



CMA Consultation on Competition in passenger rail services in Great Britain -
October 2015

1. The Associated Society of Locomotive Engineers and Firemen (ASLEF) is the UK's largest train driver's union representing approximately 20,000 members in train operating companies and freight companies as well as London Underground and light rail systems.
2. ASLEF welcomes this opportunity to respond to this consultation on the nature of competition in passenger rail services in the UK. There are many points made in this consultation that ASLEF would agree with. At the time of privatisation, the sale of the railways was justified to the taxpayers on the basis that competition would increase efficiency, reduce taxpayer subsidy, and reduce fares while also improving services. ASLEF does not believe that any form of competition would achieve this on the rail network due to the inherent structure and complex nature of the railway. However, as the consultation points out, real competition is almost non-existent within our network, as we have competition "for the market", rather than "in the market." In essence, this means that the only competition is every 7 to 15 years when tendering for the franchise itself. What remains is a series of private sector monopolies with almost no genuine competition.
3. These are precisely the issues that the CMA acknowledges and looks to address in this consultation. The problem, however, is that there simply is no sensible, safe and productive way to create competition on a network which has limited capacity, performs such an important social function and is so safety critical.

4. ASLEF fundamentally rejects the notion that there should be any profit motive on the railway. Privatisation has led to the fragmentation and inefficiency of the railway. These proposals merely tinker with a flawed system and could in fact make the situation worse. To drive real efficiency we must end the franchising system and bring the entire network back in to an integrated system under public ownership.
5. Since privatisation, the rail industry has lost hundreds of millions of pounds through train operating company dividends and hundreds of millions through rolling stock company dividends. More than £400 million is lost each year which could otherwise remain within the industry and be used for investment. From privatisation, it is estimated that dividends have totalled up to £4.2 billion by 2012. Nothing within this consultation addresses this huge sum of money leaving the industry.
6. The McNulty Report into the British rail network explained that fragmentation has led to a lack of leadership in the industry. The report also suggested that fragmentation is the first barrier to efficiency. ASLEF agrees with this. Unfortunately McNulty then went on to propose further fragmentation. ASLEF believes that the CMA proposals do the same. We need a more unified network not ever more bodies and quangos running services in different ways.
7. The rail network is a national network. The infrastructure must therefore be treated as a single entity. ASLEF is glad that Network Rail has been brought into public ownership. The consequences of profit motive in maintaining rail infrastructure were tragically demonstrated during the tenure of Railtrack and the terrible accidents which took place under its watch. ASLEF is aware that the government is looking at different structures for Network Rail. Yet the consultation explains that “the design of the Great Britain rail industry, with no vertical integration between the

network owner/manager and the incumbent passenger train operator(s), entails that there is no interest or incentive for the network owner/manager to discriminate in favour of incumbents, and the prospect of a 'level playing field' of undistorted competition." ASLEF opposes vertical integration and deep-alliancing which has already been used. However, the union is concerned that the current structure of rail infrastructure is at risk of change. As the consultation explains, without this structure, none of the proposed changes would work. Network Rail is likely to change significantly in the very near future and the implementation of the proposals in the consultation could not be realised before 2023.

8. The consultation noted that "we are not suggesting options for commuter services, where capacity constraints and the particular desire of passengers to take the first train seem to us at this stage to pose additional challenges for introducing greater on-rail competition." This again shows a lack of understanding of the UK rail network. Intercity services often run on the same track as commuter services, and in fact, some intercity franchises also run commuter services. For example, the West Coast Mainline currently facilitates intercity services run by Virgin Trains, but is also used by the London Midland franchise. London Midland provides many commuter services into the Home Counties. They also provide intercity service from London to Birmingham and as far as Crewe. How will the proposals affect these services? It is impossible to divide out the network neatly into these categories.
9. Throughout the consultation, the point is made that none of the proposals can work without an increase in capacity. "There is an opportunity for there to be much greater on-rail competition in the future, if governments desire it. The addition of new [network] capacity, including HS2, and the introduction of new signalling technology that allows much more dense use of network capacity, will open up new route paths that could allow greater on-rail competition between operators." This is a huge assumption to base

these fundamental changes upon. Firstly, rail use continues to increase. Any potential increase in capacity will therefore be needed to catch up with our already stretched core services. It cannot be made available for an experiment in franchising. Secondly, the increase in capacity promised by new signalling technology is far from guaranteed or proven. Promises of extra capacity due to signalling innovation have been made and broken before. Historically the West Coast Mainline upgrades were originally and erroneously intended to incorporate moving block signalling. This was abandoned early on. In theory this would have enabled trains to run as fast as 140 miles an hour and increased capacity. The failure of the West Coast Main Line upgrade to incorporate in-cab signalling meant that this increase has thus far proved impossible. ASLEF would therefore urge caution when assuming any significant increases in capacity due to signalling technology.

10. As previously mentioned, the main lines the consultation mentions for these changes also run commuter services meaning that important sections of them, for example, the approaches into London or Birmingham, will be full to capacity, even if other sections of the line have free paths.
11. The consultation also assumes that all free paths should be given to passenger services. Rail freight, in particular on the intermodal side, has been a success story, with all forecasts showing continued growth. This should be welcomed. This reduces CO2 emissions, road congestion and decreases road fatalities. Therefore support for rail freight should continue. Without free paths being allocated to freight, growth will be stunted. Once again, allocating more paths on the basis of tinkering with the broken franchise system, rather than allocating it purely where it is needed for passenger or freight services is a backward step.
12. Plans to get more people on off-peak services in order to maximise the use of available capacity have been around for many years. ASLEF supports

spreading the use of services in order to take full advantage of available capacity. There are however, significant limits to how this can be achieved. We still live in a world where people predominantly start work between 0800 - 1000 and then finish between 1600 – 1800. Most commuters have very little option over when they travel. Using tickets prices to promote off-peak travel is an important tool. However making peak time travel the preserve of the wealthy is something that must be avoided. Especially considering that many in low paid work, have no choice over when they travel.

13. ASLEF rejects the notion that there will suddenly be far more free capacity from 2023 that will enable these changes to take place. This is a big assumption that may never be a reality. It would be dangerous to pursue such changes based upon such guess work.

14. It should also be noted that there is a lack of rolling stock in the UK. Increasing the amount of operators on our network will increase costs in two ways. Firstly, it will reduce economies of scale. Secondly it will increase competition for stock, whilst supply remains low. This will in turn increase the costs of leasing rolling stock.

15. Each individual proposal creates its own issues which ASLEF would like to address.

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

As detailed above, there is a major concern over capacity with this option. In addition to this, the consultation explains “Funding for unprofitable but socially valuable services (ie PSOs) currently provided by cross-subsidisation between franchises could well be eroded by competition. This funding could instead come from a levy imposed on OAOs with long-

term access rights and franchisees that operate profitable services. In order to mitigate any risk to financial viability, it may be sensible for the levy paid by OAOs to increase over time.” However, with franchise agreements becoming increasingly flexible for operators in regard to service provision, the danger is that this increased exposