as staff attitudes and WiFi provision, while discounted fares have (obsessively ?) dominated marketing and while so much attention has been paid to governance, regulatory processes and institutional structures.

By reference to that statement of its importance Britain's national railway timetable is presently lacking. It does of course contain many excellent individual services and what follows is not to impugn the improvements that have been made. However

* there is no sense of a national network ;

* train operating companies are preoccupied with their own sub-networks ;

* journeys involving more than one operator are barely marketed and may be made difficult by poor management of interchanging ;

* the timetable book is unprepossessing and impenetrable (and too often wrong) ;

* other printed literature rarely gives any help to travellers requiring information about connections;

* gaps in the network render access uneven or make journeys by rail too roundabout to be attractive;

* the quality of service varies to an extent that probably damages perceptions;

* on-line journey-planners have become invaluable, but they present a one-dimensional view of the service-offer, are inadequate as a marketing tool and cannot substitute for print material;

* some lines whose condition enjoins a thorough review of the service-offer seem held in aspic as a result of the reluctance to close redundant stations, the rigidities of the franchising system and the absence of innovative thinking by franchisees; and

* connections with other public modes are neglected altogether or disorganised in practice;

while the timetable itself is disfigured by

* erratic patterns, with both bunching and extended intervals between trains;

* anomalies in service qualities;

* poor (and sometimes bizarrely incompetent) organisation of connections;

* excessive use of pathing margins and padding as a lazy response to solving problems; and

* a tendency to favour the larger flows over the sum total of many smaller flows.

We know very little about how all this affects decisions on whether to travel by rail. Demand-modelling tools are mostly used for tactical purposes rather than for strategic exercises. Network Rail does good work in its long-term forecasting, but this tends to be constrained by use of existing flows as a base – and NR is not necessarily the most appropriate organisation to be undertaking the task. Transport Focus produces excellent research into customers' experience and opinions every six months, but the surveys are of existing travellers and hence tell us nothing about those who do not choose rail.

Moreover data on rail's modal share is sparse. The National Travel Survey provides a national aggregate figure and some clues about regional differences. From this it can be concluded (it is of course obvious) that rail has high market penetration in London and to a lesser extent across South East England, but statistically that must

imply low shares everywhere else and in some areas and for some types of journey extremely low shares.

Yet, despite the avowed aim of Government policy being to raise rail's modal share, and specifically to encourage a transfer from private cars to trains (and public transport generally), trends in this measure receive almost no attention. Instead both the Department for Transport and the rail industry focus exclusively on the absolute increase in rail journeys, regardless of the fact that a trip created by marketing cheap fares may not have the same economic value as a trip that would otherwise have been made by car.

These circumstances are undesirable and probably unsustainable. A choice exists. One route would be to continue with and deepen a policy under which fragmented territorial franchisees sell rail travel as a consumer item no different from baked beans, with a heavy emphasis on bargain prices and perhaps extended levels of on-track competition – but no pretence that Britain has any need of a national railway operated in the collective interest.

The alternative would be a nationwide system of communal transport with rail as its long-distance and high-volume core whose purpose would be to afford every citizen a reasonably equal quality of access to places of work, education, goods, services, leisure and personal affairs and thereby to underpin everyday life with an excellent, extensive and reliable offer .

This model is broadly what is found in much of mainland Europe (however much the European Commission challenges it) and may well be the unspoken and unformulated feeling behind the popular call for renationalisation (and many local campaigns to protect bus services). Above all it will become imperative as the pressures of carbon reduction to avoid catastrophic climate change grow (along with other ecological constraints), since the vital and substantial uplift in rail's modal share is unlikely to be achieved by following the present course.

In this context the reference to “More transparency around what taxpayer and user money is buying” [Box 1, p.16] is particularly welcome. At present the process of franchising and even more the process by which ORR judges open-access applications are so arcane that few people beyond those directly involved understand what the choices and the long-run implications are. This is probably a factor influencing the widespread sense that the railway is serving narrow interests rather than the public interest. A thorough debate, grounded in good data, is needed [as is perhaps being hinted at in¶15 ?]

5 AN ALTERNATIVE STRATEGY

If

* a quantum of capacity cannot be allocated because it cannot be predetermined;

* access cannot be at random;

* all foreseeable interactions must be identified, assessed and specified; and

* the way in which capacity is utilised forms an essential tool of carbon-reduction policy,

it follows that there must be a strong emphasis on some form of central planning. In turn that means that a timetable-led approach becomes a credible proposition and may indeed be the only workable strategy.

It is telling that in a document ostensibly grounded in regulatory assumptions about marketised allocation there are nonetheless a number of references to the importance of timetabling to system operation:

* "the need to make the best use of the current network, including through effective timetabling" [¶6];

* "capacity … allocation (e.g. timetabling …)" [¶26];

* a recognition that use of the network, and by whom, may need periodic review to ensure continued maximisation [¶33];

* the requirement of long-term planners to have a view about the likely timetabling of services [¶35];

* the relationship between the quality of the timetabling and performance on the day [¶35];

* "... timetabling (which is a core system operation activity) [¶43];

* "individual services are coordinated [so that] passengers can make … connections" [¶51 and Box 1, p.16].

The implications must be followed through. For the reasons set out above [in ¶2.2, ¶3.3 and ¶3.4] designing a good timetable has to be a core function of a system operator charged with acting as a 'guiding mind' to secure efficient use of the network, although it may well be preferable for a separate agency to manage the task [see ¶5.7 below].

The most relevant model is the Swiss system. Its key features for the present context are

* a consensual approach that ensures that both market and public-interest objectives are balanced (at all geographic levels) in each iteration of the timetable plan;

* a regular pattern of services whose memorability is embedded in citizen's minds;

* a complex network of routes and the highest intensity of use in Europe ;

* for freight, a 'catalogue' of paths, especially for the Alpine crossings, that can be sold to operators in a competitive and flexible manner;

* for passengers, a highly connected network of services derived from a determined focus on interchange nodes and strictly regular patterns;

* deploying the timetable aspirations, desired inter-node link timings and specifications to shape the programme of infrastructure enhancement ; and

* a long time-horizon .

The outcome of this approach is a higher modal share than has yet been achieved in Britain and the embedding into daily life of the system of public transport – a feature, accompanied by a strong brand, that fragmented and transient operators in Britain have failed to achieve. Similar but less comprehensive policies have been adopted in the Netherlands, in some German Länder, for the framework of services throughout France (at the instigation of the system operator, following recognition that disjointed timetabling was creating inefficiencies in capacity utilisation) and elsewhere in Europe. Many of these systems employ Swiss timetabling software. And a public campaign is running in Germany for the introduction of 'Deutschland Takt'.

It is accepted that this line of argument challenges the regime assumed in the System Operation document . It also runs counter to the thinking at the European Commission in preparing the Fourth Railway Package, but recognition of the benefits of a timetable centrally-planned in the public interest helps to explain the sustained political opposition to the liberalisation proposals in the market 'pillar'. In Switzerland, which follows European Union law and practice, the spirit of liberalisation is respected through the establishment of Trasse Schweiz as a regulator ensuring there is no unfair discrimination. Open access services are theoretically possible, but the standard Taktfahrplan paths are absolutely protected from variation.

Note, however, that none of this presupposes a monolithic public corporation. A 'guiding mind' agency, separate from Network Rail and charged with timetable design in the context of long-term planning, would be expected to work with the national and devolved governments, with whatever regional structures emerge from

the present devolutionary reconfiguration of responsibilities in England, with representatives of user groups and other stakeholders and with employees. It is true that Switzerland has the benefit of a deep tradition of consensus-seeking, but it would be defeatist to think that that could not be created in Britain.

Similarly, operation of the service certainly does not require a single provider (Switzerland has over 100 companies). Indeed it is desirable that there should not be. It is perfectly possible to envisage delivery by a wide range of organisations under contract to the public-interest planning body. This has some similarities to the scheme under which London's integrated bus network is organised. Finally, one may note that the Labour Party's (and the Green Party's) broad-brush commitment to renationalisation of the railway will demand fleshing out with a scheme of this kind since the simple pledge lacks substance.

Ralph Tiffin

15 October 2015

Listed are headings and summary comments on what I consider the most pertinent issues in your comprehensive report. As capacity is a major issue that hinders on-rail competition the comments tie in with the concurrent System Operation consultation – August 2015 - paper that the ORR seeks reply to by 16th October.

With my limited time and resources to delve into all the data available not all comments are evidence based. They are however backed by some knowledge of the figures and certainly by observation of UK rail operations through past and continuing daily travels on intercity routes; urban systems all over the UK and in mainland Europe.

The issues and suggestions may be obvious but I hope there may be points which help in your further studies. I do believe there are many outdated ideas as to what intercity rail might deliver for the UK. As identified in your paper the non-competitive franchises have had negative effects. I firmly believe that the lack of competition has denied, and continues to deny UK rail much needed, true, private sector investment.

1 Objectives of competition

To improve services to the consumer - which principally means lower prices and higher quality of travel – but this can only come with committed long term investment.

To allow true investment - what seems to be so often missed in discussions on open access (at economic rates) is that we could have 'real' rail operators, truly investing money long term in rolling stock and contributing to infrastructure.

To grow UK rail travel - by having attractive services – and supporting investment

2 How might this be achieved?

By allocating and selling open access paths or bundles of paths to rail operators who can hold them, effectively in perpetuity, rather as airlines do with routes and landing slots.

The commuter and rural, and monopoly short term franchises would also have to buy access, albeit with taxpayer and local financial support. Freight should also be subject to this regime, where necessary having support for the undoubted economic and environmental benefits of less crowded roads and cleaner air etc

The charges for access would require calculation of an economic charge for access. That is profitable for NR to permit investment and support of 'socially valuable' services. There would be open, not hidden, cross subsidy. The AW cost (annual worth–cost) of routes can be calculated and such figures do exist. Only a percentage of passenger numbers and miles would be on competitive open access routes but being honest about the access charges for commuter, rural and freight lines would assist in better long term, political decision making.

A valuable side effect of changing the economic cost of access including peak demand premiums would mean that NR would earn all its income, it would be more like a normal company and have true customers that had to be satisfied.

3 Benefits of competition

Openness The three parties that are most involved in UK rail are the passengers, the taxpayers and the workforce, none of whom have any real say in the franchise operator that is selected for them – would this be tolerated in other sectors?

Choice for consumers, lower prices or even higher prices but with enhanced service levels.

More revenue flowing into UK rail. Evidence for investors of long term cash flows to underpin investment, in rolling stock and infrastructure.

Less or no support from the taxpayer

4 The barriers to competition – which have to be overcome.

Lack of capacity

Table 4 on page 52 starkly makes the point that traffic volumes are in London and the South East. See the appendix below for but one suggestion

The power house that is London and the economic necessity of commuter routes limits capacity on the intercity routes. The need to build Cross Rail 2 is vital not simply for London's population growth but also to free paths out of termini. It is self evident that building solely a new HS line north will not solve the majority of UK rail capacity problems. New HES (High Enough Speed max 200km/hr) lines from Paddington to Reading, Waterloo to Surbiton or Euston to Milton Keynes would greatly increase capacity. Or how about tracks over or tunnels under the first 20m miles or so out of termini? Tunnels from Euston to Waterloo for through services? These suggestions can no doubt be dismissed as impractical.

With increased capacity in all directions out of London, and also other cities and pinch points, capacity would be available to allow competition.

The risks of free-riding and cream-skimming

This would be addressed by charging economic access charges and minimal regulation of timetables – see below on outmoded ideas.

Outmoded ideas on rail travel.

Vital, or held to be vital, urban conurbation and rural routes apart, we have capacity usage today which harks back to the idea of the State railway. Rail travel is not a 'human right'. Rail travel is not a cheap option for many – why pretend it is, why demand a service for all to everywhere? The monopoly intercity franchises we have are premised on the fact that there are non-rail modes of transport – bus, car and air.

Understanding future demand

There is much comment on the growth in passenger numbers. Demand forecasting based simply on historic figures is simplistic for any business and in today's rapidly changing world simple extrapolation is misguided. Two points are particularly relevant

- the majority of passengers and growth is in the South East
- rail users today may not be the rail users of the future

Where rail travel may be heading seems to be ignored:

- Urbanisation is a global phenomenon – metro and commuter lines are essential
- Air travel gets cheaper and cheaper (per passenger km)

- People like their cars
- How will the likes of the Google Self-Driving Car (SDC) affect rail?
- Will so many people travel to universities? On-line learning could be of much higher quality
- The demographics point to fewer older travellers.
- UK tourism may well increase – but do visitors want crammed into a train that has a bus or aeroplane environment?

Rail has very attractive attributes but these seem to be lost in outdated ideas of what rail services are about. Do any marketing folk ever consult the 90% of UK non-rail travellers?

Disconnected UK Rail long term objectives and thus strategies.

The problems of effective capacity usage and thus control of Network Rail arise from the continuing **disparate, or lacking, long term objectives** for UK railway

Conclusion

Competition based on fully costed, long term access rights can benefit:

- The customer – having choice on fares and quality of service
- Employees having committed companies to work for
- Investors and companies being committed to rail – long term
- True investment in UK rail
- Socially valuable services

This will only happen if UK rail has a stable, co-ordinated long term framework in which to operate and invest.

Appendix - Managing demand

The simplest way is by pricing and in spite of all that is said the average (time adjusted) revenue per passenger on say the ECML might not be much higher than in BR days. A flaw of the current monopoly franchises is that the principal driver for the short term franchise operators is to extract as much cash as possible over the franchise.

For commuters why not adopt an ‘Uber’ approach? The technology is there, there are gates everywhere! An annual season ticket holder could pay £x as now and rather like some mobile phone tariffs be credited with say 1,000 “journeys” Then travel departing (from zones) to London before 7 and after 9 would deduct 1 journey’s worth. Departing between 7 and 9 would deduct 2 journeys. Departing after 8 at night or on Saturdays the trip would ‘cost’ one half journey and so on. Fridays and Sunday evenings on some routes could be at an even higher premium.

This would ration demand but with the users having choice.

The Railways Consultancy

14 August 2015

6. Responses from private individuals

Roger Allen

10 August 2015

When railway privatisation was planned, the consultants involved were given 4 objectives

- To maximize the return to the Treasury (hence the asset stripping approach)
- To minimize the on-going demands on the Treasury (hence franchising)
- To transfer the burden of capital investment from the public to the private sector (hence ROSCO's and Railtrack)
- To break the power of the rail unions

The public smoke-screen was 'internal competition' but you may note that none of the above objectives has anything to do with benefitting the traveller: 3 of the 4 objectives are Treasury driven. The overall effect is to put fares/ freight tariffs up since that's ultimately where the money has to come from if it doesn't come from the Treasury.

Incidentally, how does the Treasury's 'cut' from franchises compare with the money it puts into the rail system?

Except in commuter zones, the real competition is from private cars, buses and air travel: to ignore this in any study of competition makes the whole thing totally artificial. In commuter zones, the limitation on competition is train paths.

Unquestionably there has been an increase in rail ridership since privatisation. However one has to question whether that was due to privatisation or factors such as the removal of Treasury directives to 'price down' demand (so avoiding the need for investment), increasing congestion on the roads, increased fuel costs and the risk analysis of business journeys which pushes people towards rail travel because the risk of a significant accident is minute compared to road travel.

Perversely, the one element of privatisation that really worked was the creation of the ROSCO's. This led to introduction of modern rolling stock at a rate unthinkable had the Treasury still been in control. Yet we now have the government specifying and 'buying trains'.....

It is instructive to compare what is happening in the mobile phone service industry: companies amalgamate to survive. If you look at railway history, exactly the same happened. If competition is too intense, companies amalgamate to survive or they simply go out of business. This is because competition is intrinsically inefficient because it involves duplication of resources.

Ian Brindley

28 September 2015

I am a regular rail user resident in Birmingham and I benefit considerably from the competition between Virgin, Chiltern and London Midland on the Birmingham to London Route.

The range of fares and journey times available means that, for time critical business journeys, I can choose to pay a higher fare to travel with Virgin and, for cost sensitive leisure journeys, I can take advantage of the cheap fares to make a more leisurely journey with London Midland. The opportunity to travel between Birmingham and London for less than £20 return means that I make considerably more leisure journeys that I would otherwise make.

Based on my experience, I believe the key to effective competition is to allow two operators on each route, one providing fast point-to-point long distance services and the other providing slower commuter services with frequent stops. This scenario mirrors the Virgin/London Midland arrangements and allows the commuter operator the opportunity to offer significantly discounted fares to better utilise the available off-peak capacity on their high capacity rolling stock.

I believe this arrangement, extended where possible to other suitable lines, provides the best opportunity for on rail competition to stimulate improvements in services and fares for the benefits of passengers.

David Cooper-Smith

10 August 2015

I am in favour, except in time of war, of a market-led free enterprise economic model; however, this has two main possible problems :-

- when competition is not effective
- when "hidden" costs and benefits are not taken into account in the marketplace

I'm in favour of action to remedy these.

As far as rail goes, I'm pleased to note CMA's dissatisfaction with the current franchising model , which ties TOC's into inflexible monopoly contracts that stifle enterprise, innovation and associated investment. I am also impressed by some of the alternatives put forward by CMA.

A specific alternative I'd like to commend to you:-

To bring accountability through either effective competition and direct democracy instead of via statist command-and-control.

1/ All services amenable to effective, stable competition (most intercity and long distance) to be given over to competitive open-access operation, whether or not profitable on a narrow accountancy basis. Any narrowly unprofitable services could become viable after the application of subsidies that give benign (and not perverse) incentives, as performance-related payments representing "hidden" costs and benefits. Social considerations can be addressed by incentivisation rather than through command-and-control.

2/ Natural monopoly / captive markets (commuter / short distance) to be run as local cooperatives / mutuals with managements directly elected by local communities and season ticket holders.

12 August 2015

I ought to just to clarify my suggestion re. performance-related subsidies (and charges) to represent hidden costs / benefits in the marketplace.

Two examples (not an exhaustive list) -

- where a rail service relieves congestion on parallel road or air corridors , subsidy could be a function of custom attracted.

- Or, again as specific payments offered per train-stop at stations with high social need.

Charges could be made, for example for environmental reasons

Payments would need to be impartial of competing operators, applying equally on a given service.

Allan Dare

12 October 2015

Open-access rail operations can clearly play a beneficial role at the margin, e.g. in opening up new markets such as through services to off-route points.

However, I believe that any large-scale expansion of on-route competition ("ORC") or open access ("OA") operations whether in competition with franchised services or as a replacement for them, would bring major disbenefits (see 4 below). Therefore, none of the four options put forward in the CMA report are acceptable (see 5). Instead both passengers and taxpayers would be better served by a continuation of the present franchising system.

The other proposals made by the CMA for breaking up the East Midlands Trains franchise, and for price-led bidding for train paths would also bring significant disbenefits. They should be dropped accordingly (see 6 below).

Should there nevertheless be a major expansion of ORC or OA, the disbenefits could be to an extent offset by modifications to operators' licence conditions, as set out in (7) below.

Exemplars

It is worth noting that:

a. The UK system of rail franchising, whereby companies bid *for* the market – i.e. for geographical sections of a planned network - has achieved significantly higher passenger traffic growth than has occurred in countries such as Sweden, where companies compete *in* the market – i.e. with competing train services on each route. This implies that the UK

system gives more passenger benefits, and also higher social and environmental benefits due to the greater modal shift to rail.

b. Conversely, the ORC model was adopted for British bus services (except in London) following the 1985 Act. In the ensuing decades bus usage in Britain has dropped far more than in those countries (and in London) where some measure of bus network planning has been retained. This again implies that planned and integrated networks are more capable of meeting passengers' needs than is on-route competition.

c. Many ORC/OA operations are financially unsound. Here in Britain the failure of WSMR is well documented, despite that company's exemplary customer service. On the continent, Italy's NTV has only survived after a major financial re-organisation and the dismissal of many staff,. It would therefore seem unrealistic to expect ORC/OA companies to be able to provide stable train service provision over time.

Benefits and disbenefits of open access and on-route competition

a. The main benefits of OA, etc, operation are claimed to be:

   i. New through services to points not served by existing direct trains; as has been demonstrated in the UK by Hull Trains, etc., this can be done without overt competition with existing network services.

   ii. Better access to investment capital for e.g. new rolling stock, compared to investment-constrained state railways; this does not apply in the UK, where all train operators have access to private capital.

   iii. Lower fares; the opportunities for this in the UK are limited by the high levels of fixed costs that apply to all services.

   iv. Better on-board service; the opportunities for this in the UK are constrained by the lack of available trainsets with e.g. kitchen and dining facilities.

b. There is little evidence to back up the claim that ORC/OA would result in operational efficiencies at train operator level, in more effective use of line capacity, or in cost savings in network operation. Instead there would be:

   v. More expensive retailing and station management: any significant expansion of OA would render unworkable the present system whereby franchised train operators run most stations. A separate 3rd-party stations operator would thus be required. This would result

in extra costs and transactional friction, and a loss of commercial focus.

vi. Poorer resource utilisation: effective use of rolling stock and train crew would be hindered when return train paths are split between competing operators, thus adding to costs.

vii. Higher train leasing costs: competing operators would de-facto have smaller fleets. This would significantly add to rolling stock lessors risks, and thus push up costs. Smaller fleets would also either require a higher proportion of “spare” vehicle cover to protect services – thus adding to costs – or risk train cancellations due to non-availability of rolling stock.

viii. Duplicate overheads: splitting currently-unified operations between competing companies would inevitably result in a duplication of management and other overheads, and thus additional costs.

c. ORC/OA would also bring significant passenger disbenefits, including:

ix. Uncertainty; services can be amended or withdrawn at minimal notice, adversely affecting both passengers and overall service patterns. The closure of WSMR at 3 days’ notice is a case in point.

x. Loss of network benefits; in Britain the intercity routes do not function in isolation, but are instead part of an interconnected network. By way of example, surveys have shown that 45% of passengers on my local Derwent valley line are changing onto mainline services at Derby. Planning connections, and the availability of through tickets to distant points, would be greatly hindered when mainline services are provided by competing operators (e.g. if Up connections are provided by operator A’s trains, but Down connections by operator Bs’, neither accepting the others tickets).

xi. Loss of turn-up-and-go benefits: many intercity services also carry substantial volumes of commuter traffic into provincial cities. As the CMA notes in respect of London, all commuters require turn-up-and-go services, and they would be severely disadvantaged if trains were run by competing operators offering neither co-ordinated timetables nor inter-available ticketing.

xii. Loss of intermediate stops: ORC/OA operators will inevitably concentrate on the most profitable end-to-end traffics, with the result that service to intermediate stations may be downgraded or abandoned.

CMA Options

The four options put forward by the CMA would all suffer from the cost and passenger disbenefits noted above, and would thus be inferior to the present franchising system. They should thus be discarded.

If, despite this, a move is made towards greater OA or ORC, then passengers' and taxpayers' interests will need to be safeguarded. Suggestions for this are set out in (7) below.

Other CMA proposals

That the existing East Midlands Trains franchise should be split into separate intercity and local businesses:

The combination of the former Midland Main Line and Central Trains franchises into a single entity has resulted in significant benefits for both passengers and taxpayers:

i. Better planning and operation of connections between local and main line services

ii. Better marketing and publicity, due to having one large budget for the region rather than two small ones

iii. Use of marginal resources to run extra services (e.g. the operation of additional peak-hour local trains using the positioning moves of "main line" trainsets that would otherwise run as empty stock).

iv. Shared use of maintenance depots and train crews, bringing lower unit costs.

v. Single-point management focus during disruption

Taken together these factors have resulted in increased revenues, lower costs and greater passenger satisfaction. The CMA proposal should therefore be discarded, and the present integrated franchise should be retained.

That train paths should be allocated by market pricing:

> Were this to occur, intercity operators, whether franchised or OA, would inevitably be able to outbid local train operators. The latter would then be prevented from running particular trains at times which gave the most cost-effective resource utilisation, and/or good connections with mainline trains, and/or services timed to suit market needs such as journeys to work. The net result would be higher costs and lower revenues, and thus an additional call on taxpayers.

The CMA proposal for market pricing should therefore not be applied.

Requirements if greater open-access operation or on-route completion is to be applied

In the event that OA/ORC are expanded, it is suggested that:

Passengers' interests are safeguarded through the following mandatory conditions in the relevant operators' licences:

i. All OA and ORC operators to be required to join the Rail Settlement Plan, and to accept without discrimination all "national rail" tickets, passes and railcards. This is essential if the national rail system is to continue functioning as a network.

ii. The DfT or successor authority to have the right to "flex" all OA/ORC timetables and to amend or insert station stops, so as to facilitate connections with other train services and to maintain call frequencies at intermediate stations.

iii. All non-franchised operators be required to lodge a bond of sufficient amount to cover all operating, leasing etc. costs for at least 7 x 4-weekly accounting periods. This would ensure the continuance of train services for a sufficient period to enable the Dft, etc., to arrange alternative operators/services in the event of an OA/ORC company ceasing trading.

iv. To facilitate (iii), the DfT, etc., to have step-in rights on all relevant contracts, such as track access, depot access and rolling stock leases.

Taken together the above would maintain network benefits and reduce the risk of services being abruptly terminated.

The financial interests of all operators are safeguarded by:

i. Changing the track access charging by system so that all operators, including OA and ORC companies, pay their fair share of both short- and long-term costs.

ii. Changing the station access charging system likewise, in particular so that OA and ORC companies pay for their fair share of any improvement works, and in particular any increases in station car park capacity.

The above are necessary in order to remove the present, and indefensible, situation whereby franchised train operators and their passengers are effectively cross-subsidising OA companies.

Alternative suggestions

The one proven benefit of OA operation - i.e. opening–up services to new routes and markets – could be obtained through the franchise mechanism. The most cost-effective means of providing new through trains, etc. is by extending existing franchised services, but the DfT has been reluctant to agree to this, fearing ongoing liabilities. If such services could be clearly designated as “experimental”, and for the duration of the franchise only, then the risk would lie solely with the franchisee, and the DfT would be able to take an unconstrained decision as to whether or not to continue the services when renewing the franchise. There is a clear precedent for this in the 1981 “Speller Act” provisions for route/station reopenings.

If ORC is to be introduced, this would be better confined to the future HS2 high speed lines. The HS2 lines and stations as planned will be very poorly integrated with the existing network, and HS2 trains will de-facto only carry long-distance traffic. The risks of losing network benefits and of disadvantaging commuters will therefore be much less.

In conclusion I trust that my comments are of use, and that economic theory is not allowed to triumph over the commercial realities of railway operation.

Peter Foot

31 August 2015

I fear that Chapter 6 of the Consultation Document (hereinafter referred to as ‘Condoc’) displays a lack of understanding of the capacity challenges on the UK rail network. In particular it places unwarranted weight on the new capacity opportunities that might be offered by Network Rail’s planned signaling upgrades. In reality, the greater threat is that today’s level of network usage might be reduced, perhaps unwittingly, through a change of policy that failed to recognise the true capacity challenges. The notion that there may be paths available to ‘auction’, as foreseen in Chapter 7, is almost certainly illusory.

The signalling upgrades referred to by NR depend on the successful introduction of the European Rail Traffic Management System (ERTMS). This is unproven technology - but, even if all the claims made for ERTMS turn out to be true, it will tackle only the third most serious capacity challenge (plain line capacity) and will do nothing to help the two more significant problems: terminus station capacity and junction capacity.

That Network Rail (NR) has failed to identify these two constraints to the CMA may be due to the fact that many of its senior management have no experience, and little

understanding, of front-line railway operation. NR's CEO was recently quoted as believing that there was spare capacity on the East Coast Main Line on the basis that he had been standing on a railway bridge in Hertfordshire and could neither see nor hear a train - suggesting that he had succumbed to the simplistic belief that the gap between trains was the main capacity constraint. It is also possible that NR is conscious that the business justification for ERTMS is fragile and that it is seeking to conceal the fact that ERTMS will deliver next-to-no capacity benefit without drastic improvements to terminus station and junction capacity.

It is the terminus constraint that is the most serious and which is the main subject of this submission.

At peak times many of the UK's city centre stations are full. This is particularly true in London where, between 0730 and 0930, and again between 1700 and 1900, it is virtually impossible to find any gaps at any London terminus, with the exception of Euston, where the current spare capacity will be eliminated when HS2 construction begins. Bringing Waterloo International into domestic use will create a few spare slots at Waterloo, and Crossrail will leave a couple of platforms free at Paddington (although Crossrail trains will have absorbed all the spare track capacity). HS2 will create some new capacity at Euston and Crossrail 2, if authorised and completed as currently envisaged, will leave further spare capacity at Waterloo and, just possibly, a few gaps at Liverpool Street. Otherwise there are no enhancement schemes, at any stage of development, that will increase terminal capacity in London.

Terminal capacity can be maximised by reducing 'turnaround times' - the time between the arrival of a train and its departure forming another service. In most cases this device has been used as far as the operators dare, bearing in mind that turnrounds provide one of the few opportunities for services to recover from any delay or disruption. For example, at Charing Cross and Cannon Street, Southeastern schedules a succession of ambitious 7-minute turnrounds. Given the vast numbers of commuters using Southeastern services this tactic can be viewed as a reasonable risk, taken in order to maximise the number of trains that can be run, but on mornings when there is some delay or disruption, the lack of recovery opportunity causes the delays to 'snowball' and contributes to Southeastern's reputation for poor punctuality.

This problem is not confined to London. Birmingham New Street and Leeds City, in particular, are seriously constrained, and several other city centre stations, especially in Manchester, Liverpool, Bristol, Edinburgh and Glasgow have very little spare capacity. While Birmingham will be relieved, to some extent, by HS2, pressure on Leeds, in particular, will become even worse if local lobbying to accommodate HS2 trains in a redesigned Leeds City is successful. There are some other schemes that may contribute to relief of congestion, notably at Manchester Piccadilly - where the Ordsall Chord development will divert some services to Manchester Victoria; and at Bristol Temple Meads - although the additional capacity will be more or less

exhausted by planned additional London services and the 'Bristol Metro' scheme. Otherwise, as in London, there are no other potential schemes in the pipeline.

It is for this reason that virtually all open access activity at present is off-peak only: there is virtually no peak capacity available. Nor will there be until or unless city centre stations are duplicated or enlarged in a meaningful way. This is very difficult of course: by their very nature city centre stations sit on constrained areas of land, usually surrounded by high-value commercial or residential premises.

It was the understanding of the terminus capacity problem that was one of the main reasons that persuaded the Strategic Rail Authority (SRA) to adopt a 'one operator per terminus' policy - as noted in the Condoc - implemented notably at Paddington, where Great Western and Thames Trains were amalgamated into one franchise, and at Liverpool Street through the amalgamation of Anglia InterCity, Great Eastern and the West Anglia part of the WAGN franchise. SRA realised that the multiplicity of operators was reducing terminus capacity (as well as causing squabbling and in-fighting about priorities) because some trains were 'stranded' in the station concerned, thus blocking platforms, either because there were no immediate paths for the operation of return services for the operator concerned or because that operator saw a competitive advantage in consuming capacity, and thus denying their competitors the opportunity to run any additional trains. The 'one operator' policy placed the incentive for solving or mitigating the terminal capacity problem on a single TOC.

The lesson to be learnt from this is that, in order to exploit network capacity to its maximum, paths must be allocated to operators in pairs: an incoming path must be matched with an appropriate outward path, thus minimising the station capacity consumed by each pair of trains. At stations used only by one operator this is effectively what happens today. The worst examples of 'platform blocking'occur at Kings Cross where there are instances of Open Access operators consuming (through no deliberate action of their own) undue platform capacity as an incoming train waits for the next open access slot for its return working.

It can be seen, then, that any change to the way in which train paths are allocated between operators has the potential to <u>worsen</u> network capacity, and this vital fact must be borne in mind when designing any alternative to the current franchising system.

It ought to be possible for Network Rail to be trusted to determine, or at least to provide advice on, how this allocation should be managed. Unfortunately, NR has consistently failed (or been unable) to provide industry leadership in any train planning exercise, allowing itself to become mired in the industry's over-complicated processes. As long as the choke of the 'bid-offer' process of timetable development remains there will be no legal way for NR to impose sensible solutions. Furthermore,

there are - there have always been - only a few people in the industry with a proper understanding of how the available capacity can best be exploited, and most of those in NR who had this understanding have either retired or left to join TOCs or consultants, stifled to exasperation by the processes. Allowing multiple operators to develop their own bespoke timetables - except, perhaps, on rural routes that do not use the constrained city centre stations - would be a certain recipe for conflicts and capacity reduction.

Incidentally, the comment in the Condoc about NR having no incentive to maximise the number of trains run is, while true, also unfair. If anything the evidence of recent timetable changes suggests that NR has accepted more trains onto the network than it should sensibly have done - another contribution to today's disappointing punctuality statistics.

It has always been the case that a route or a defined area or region has needed a 'guiding mind' to ensure that capacity was being used in the most effective and appropriate ways. In British Rail days that was often the Regional Operations Manager, or one of his senior lieutenants, who took this role, sub-consciously accepting that this was part and parcel of his job. It is difficult to see how such a dictatorial role could be acceptable in a privatised industry with multiple players, but if a larger number of operators is to be introduced it is essential that the role should be replicated by a person or (very small) committee with no commercial interest in the route or area in question.

The crucial output of this arrangement would be a Working Timetable with trains identified in pairs (in and out workings at terminus stations) but not allocated to particular operators. That allocation could, or should, be undertaken by a completely different authority.

Currently (but not necessarily in future) this is undertaken by the Rail Executive at DfT, although it is a rare luxury to find that an agreed timetable is in place before a franchise is let. (The West Coast, Cross Country, and West Midlands competitions in 2007 were the exception: in these cases Government knew what it was selling and the franchisees knew what they were buying!). The timetable pattern established at Birmingham New St for the December 2008 timetable change, involving these three operators, is still in use today

It would be more in keeping with current European legislation if all Network Rail's fixed costs and enhancements were to be paid directly by Government. TOCs, whether franchised or open access, would then be responsible for paying usage charges (to a not-for-profit, Government-owned NR) that reflects the wear-and-tear their services cause to the infrastructure, and the earning potential of the services they operate provide (ie, commuter services would attract higher charges than off-peak services where train loadings are less predictable), but not reflective of the

fixed costs of the infrastructure they use. In this way, if the charges were correctly calculated, Government's financial position would be no worse than today, and the incentive for Government to discourage competition 'on the ground' would be removed.

Finally, a few observations on the proposed options described at the end of Chapter 7. If non-franchised operators are to play any greater role in the provision of services than they do today, they will have to become involved in the provision of peak services. At present OAOs only offer off-peak services and therefore only need to operate 5 or 6 coach trains, which are 'stood down' during peak hours. It would require a fundamental change to the OAO business model to introduce full-length, high-capacity trains.

Paragraph 7.81(a) describes almost exactly the current franchise system. Variously described over the years as Service Level Commitments, Train Service Specifications and Passenger Service Requirements these documents describe the train service the operator is to run. DfT tried to loosen the requirements, and thus give operators more freedom to develop their own timetable patterns, in the failed West Coast and Great Western competitions of 2012/13, but was driven to restore most of the reductions as a result of stakeholder protest at the loss of guaranteed services to 'their' stations. Renaming the practice as 'administratively designed licences' will not change the political reality that all, or the vast majority, of today's services will need to continue to be specified, although it is true that they could be provided by multiple operators, as described in paragraphs 14 to 17 above.

Paragraph 7.41 envisages competition on fares between two 'franchisees' on the same route. However, there must be at least one type of inter-available ticket in order to protect the ability of the passenger, particularly on the second leg of a return journey, to catch the first available train; or to use a train operated by franchisee B when franchisee A's train has broken down or been otherwise delayed.

The profitability of individual services is difficult or impossible to identify. One of the most significant TOC costs is rolling stock leasing. Rolling stock that is needed, but not necessarily profitable, for a peak service, is available, virtually as 'free issue', for services at off-peak times of day. Similarly a train driver might be necessary to operate a peak service, but also available to operate some off-peak services. Which of these services should be deemed to be 'unprofitable'?

Chris Fox

7 August 2015

I am an occasional rail user who has a keen interest in the further improvement of services. Whilst the quality of services has improved dramatically over the last 20 years since privatisation, there is still room for further improvements especially in respect of improving inter-regional connectivity and reducing if possible the cost of travel especially for those who must use peak time services.

The case for increased competition in provision of passenger rail services is very strong. This is extensively demonstrated by the content of the discussion document and by evidence from many other business sectors. Hence it is appropriate that the Government via DfT should be proactive in promoting additional competition whilst recognising the importance of PSOs and the need to maintain (and if possible further improve) reliability of services.

Following are specific comments both in respect of content of the discussion document and providing additional suggestions regarding opportunities for competition.

The document indicates that the CMA intends to recommend a specific option for further development of competition. It is not at all clear that any one option would be the best fit for all competition opportunities; rather it is more likely that a “horses for courses” approach would be more appropriate. The following is noted –

- Option 2 – Two franchisees covering each franchise has several disadvantages, in particular it is likely to either weaken the financial performance of each franchisee resulting in lesser premiums or higher subsidy or result in cartel like behaviour. On some routes there is simply not sufficient demand to justify spitting. The franchise with arguably the most scope for this approach would be the West Coast Main Line franchise, where presently other than for services to Birmingham, there is no real competition. However it is clear that this franchise will need to be extensively revised in 2026 as a response to the introduction of HS2 services.

- Option 4 – This would appear to be a complex and potentially very bureaucratic approach. It may also be difficult to clearly identify the beneficial outcomes of what would be a heavily regulated form of competition.

Greater competition is on balance likely to reduce the amounts of premiums payable by franchise holders. There needs to be an explicit recognition and acceptance of this by Government.

Given the significant benefits which are likely to accrue from greater competition, DfT and ORR should proactively identify additional services which they believe can offer enhanced competition (often these will also generate additional connectivity benefits), and then invite potential service providers to bid for them. There should not be any absolute protection of existing franchise holders, though it may be necessary

to agree a variation to the terms of an existing franchise if new competition has a significant impact on its revenues.

It does have to be recognised that some parts of the network are already heavily utilised and therefore for such parts the provision of additional train paths may not be easy. In such cases it could increase the risk of disruptions and delays due to cascade effect of delays to any train on that track. Network rail already has a programme of projects to debottleneck some of these heavily used sections and as such projects are completed they should yield capacity for additional competition.

In respect of the above, potential examples are –

- Provide competition between London and Manchester by means of a service from St Pancras via Leicester and Derby. In addition to providing competition on one of the busiest Inter-city routes (London – Manchester) it would also greatly improve rail connectivity between the North West and East Midlands which presently is very poor. Track enhancements currently in work on the Midland Main Line and on Hope Valley Line will provide route availability for such a service. This could be either as an addition to the East Midlands franchise or as an Open Access Operator service.

- Extend existing St Pancras – Sheffield services on to Leeds to give competition to the existing service from Kings Cross. This would also enhance services from Leeds to Sheffield and East Midlands.

- Allow fast services from London – Edinburgh along WCML and fast services from London – Glasgow along ECML.

The above additional services would be slower than existing service and hence would probably take only a relatively small portion of the through traffic but would provide real competition and connectivity improvements.

When developing the scope of services for replacement long distance franchises, it might be appropriate to deliberately leave some space for separate OAO services covering parts of the franchise routes, though not allowing direct matching services to the franchise. This already applies on the ECML but should be considered elsewhere. An example would be to exclude the London – Chester/North Wales service from the WCML franchise. This has a particular logic in that it requires diesel powered trains whereas almost all the other services are electric and hence the need for separate train fleets.

At present franchises contain extensive requirements as to service timings and frequencies. Consideration should be given as to whether these should be somewhat relaxed, especially for long distance services where many trains operating in the middle of the day are lightly loaded. It is not suggested that a franchise holder

would be allowed to operate services only at peak periods, but would be given more flexibility to vary frequencies between peak and off-peak. This could actually facilitate more track slots for freight in off-peak periods.

As noted in the consultation document it is probable that the scope for OAOs to commercially operate is limited to the long distance Inter-city routes to London. To this end if a significant increase in these services is to be allowed then it is right to require such operators to contribute proportionately to infrastructure costs in order that competition is equitable. The suggestion that the OAO is allowed a period of grace in having to bear these costs whilst establishing the service is also reasonable.

At present the West Coast and the East Coast franchise scopes are entirely long distance Inter-city services which make comparing cost burdens with other provides such as OAOs relatively straightforward. This is not the case for Great Western and East Midlands where it cannot be clearly identified what costs and profits relate to the long distance Inter-city services versus the local and cross country service operated as part of the same franchise. Consideration should be given to splitting these franchises as follows –

- Great Western could be split into two –
    - Long distance services from London to Bristol, Cardiff/Swansea, Cheltenham and Worcester/Hereford.
    - Long distance to Exeter, Plymouth and Penzance plus all the local services in the South West. This franchise could then include a London – Bristol service via Newbury and Westbury curve as competition to the existing service via Swindon.
- East Midlands could be split in two –
    - Long distance services from London, including service to Corby plus potential additional services to Manchester and Leeds (as per above comments).
    - All local and cross country services presently provided. Could also consider amalgamating these with the London Midland franchise.

There are presently a small number of instances where a franchise holder provides a very limited service to a given location. It merits investigation as to whether such services are in fact anti-competitive in that they aim to deter any OAO from attempting to offer such service. Examples are –

- East Coast – Glasgow to Kings Cross
- East Coast – Lincoln to Kings Cross

- West Coast – Blackpool – Euston
- West Coast – Shrewsbury – Euston.

Regional Inter-city services presently provide a variable quality of service and generally speeds are markedly slower than for Inter-city services to/from London. There is a need to significantly enhance such services if regional cities are to compete with London on a more level playing field. Some possibilities are –

- Recast present services with fewer stops and provide enhanced stopping services (using separate franchises) to infill.
- Certain large cities are particularly poorly served, e.g. Cardiff, Leicester, Nottingham. Efforts should be made to provide more/better services and inviting OAOs and other franchise holders to offer these must be considered.
- In the longer term new opportunities for regional Inter-city services will arise as a result of new tracks such as East-West Link between Oxford and Bedford, HS3 (Trans-Pennine) and HS2. In the case of HS2 a major recast of Regional Inter-city services will be inevitable as they HS2 will provide very high speed services between Birmingham and Manchester, East Midlands, Sheffield and Leeds. See also comment below.

At present the great majority of stations are operated by a particular franchise holder. It merits investigation as to whether this distorts competition. Are the costs of running stations borne by a franchise holder adequately offset by payments from the other operators using the stations? It may be that more stations where there are multiple operators using it, should be operated by a separate party. This could be Network Rail, a PTA or the relevant local Council. More radically various private sector service providers might be interested to bid to operate packages of stations.

HS2 will provide an opportunity to greatly increase competition on many long distance routes. It will undoubtedly require major revisions to the scope of many existing franchises. Whilst the introduction of HS2 services is still more than 10 years away, it makes sense to commence consideration of its impact and what would be the appropriate changes to other franchises as a result. Issues for consideration would include –

- The scope of numerous existing franchises will need to be totally revised to reflect the services provided by HS2. HS2 will significantly enhance service quality between points served by HS2, but it will be important to reconfigure other franchises to ensure that there is also improvement in services to points off the HS2 network. There is a risk that some services, especially regional Inter-city could actually be negatively impacted by HS2 and appropriate steps must be taken to avoid this.

- Do not make major changes to the existing WCML franchise prior to the start of HS2 (2026) as at that time the scope of the franchise will need to by very substantially changed (or possibly devolved into other franchises).

- HS2 provides the opportunity for much greater competition on services between London and North West England, North East England and Scotland. Also between Birmingham and Manchester, East Midlands, Leeds and Newcastle. It will therefore be important that the franchise holder for HS2 service is completely independent of any potentially competing franchise.

- Ensure that spare capacity on HS2 tracks from Birmingham northwards are available for use by fast services provided by operators other than the HS2 franchise. This would have to be limited to services using rolling stock capable of speeds sufficient to avoid consuming large time blocks on any track sector, i.e. trains with at lest 200kph capability. The detailed design of HS2 tracks should be reviewed to ensure appropriate cross-overs are provided to allow such use. This use would allow faster regional Inter-city services and also improve the financial return on the HS2 phase 2 infrastructure which would otherwise be under-utilised.

The concept of vertically integrating some franchises such that the train operator is also responsible for the track infrastructure has been considered. This would generally make identification of fair access charges for the use of such infrastructure more contentious and hence would deter competition.

The current complexity of ticket pricing needs to be addressed as the present complex situation often leads to customers not getting the best possible pricing. There are a number of elements to this –

- Much higher pricing where a customer does not make matching return journey.

- Much lower prices sometimes available if two tickets are purchase for different parts of a journey (in some cases even if on the same train for whole journey).

- Need to provide suitably priced multiple journey tickets for frequent travellers on a route, but for whom current Season Tickets are not appropriate. (e.g. for individuals who commute on a 3x per week basis)

- Ensure that there is always availability of through ticketing for the whole of a journey even when different train operators are used for individual parts. At present this is not always the case. However this requirement should not extend to demanding the same price for a given journey leg regardless of carrier.

- Ensure that automated ticket machines provide all options to ensure best appropriate pricing.

- Price incentives related to advance purchase of tickets and to off-peak travel should of course be retained. However the issue of whether the parameters of these incentives should be standardised for all train operators or not is an issue. On the one hand standardisation provides clarity and familiarity for customers, but could be considered as a loss of one possible element of competition.

In 2017 - 19 a significant number of train sets (multiple units and carriages) suitable for long distance services will become available as a result of the introduction of new IEP trains. A significant portion of the superseded train sets are by no means at the end of their economic life and therefore present a good opportunity for train operators (Franchise holders and OAOs) to consider their use for additional and competing services. As indicated in the comments above there are many possibilities and the relevant parties (DfT, Network Rail, ORR etc) should be proactive in facilitating where practicable.

Stephen Moore

18 July 2015

If you believe in rail, then only two options are credible;

1. Strategic government led, driven growth to replace road and emission high transport for the sake of health and wellbeing, business and logistics

2. Market driven open market

I support no 1 but don’t think that governments, especially the current, will act so decisively or carry lobby groups to their rightful place, that of lobby not mandate.

Please reassure me that I am wrong!

I have one project under development, a light electric railway, small scale, rural and potentially traffic easing, grid lock easing and therefore making one town more viable as a visitor attraction. I see no big profit but I see community gain.

This kind of project deserves replication if it works.

Stephen Oakley

23 August 2015

John Oliver

16 October 2015

Many aspects of privatisation have worked well but, with some notable exceptions, there has not been much innovation with the timetable. It was exciting to see proposals for much faster trains from London to Edinburgh to compete with the airlines as this is something the franchised railway has failed to do. Today's fastest 4 hour timing was specified by a previous Secretary of State and is not the result of TOC ambition.

In the future I envisage train service planning, customer service and marketing as train company core strengths with generic rolling stock maintained by manufacturers and easily available to hire.

Thus in future open access operators could be a bit more footloose (like airlines) and seek out the best commercial opportunities and drop poor performing services much more flexibly than they can do now.

Option 1

Elements

- retain franchising
- increased role for open access
- open access contributes to fixed access costs
- universal service levy to fund PSO services
- not primarily abstractive test no longer needed

Comments

It is worth considering at this point what the model for HS2 should be.

Phase 1 of HS2 should be open in 2026 so the outcome of this work should have been implemented by then.

Should there be a franchise for HS2 or is there another model that might bring greater benefits?

Should there be competition between services on HS2 or should the new route be seen as competing with the classic main lines whose capacity limitations it is designed to relieve?

Or should the whole (high speed and classic) network be planned to be complimentary with minimal emphasis on competition within the rail mode?

I would suggest that the HS2 infrastructure should be run (like HS1) as a (regulated) commercial operation offering capacity to operators with access to the necessary hardware and competencies to make use of it.

The access charges would need to reflect the full costs of day to day operations, asset construction and renewal.

Government (and EU?) may contribute to reflect external benefits that the operators cannot capture through the farebox.

Services would be provided by a number of competing operators tendering for access rights (like bandwidth). Where possible a similar regime would apply to other main lines replacing the franchise model.

Therefore my answer would be that there should be a greater role for open access if franchising is in place but where possible franchising should be replaced by a fully competitive model.

I would go further and suggest that some of our protected network benefits could also be dispensed with.

On these routes there need be no lead operator setting inter-available fares - each operator would set their own fares but regulation would require that mechanisms exist for instant switching of tickets/bookings or payment of refunds so passengers requiring flexibility can easily transfer from one operator to another.

At the moment the government owns the infrastructure and specifies and underwrites most of the operations on it.

The government as (probably unwilling) monopolist seeks to limit the opportunities for open access operations which (notwithstanding the not-primarily-abstractive test) are necessarily threatening to franchisee revenue and therefore government finances.

The universal service levy attempts to provide a mechanism to compensate the government for this loss of revenue.

That is a very unusual situation - i can think of no other market in which the challenger is required to compensate the incumbent.

Therefore I oppose the universal service levy in principle.

However it is perfectly reasonable for the open access operator to pay a commercial rate for the use of the infrastructure.

Option 2

Elements

- two winners for each franchise, services split between them

I don't support having two winners but I support breaking franchises down into smaller units as long as they are of efficient scale.

I suspect that current franchises are much larger than they need to be for efficient operation.

Often a franchise can be split into groups of faster and slower services and this is helpful for competition as it immediately offers a trade-off for the passenger.

Here are some suggestions:

- Separate the future (Great Northern) Kings Cross terminating services (Peterborough, King's Lynn) from those that will go through the Thameslink core
- Separate the Paddington to Oxford/Newbury services from the Crossrail trains (to TfL) and the longer distance high speed trains (which could perhaps be operated by open access operators)
- Separate Norwich to Liverpool Street services (and local feeders) from other Great Eastern services
- Separate SE high speed and classic services

Option 3

Elements

- the idea here is that neighbouring franchises would be designed to offer competing services to certain destinations in common (probably by different routes).

My answer to Option 2 supports overlap within current franchises.

I also think it would be beneficial to provide more overlap between franchises but the greater opportunity is likely to be splitting existing franchises.

Option 4

Elements

- open access operators would be licensed
- conditions could include delivering PSO obligations on subsidised routes

This sounds interesting but I'm not sure that I fully grasp it.

Is a licence a generalised permission to operate on the network or a specific permission to operate particular services?

Open access operators may be very willing to take on the operation of certain feeder services for a lower subsidy than franchisees eg Hull Trains could operate the Hull-Bridlington-Scarborough route

They would in these cases bring their local focus to the routes which in combination with community rail partnerships and other local support could drive growth more effectively than a more remotely managed franchise like the current Northern Rail

(which in many respects is very good but inevitably would has less local focus).

Conclusion

Railways are unusual in that the government not only provides the infrastructure but also runs the services (through franchising).

Whereas in other markets the government (especially of a free market persuasion) might seek to secure as much competition as possible to maximise consumer benefits, in the rail market it is inhibited by its own financial involvement as additional competition would involve abstraction from incumbent franchisees revenues (and could reduce franchise premia).

Governments have also inhibited the development of franchised train services through micro-management of the timetable.

The important outcome for the future is that the best possible train service is operated on the available infrastructure.

I believe that open access operations are more likely to deliver this than franchised operations.

However the existing model for open access is also likely to distort the choice of services provided in order to meet the not-primarily-abstractive test.

Therefore a model in which operators (on profitable routes) pay a commercial rate for the resources (paths) they utilise but are as free as possible to operate the services that offer the best return is to be preferred. This commercial rate reflects not

just the resources consumed in maintaining the infrastructure itself but the value to the operator of those paths. Therefore the government should be able to secure resources for cross-subsidisation through this approach. Open access operators may also be very appropriate operators of feeder services to their long distance routes given their involvement in and focus on the communities they serve.

Jukka Rannila

15 October 2015

David Starkie

27 July 2015

Introduction

I welcome the CMA's proposals for introducing more on-rail competition. However, as the CMA notes on a number of occasions in the Consultation document, on-rail competition will introduce operational issues and the possibility of greater complexity, particularly in relation to timetabling. It adds, careful thought will need to be given to implementation and it welcomes responses regarding the impact of its suggested competitive options on efficient and effective operation of the network.

This response focuses on this issue. In doing so, it wishes to draw particular attention to the paper, *Train Service Co-ordination in a Competitive Market*[3], which encapsulates thinking about this very issue at the time of rail privatisation, in the belief that it contains helpful suggestions to ease the issues of complexity. I first summarise the essence of the *Fiscal Studies* paper and then consider the CMA's suggested options in the light of the co-ordination mechanisms proposed. The sentences in square brackets represent comments additional to those in the summarised paper.

Summary of the Fiscal Studies Paper

The first challenge is to devise a mechanism for *initiating* a pattern of potentially competitive train services that produces a coherent and *relatively* stable timetable, thus avoiding confusion for the consumer and the introduction of operational complexity. Inviting train operating companies to post bids for train running times most likely will produce considerable overlap of preferred departure times and, as a

[3] David Starkie (1993), Train Service Co-ordination in a Competitive Market, *Fiscal Studies* 14 (2) 53-64.

result of a mix of fast, semi-fast and local services, conflicting train paths. The situation is summarised in a quote from Adamson (p55). The conflicts inherent in the interdependent nature of the bids can be resolved eventually but the processes would be complex, time consuming and would not necessarily produce an optimum outcome for the market as a whole, because each bid is made blind of the position of competitors in the market.

Simplifying alternatives are: to make use of the timetable [existing at the end of the current franchise periods] and to invite bids for pre-specified parts or '*packages*' of that timetable (with the selection of services in the packages designed to initiate a competitive structure): or for bidders to form their own service packages from the existing timetable, subject to rules preventing, for example, dominance of peak services or cherry-picking. Both approaches have disadvantages but the focus on a pre-existing timetable reduces the complexities associated with the *ab initio* approach of unstructured bids. The disadvantage of pre-specifying packages is that it could lead to poorly constructed rolling stock diagrams (p.56) and, therefore, a need for the 'designer' of the packages to compromise between promoting competition and the efficient use of rolling-stock. The disadvantage of allowing bidders to package-up the existing timetable is that it introduces again the likelihood of overlapping bids, although in this instance more easily resolved as a result of constraints introduced into the bidding process and the fact that the bids are no-longer for track capacity *per se* but for parts of a prescribed timetable (p.57).

The object of the above is *to initiate* a broadly competitive structure to train services, but it will not be an optimally efficient structure because of the need for an adjudicator to have introduced constraints into the bidding process and to make compromising choices, but also because the timetable will have planned elements within it and it will not necessarily reflect up-to-date market demands. The train operating companies will wish also to respond to competition. Adjustments of schedules can take place where train operating companies can agree to exchange rights, approximately of equal value, or where there is spare capacity in the network. The latter applies to a great deal of the network but not to those parts where demand is most intense, parts of which are likely to be attractive for competitive services. [As the Consultation paper notes, current infrastructure investment is adding to capacity and developments in signalling technology hold out the prospect for major additions. But capacity constraints will remain and could cramp the adjustment process.]

In these circumstances, it is suggested that (p.59) that train operating companies are allowed to trade the whole or part of their set of track access rights, rights that are consonant with their timetable packages, in a secondary market similar in nature to the secondary market in airport slots, [such as that operated by Airport Co-ordination

Limited at Heathrow and other airports][4]. Allowing access rights to be traded embeds those rights with a more transparent opportunity cost, which in turn facilitates trading. Examples of hypothetical trades by train operating companies are given (p.59). Thus, a secondary market allowing the train operating companies to buy and sell parts of the (initially allocated) timetable allows for efficiencies such as the optimisation of train paths for better rolling stock utilisation. It also allows the initially set timetable that formed the basis of original bids, to evolve with market demands.

An issue arising is whether rules should be introduced conditioning bids made subsequent to the initial bids (for the original timetable packages). Subsequent bids could be for spare capacity remaining after the initial allocation. In addition, should trades of access rights be conditioned by rules? Is there a possibility that the timetable might morph so that there is crowding with cheek-by-cheek competing services, reflecting a business stealing effect, leaving behind large gaps in the time table? If this was thought likely, and it is by no means certain, rules could be devised, such as: no competing service scheduled within 5 minutes of another, or entrants can only splice the running interval between two existing services. To avoid undue instability in the timetable leading to consumer confusion, it is suggested that timetable changes are co-ordinated at pre-determined dates and that conditions are attached to an operator's licence enabling the systems operator to co-ordinate the timing of changes made to the timetable (p.60).

The CMA's Options

The final section on the *Fiscal Studies* paper considers the question of competitive conduct and the extent to which the initial timetable is divided into potentially competing packages, i.e. how many companies are invited to bid for parts of the existing timetable. Consideration is given to losses of economies of scale, scope and density as a result of division and, on the other hand, the possibilities of collusion. It is noted that, for duopoly routes in air transport, research has suggested a tendency for (imperfectly) competitive conduct rather than collusive behaviour and that most of the change in competitive conduct comes with the entry of the second or third firm into a (route) market; adding more has relatively little effect. Although the paper is not explicit on the point, it implies dividing a franchise area into two or three competing timetable packages only.

The general approach and mechanisms suggested in the *Fiscal Studies* paper would appear to suit better Option 2 in the Consultation Paper, although they could also have their uses in relation to Options 3 and 4. I would note, *en passant*, that if the train operators designed their own packages the outcome is less likely to produce

[4] http://www.slottrade.aero/

the symmetrical service patterns, which the Consultation paper has noted is more likely to lead to collusive behaviour. It would also seem to me that my proposals would better define the scope of non-commercial but socially important services in the current timetable; these would fall out as a residual from the timetable bidding process described. I would expect the scope of these services to be smaller as a result because the bidder, faced with the prospect of competitive entry, might be more inclined to foreclose opportunities for entry into marginally unprofitable services that, nevertheless, dovetail easily into his proposed service pattern. The outstanding social element I see being covered by a levy or by increased track access charges. The latter, suitably reformed could play an important part in economising the use of track capacity and thus releasing more capacity overall. At the current time with fixed access charges dominating, there is little incentive for train operating companies to economise on their use of capacity.

Other Sources not referred to in the Consultation Documents

There is an interesting empirical analysis of the limited but still extensive, degree of on-rail competition in the years immediately following privatisation in a paper by Ian Jones presented as one of the 'Beesley Lectures' in 1999[5]. The results in this paper underpin the suggestion above that no more than three competing train companies are sufficient to obtain a competitive outcome.

Further evidence of the impact of competition in the air transport industry, specifically the UK airport sector, can be found in a paper commissioned from me by the OECD/ITF, and published in Round Table 145.[6]

David Williams

23 July 2015

I would suggest immediate action to break up the cartel of rail fares were most companies conform to a specific operator / fares structure. It is outrageous that a monopoly of this kind is allowed to operate in this country.

If I go to different websites I should be offered alternative routes and competitive fares.(ie South West Trains in conjunction with Virgin should provide competition with Cross Country on services from Manchester to Exeter) (Northern in conjunction with Scot Rail should provide competition with Virgin on Leeds to Glasgow) etc

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[5] Ian Jones (2001) 'Railway Franchising: is it sufficient? On-rail competition in the privatized passenger rail industry' in Colin Robinson (Ed) *Regulating Utilities: New Issues, New Solutions*, Edward Elgar/IEA.
[6] David Starkie (2009) The Airport Industry in a Competitive Environment: A United Kingdom Perspective, *Round Table 145*, OECD/ITF.

Member of the Public 1

14 August 2015

After reading the information regarding this consultation, it is my belief the best option is option 4: licensing of multiple operators. The reason for this, as a user of the rail service, I do not believe there is much incentive for operators to provide low prices or good quality service.

An example of this is the Virgin Train service that runs out of Leeds. The trains are typically full and if you do not buy a pre-paid ticket with a reserved seat then there is a high probability you will be standing a part of your journey. Another example, I can afford to pay for first-class but much of the time I do not. The reason for this, I have witnessed on more than one occasion that rail companies will not remove and they will not charge extra for passengers who sit in first-class that do not have the correct ticket. Third example is the very high rail fares during the week from Leeds to London and this is especially true for last minute purchases.

Therefore it is my belief for service to improve and prices to decrease competition must be introduced and it must be introduced for the same route. Whilst I understand there may not be a lot of interest or competition for Leeds to Wakefied Westgate, I do believe stronger competition must be introduced for the national routes in order to drive prices down and improve service. Without competition, I believe the quality of service will decrease and we will all suffer.

Member of the Public 2

16 November 2015

I'm writing with regards to the consultation exercise that the CMA is running regarding the future of "Competition in passenger rail services in Great Britain". Out of the four options presented, I'd like to suggest that options 1 [more open access] and 3 [more overlap in franchises] be pursued, and that options 2 [two franchisees] and 4 [multiple licensed operators] not be pursued.

This is because in my view, the railway industry is of a sufficiently complex nature that increasing competition should be pursued by evolution, not revolution ; i.e. changing gradually the existing system and not replacing it or giving it a sudden shock. As there are no doubt a myriad of contracts both financial and operational between Network Rail, all the TOCs, the ROSCOs, the freight operators, Government etc etc., then option 2 would not only double all these at a stroke but

cause a huge logistical and legal nightmare as everything would have to be redrawn to sort out who now runs which train where and who gets paid how much for it, and which party has to inform which other about what etc., whilst NR would have the unenviable job of allocating train paths to twice the number of operators as before and trying to keep them all happy. The result would be expensive, confusing, and leave passengers even more baffled than they are now-and more likely to turn to rail's primary enemy - the car. It would be my least favourite option.

Option 4 is a more interesting one as it's very similar to deregulation on the buses. However, the railway is structurally and operationally very different to the bus industry, and whilst scrapping franchises and letting anybody with a license run a train service might seem to create the maximum competitive environment, I believe the uncertainty it would create over how long any operator might be running a service and how often it might change will again create confusion and a drop in ridership in favour of the car, as this is what happened on the buses outside London. Further, it's likely that in this type of environment, consolidation will happen as operators take over each other and we'll get a small number of major groups running most services ; in the end, little different to now. One could avoid this uncertainty by contracting the operators to run services for a certain time without major changes - but that would be a franchise by another name so the existing system might as well be kept and adapted, and avoid the upheaval.

This leaves options 1 and 3. Both of these would effect the necessary increase in competition needed whilst not causing too much structural stress or passenger confusion. The main things in my view stopping more open access operators are getting the train paths they want and worrying about whether their new service abstracts too much revenue. The incumbent operator has little incentive to be as competitive as it can since it knows any new operator will cause it only a minor problem, so as long as it provides the minimum service it's contracted to, then it's OK. Scrapping the abstraction test or significantly increasing the limit would be a big step forward to not only encouraging new operators to come forward, but a poke to existing ones to increase their competitiveness and efficiency, and actively fight for customers. All of this would clearly benefit passengers.

Likewise option 3 would also bring benefits for different reasons. Increasing overlap would not only increase competition and give an incentive to efficiency, but also encourage existing operators to extend services into areas they know their customers wanted them to provide but have not been able to due to arbitrary operating area limits. This would be a win-win for customers as operators would both be challenged to improve but also have a greater opportunity to succeed.

Overall, then, I think options 1 and 3 would complement each other and should both be pursued in the future.

Member of the Public 3

2 October 2015

I am please to outline below me response, as an individual, to the above consultation document. I have carefully read the 163 page document, which sets out the context in a comprehensive and thorough way.

In assessing Options 1 to 4 I have given particular weight to ensuring that there will be enough Government finance available to allow socially valuable (but uncommercial) rail services to continue. I appreciate the advantage of reduced rail fares to passengers. Indeed I am a regular user of rail services myself. However, I consider that the merits of greater competition (including the likely consequence of lower fares) do not outweigh the need to ensure that there is sufficient finance available to fund socially valuable rail services. The Government will continue to have to take difficult decisions about priorities for expenditure across the public sector. As part of this, pressure on funding the rail sector can be expected.

Options 1 to 4 seek to (i) address problems with the status quo and (ii) to grasp potential new opportunities. However, the status quo is not untenable and, is not in desperate need of radical change. In any event, assessing appropriate change can be difficult, and inevitably involves an element of speculation / uncertainty.

Options 1 and 4 seem to be the most radical options. The risks involved with these options, along with the substantial disruption associated with their implementation, seem unjustified bearing in mind the relative uncertainty of the possible benefits. In addition, Option 4 seems to be unnecessarily complex. Option 4 seems the least preferable of the four options, closely followed by option 1.

Options 2 and 3 are both relatively moderate options, that seem to build constructively on the status quo. I have carefully considered the merits of Option 2, with its various sub-options, but find the approach somewhat confusing. I am not totally clear about how implementation of Option 2 would actually turn out in practice. In comparison, the approach associated with Option 3 is more pragmatic and straightforward. With Option 3 some extra competition is allowed (compared to the status quo), but not unreasonably or recklessly.

So, to summarise, my preference regarding the four options is…

Option 3 – 1st

Option 2 – 2nd (marginally worse than Option 3)

Option 1 – 3rd (a long way behind Option 2)

Option 4 – 4th (marginally worse than Option 1)

PART B: Responses to the ORR's impact assessment of the CMA's options for increasing on-rail competition[7]

1. Industry

Arriva

25 January 2016

First Group

21 January 2016

Network Rail

22 January 2016

Stagecoach

25 January 2016

RDG

25 January 2016

2. Government and regulators

Department for Transport

8 February 2016

Transport Scotland

20 January 2016

Thank you for your email of 4 January advising of the publication by ORR of the impact assessment undertaken by Arup and Oxera of the four options for greater on-rail competition that were set out in your July 2015 discussion document.

[7] Any responses in Part B which are not provided in full below are available on the case page.

Having considered that publication we have concluded that there is no material change to the views that we expressed in our earlier response of 12 October 2015, in which we stated that we were unconvinced about the applicability of the proposed options to Scotland.

3. Responses from consultants and academics

Tony Lodge – Centre for Policy Studies

25 January 2016

Ralph Tiffin

25 January 2016

Preamble on the (known) constraints to completion and efficiency of UK rail

Rail is a long term industry

All the activity to improve efficiency of UK rail whether Network Rail's or Operators performance is severely hampered by the incompatible goals of aiming for private sector involvement and investment yet a statist national rail system. Until this primary issue is resolved then only small steps can be taken.

The UK has the fundamentals – Network Rail aiming to be a world class infrastructure owner, some professional operators and a public who appreciate rail and are a huge potential market. The key to freedom is to calculate proper access charges. Socially desirable or essential services can be supported in an open manor – eg freight with its ability to free up roads and decrease environmental impact, commuter services without which London and other conurbations would not function.

The concept of UK franchises being a means of 'privatising' rail has demonstrably shown to be flawed. No franchise has genuinely invested anything. Why should they – this is picked up in:

Whilst the bidding process encourages bidders to offer investments or improvements in service quality to maximise their quality score, once the franchise has been won, franchise operators are incentivised only to make investments that deliver a return within the period of the franchise

The concept of short term highly regulated franchises with the notion that there are any realistic alternatives for many station to station journeys is flawed. Competition "for the market" is a deceit and simply grants a rail franchise holder a guaranteed

cash generator for the length of the franchise. These comments are directed at Intercity and Cross Country routes. For commuter services the concept of asking smart operators to bid for 'operating' franchises to run them for a reasonable reward makes sense.

The main intercity and cross country routes could easily be set free – to deliver for customers, employees and long term investors who actually finance real assets, rather than simply passing through tax and passenger cash flows during the short term of a franchise.

This impact report is a positive step on the way to bring UK rail business into a sustainable and expanding state.

Economic access charges are fundamental

To allow any of the four options to be put into effect requires the cost of rail access and the impact assessment touches on this. The parallel "Network Charges - A consultation on how charges can improve efficiency" 10 December 2015 will hopefully address this.

Commentary on access charges tends to home in on the subtleties and thus difficulties of calculating access charges. We have data processing power as never before. Rather than finding barriers to open access and competing operators the identification of realistic enough costs of access for intercity, commuting and freight services is possible.

Realistic access charges would bring pressure on Network Rail to earn its income and thus be more accountable.

There may be misunderstanding of rail today

Comments above and below are critical. The idea of real competition and the CMA project has to be applauded. Most of the criticisms can be addressed as many opinions and conclusions in the paper are in my view contradictory to reality or bound by a mind-set that is restricted by adhering to the flawed historic processes. Rail travel has so many attractions and there is a huge market. There has been huge growth.

Need for clarity on what is 'socially desirable'

A major unexplained issue is exactly what 'socially' desirable services are? If it is social mobility then Network Rail reports have identified it is socially upper quartile passengers who make most use of rail travel. From the birth of rail there were 'Parliamentary trains and most economies recognise the desirability for social cohesion to support under developed or deprived areas of a country. But simply

running a full timetable is not an efficient way of achieving 'social' aims. No one tells airlines or intercity bus companies where and when they should go.

Rail travel is not like electricity, or water supply – customers will desire different levels of service or none at all. Thus the notion that competition only lowers price is simplistic – competition could increase some prices, thus profits, and returns into the rail industry by offering much improved quality of service. Amazingly air travel is still held to be glamourous and many rail operators incline to ape. Small crammed seats, airline economy level food in first class and so on. Intercity rail can offer a range of services to suit customers, 'Oui-go' low cost to Pullman. The result will be more choice and more cash into rail.

Rail usage needs to be understood

From 'Estimates-of-Station-Usage-2014 -2015 – ORR December 2015'

Over 20% of arrivals and departures are centred on London Main termini - the majority of these will be commuter journeys.

As an aside, less than 2% of national arrivals and departures might be journeys that could use, or be forced to use, a new HS line taking passengers from Euston/St Pancras/ King's Cross combined.

The issue of who uses railways and to where needs to be put into context. No doubt these statistics are checked and considered in any planning exercises.

Intercity and cross country are not the high cost and high risk areas of UK rail, they are only a problem because of micromanagement – set them free!

Thus truly freeing intercity routes should not have the economic risk the Treasury fear. In fact as the paper indicates more cash and outside investment could flow to UK rail.

Opinions in the paper which may be contradicted

one example from page 51 where a contradictory view is possible

6.3 Option 2

Timescales and Complexity of Implementation

- - It should be considered however, that sub-division of franchises would add a degree of complexity to the franchise procurement process, and may exacerbate workforce tensions.

Dealing with the latter part – I travel around the country by rail continually and over the years am impressed by the resilience of staff and their dedication in face on the

ever changing, imposed franchises. If there were choices of operators, of employers who were real long term railway companies then tensions would surely be less?

But again the heart of the matter is the short term nature of franchises. Options 2 and 3 would work if the split franchises were in perpetuity, subject to meeting safety, operating and financial conditions. But again if we are constrained to think only of the model for existing 'franchises' this would not work. Option 4 assuming in perpetuity licenses would. An aside on the manner in which the word 'franchise' is used in the UK rail context: The model is not at all like commercial franchises but more the grant of a short term monopoly.

Much of the analysis in the report is based on established economic theory and comparisons with other industries or modes of transport which are often not really appropriate

But to carp at the extensive work in the paper helps no one. The paper could simply be edited down and possibly more forward looking.

Conclusion

Comments on the options

Option 1 would work if operators were set free – BUT charged full economic access charges. But the Treasury would be too frightened

Options 2 and 3 should have been trialled long before now. The nervous, hesitant Treasury should have been courageous enough to do this. And now why wait till the 2020's?

How about:

at least 2 competing franchise on the WCML for a min 10 years and option to extend indefinitely – economic access charges could be in place by then

At least passengers would have some choice. However the operators would still be wedded to a 10 or so year "cash flow extraction model"

Option 4 is the one that will bring real benefits

There are many ways of operating a licence system:

1. Offer planned and restrictive licences
2. Auction a number of packages with balance and requirements for 'social needs' trains
3. Auction train paths

4. Auction train paths BUT with a limit for any bidder of say 1/4 of those available in any hour

and no doubt many more.

for 2, 3 and 4 allow trading in paths – but with constraints on ceasing a service or the building of monopolies

However again the paper tends to look backwards

9. **In theory, licenses could be designed in such a way that the resultant service is no worse than it is today under a system of franchises although, equally, more prescriptive licence conditions would put at risk some of the benefits of allowing market forces to shape services going forward. Achieving an appropriate balance between prescription and market forces would likely be a major determinant of the success or failure of this option**5.2

This is again is backward looking and does not reflect reality of rail today never mind what may be required in the future

Why the need for prescription? **"no worse than today"** why just last week I had to travel from Edinburgh to Bury St Edmunds. The DfT decided a few years back that most trains would whizz through Peterborough. Let the market decide – not out of touch planners. In the future this might mean say a bus from Cambridge to Bury St Edmunds – but so be it.

Use HS lines as test models

A very good test model for the future is planning for competition on any new HS lines. Assuming the infrastructure annual worth cost element of an access charge is ignored (as a sunk cost) then the operational access charges can be estimated. Ask operators what bids they might make. We need to plan for the future.

Conclusion – real access charges are needed

The key to future UK rail planning for intercity as well as freight and commuter is to publish economic access charges, and licence intercity (including cross country) services for potentially infinite periods. Planning and supporting freight and commuter services can be done in a rational manner

Commuter services could be city managed and financed, as for London or outsourced, whatever is more efficient.

Rural services – let the local taxpayers decide.

Or **re-nationalise** and let professionals run the railways – but even they'd need to know the economic cost of access!

4. Responses from private individuals

David Cooper-Smith

5 January 2016

In response to above, i have looked at the ORR's very comprehensive assessment which confirms me in my preference for a modified version of Option 4 ; this seems the most coherent and radical of the four and with the greatest potential for both better service and economic performance.

I need to digress slightly. i am politically non-aligned but as a generalisation, I prefer state involvement to take the form of facilitation and incentivisation rather than one of "command and control". I feel command and control is something of a "bugbear" in the current franchise system, preventing enterprise, innovation, adaptability and long-term private investment. Therefore, although generally favouring a " licencing" model with freedom for operators to compete across the network , rather than making licence conditions of giving a burden of cross-subsidisation (which could prevent their offering the keenest fares), I prefer an alternative here.

Most markets are "incomplete" in that "hidden" costs and benefits (externalities) are excluded. If this were rectified by applying incentivising subsidies (and charges) to represent these externalities in the marketplace, operators could be free to decide themselves what services to provide. The likely outcome might be that narrowly unprofitable services would in many cases become attractively potentially profitable after application of the above subsidies / charges.

There are some operations (mostly commuter / short-distance) where competition is not feasible , being natural monopolies with captive markets and needing an alternative approach. Here, operator accountability can be gained through local direct democracy with directly elected (by local electorates and season ticket holders) managements on cooperative / mutual bases.

15 January 2016

A brief addition to the above:-

I feel that effective competition has a beneficial effect of making accountabiliy through governmental control largely unnecessary, so liberating enterprise / innovation / ongoing development by the operators.

Lorraine Foot

20 January 2016

I like my rail network and we have quality staff that I would like to continue on our network if other competitors could compete. I don't know any rail staff so this is not bias. I feel South West Trains ought to bring back the two rail lines after [✂] to make better flow of trains to London. I also think trains should run from 5.10am to enable people time to attend meetings, conferences. My management have to use [✂] with train changes to get to London in time for 9am. Some use London Waterloo and arrive late. I live alongside the single railway line that is directly alongside my house. I feel competitors would bring in better services to avoid using other stations but hope few trains run from 12.30 to 5am to not impact my home noise.

David Starkie

21 January 2016

Evidence of the effects of competition in Chapter 5 of the Impact Assessment is compelling, although it is to be regretted that again no reference is made to the competition analysis undertaken by NERA during the early days of rail privatisation, a time when there was a high degree of franchise overlap. Although this research is now dated, I feel it still has relevance to the current CMA investigation and its absence from inclusion in Chapter 5 is unfortunate.

I would like to have seen in the Impact Assessment more evidence on how competition varies with firm concentration. The point was made that the relationship is not linear but I feel that a more systematic review of the evidence is required, particularly in view of the focus on dividing a franchise between only two bidders in Option 2. In this Option, the focus on two operators only is linked to rather demanding assumptions on how they will interact. My view is that there is a high risk of tacit collusion; that they will simply accommodate each other. Therefore, it would have been useful to consider the possible impacts and operational issues that arise from further division of a franchise.

With Option 3 modelling, I would make a similar point: it focuses on the overlap of two franchises only (see basic modelling assumption at the top of page 81). But one could envisage a scenario where over time, as franchises come up for renewal, more overlaps could be designed. Thus, a single franchise might be faced with overlaps from several contiguous franchises around its geographical perimeter. (This would replicate the competitive landscape that pertains in the UK airport industry where there are many cases of airports being within 1 to 1.5 hours' drive of each other and

have overlapping catchment areas with several airports). With such a scenario the competitive gains could be quite large. In this context, the NERA study referred to above analysed a number of examples where three train companies overlapped with Herfindahls' between 0.35 and 0.77. (Herfendahls' for two overlaps varied between 0.50 and 0.79).

The attempts in the Impact Assessment to model competitive outcomes I did not find totally convincing, partly because it is arguable whether one can appropriately anticipate such outcomes. I would note the Airports Commission (with which I was associated) found equal difficulty in anticipating how the airline industry would react once additional runway capacity allowed for more competition at Heathrow or Gatwick.

In the Impact Assessment emphasis is placed on price competition and measures of the consumer benefits likely to arise from such competition. However, I can foresee circumstances in which these benefits are nullified by marked changes in input costs. This could occur if the introduction of on-rail competition occurs quickly and on a large enough scale that entrants' bid up the price of skilled labour resulting in a significant increase in factor rents. (For an example of this occurring in a transport industry following major disruption in labour markets, see 'Investment and Growth: The Impact of Britain's Post-War Trunk Roads Programme', *Economic Affairs*, 35.1, 2015). It is probable that this eventuality is more likely to occur in Option 1 (and possibly 4). The re-franchising timetable makes this less likely to occur in Options 2/3.

I would have liked to have seen more coverage of those competitive dynamics which bear upon the timing of services; the better alignment of service timings with consumer preferences could provide important consumer benefits. I am mindful here of the Department's micro-management of existing timetables as part of the franchise system. It is for this reason that in my previous submission, (in response to the CMA's July 2015 Discussion Paper), I drew attention to the ideas contained in the *Fiscal Studies* paper,' Train Service Co-ordination in a Competitive Market' (1993, 14,2 53-64). Taking Option 2 by way of example, the suggestion in the *Fiscal Studies* paper is that the initial timetables launching franchises, are allowed to evolve at the operators' discretion but subject to certain rules (for example to prevent head to head running). I note that there is again no reference to this paper which, although written a long time ago, covers the same general issues addressed by the CMA Study.

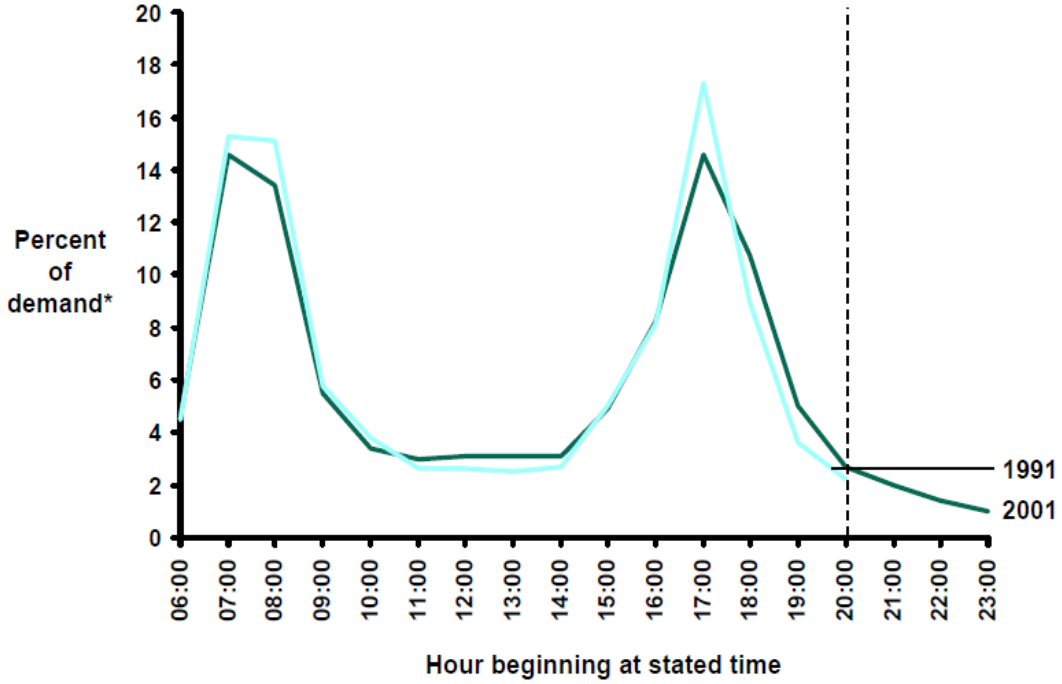
Emphasis is placed on competition driving innovation leading to a better alignment of the quality offerings with consumer preferences. In so far as competition stimulates different on-board product offerings I foresee further problems of Department intervention. The Department seems particularly sensitive to any proposal to extend the number of ticket classes beyond First and Standard. It did not react favourably to

recent reports that a franchise bidder was proposing to offer a three class service by introducing the equivalent of Premium Economy. And it reacted adversely when the press reported on my idea of introducing a lower quality product (Economy Class) to supplement First and Standard on commuter trains at a discounted fare. (Please see attachment extracted from Transport Infrastructure: Adding Value, IEA Discussion Paper #50). If train company product offerings were to be constrained by the Department acting as adjudicator, this would limit, possibly significantly, the service quality benefits to derived from competition.

Rail congestion and investment

The railways are a good example of where the price/investment/quality nexus is mute. An aspect of rail concentrating minds at the current time is how to increase network capacity, especially into London.[8] London dominates UK rail travel with three-quarters of all the country's rail journeys starting or ending there. Pressures on available capacity on lines into London are especially severe during the peak which is of limited duration (see Figure 5).

Figure 5: Distribution of London and South East demand for rail across the day



To the economist the obvious remedy is to introduce marginal cost based pricing so that fares reflect the high costs of providing peak capacity thus leading to an attenuation of peak demands. But, as with roads, political constraints preclude any

[8] High Speed 2 is part of the broader strategy for increasing rail commuter capacity into London.

serious move towards the adoption of such a policy. Instead, a programme of, largely geographically-based, Route Utilisation Studies (and Strategies) (RUSs) has been attempting to address the peak period capacity shortfall.[9] The result is an expensive programme of works, which focuses on squeezing in more train paths and lengthening trains, basically to form 10- and 12-car formations on suburban lines. This seemingly simple investment 'solution' does however have other implications; many station platforms need to be lengthened, generally through-out the route, (sometimes with re-positioned signalling), the power supply for electric traction needs to be upgraded and depots re-jigged or rebuilt to accommodate additional rolling stock. And then, of course, there are major reconstructions of bottlenecks at approaches to London termini, of which the complicated track widening at London Bridge is a good example.

The cost of this programme is difficult to determine. Data on investment costs is at a disaggregated level and it would need much analysis to come up with a definite amount although a sum well in excess of £1 billion is involved.[10] But, is such investment expenditure really needed in the short and medium term when the problem can be approached in a rather different and less expensive manner using market segmentation? More than a decade ago Peter Kain and I suggested an approach to this congestion problem that exemplifies the argument that first one should study the heterogeneity of travel preferences and then offer a choice of quality/price options reflecting those preferences (Kain and Starkie, 1998).

The idea is to introduce more quality/price trade-offs for the rail commuter by introducing an additional high-density section to commuter trains, let us say of three carriages, access to which would be priced during the peak at a *discount* to current fares of, let us say, 20 percent, (perhaps less of a discount for shorter distances but more for longer commutes). The interior layout of the high-density section of the train could be modelled on that of the new rolling stock (see Figure 6) used for the London Overground service (although the lateral seating would be replaced by flip seats)[11], and is probably best located at the front end of the train.[12]

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[9] As London First has pointed out in its recent submission to the Transport Select Committee inquiry, *Reform of the Railways*, data on overcrowding is not systematically collected but available data suggests that half of rail passengers travelling to London in the rush-hour do so in conditions that are classed as overcrowded, although the definition of over-crowded is somewhat arbitrary. See:
http://www.londonfirst.co.uk/documents/Transport_Committee_Inquiry_-_Reform_of_the_Railways_London_First_submission_(18_April_2012).pdf

[10] This figure is based on analysis of some of the RUSs by the RAC Foundation. See Dodgson (2009).

[11] The flip seats would be available during the off-peak. During the peak they could be locked-out, possibly using a magnetic lock device controlled by the driver/guard.

[12] This rolling stock, Class 378, is based on the Electrostar family of trains, used extensively on Kent services. A new carriage costs about £1 million.

Figure 6: The interior of Class 378 rolling-stock

It is the currently the norm for the front carriages of a peak hour train as it approaches its final stop, to have many standing as well as seated passengers, sometimes in spite of the rear carriages having seats to spare (even though the train might be classed as overcrowded on the basis of passenger/available seat criterion). This is because of an incentive for some passengers to get through the ticket barrier first; it does illustrate the willingness of some to sacrifice comfort for ease of exit on arrival. One can also observe that the pattern of loading on peak period trains evolves as they progress towards London and that, as one might expect, standing at the front of the train generally occurs from stops closer to London, so that standing time in such cases is relatively short. Consequently, on the longer distance commuter trains - those starting from the Sussex and Kent coasts for example - we would expect the proposed high-density lower-fare carriages to be less used, although even at these longer distances some might choose to trade-off the discomfort for a cheaper fare; the opportunity to do so would at least exist. The loading pattern could be expected to change at intermediate stops closer to London, especially at places like Bromley South, Croydon, Watford and Woking with proportionately more of the commuters choosing the high density section. Middle distance or outer suburban services, for example trains starting at places like Gillingham and Dartford, might be expected to have the high-density coaches well used from the start of the journey.

So, what are the gains compared with the existing proposal to lengthen trains? From the resource cost point of view, there would be more passengers on a standard-

length train without the recourse to high levels of investment in additional rolling stock, station lengthening etc., although there would be some costs involved in modifying existing rolling-stock. There might be some savings in traction costs. Stripped of seat furniture train carriages would be lighter. Although there could be more passengers per train during the peaks, adding to the weight and offsetting the absence of seat furniture, this would be for a relatively short period of the day. It is also probable that boarding/alighting times would be cut (substantially) so that it might be possible to speed-up services and/or add to their resilience and thus service reliability. In the shorter term until traffic expands further, it might be possible to remove one or two trains from the crowded timetable also adding resilience and increasing punctuality, although if this were done there would be the disbenefits to the passenger of a slightly reduced frequency.

From the consumer surplus viewpoint there would be an increase in benefits to passengers because the introduction of an additional level of service would lead to the better matching of preferences, not only for those choosing the new (economy) class but also for those seated passengers who will enjoy higher service quality not having to share their space with standing passengers. It might also be possible on the longer distance services to have the trolley catering service in standard class during peak times; at the moment these are restricted to the off-peak. The new choice package might itself generate new traffic (and thus consumer benefits) or divert existing users of car and commuter coach, the latter mode being important for those currently commuting from north Kent for example (in which case there would be a small loss of producer and consumer surplus if coach frequencies are trimmed). There are also some potential gains in the off-peak because disabled passengers and cyclists will be more easily accommodated in coaches with uninterrupted floor space.

From a cash-flow/revenue standpoint, in spite of the discounted ticket price for use of high density carriages during the peak, the revenue effect could be limited: slightly negative or even neutral. There might be some revenue dilution as a result of first class passengers diverting to what would now be a more pleasant standard class but, on the other hand, the traffic generative effect of more rail travel options will bring-in more revenues. And one might expect better revenue protection because the guard/conductor would be able to move more freely through the seated passenger areas; discount passengers holding the cheapest tickets would be self-regulating in-so-far as they had a ticket at all, but the latter issue, of ticket avoidance, arises in any case in existing crowded conditions affecting *all* sections of the train[13].

[13] Bear in mind that the discount will apply only in peak periods. With, say, three economy class carriages, much less than half the train load would be on discounted tickets and with a discounted price of, say, 20 per cent, compared with the current situation, the gross revenue loss per train would be less than 10 per cent. Gains from generated traffic or better revenue protection might offset much of this loss.

The forgoing is, of course, based partly on conjecture without access to data: on overcrowding patterns, investment costs and much else, but the speculation does seem to accord with observed commuter behaviour.[14] The next steps would be to obtain more transparency on the costs of the existing process of lengthening platforms etc. and on train loading patterns, to be followed by a formal analysis comparing the two approaches importantly supported by experimentation on one of the commuter lines.[15] There would be a particular requirement to examine the extent of the 'economy class' price differential needed in order to manage and balance demand across the different train sections (that is, to obtain more information on the cross-elasticities with respect to comfort) but discussion with commuters from the Medway Towns in Kent suggests that my starting assumption of a 20 per cent discount on the standard class fare looks reasonable[16]. A discount of this amount would place the price of 'economy class' about mid-way between the standard class rail fare and the fare for commuter coaches.

What would be inexcusable would be for *some* elements of the approach to occur by default if planned infrastructure spending did not materialise; for quality to be degraded generally so that standard class passengers are faced with a still uniform but an even lower quality of service at the standard price. There has been a tendency for this to happen since the 'economy-class' idea was first put forward more than a decade ago. For example, in standard class, one can pay for a particular journey exactly the same fare for five-across as opposed to four-across seating (with the different seat configurations sometimes to be found on the same train).

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[14] Note also that it can be trains immediately outside the peak that are the most crowded as passengers seek cheaper off-peak fares at the expense of a higher probability of standing. This behaviour is particularly noticeable on long distance trains out of King's Cross and Euston after the evening peak-fare restriction.

[15] The Dartford - Charing Cross service might be a suitable candidate. It was subject to an experiment with quasi-double-decked carriages from 1949 until 1971. It was found that station dwell times were much increased because of the difficulties of boarding and alighting. See:
http://www.bulleidlocos.org.uk/(S(150q2a3pumudrtcaeuhuwml1))/_oth/4_dd.aspx

[16] A point made by one commuter was that the potential saving in infrastructure investment from having economy class would give him some confidence that commuter fares would increase more slowly than they would otherwise do.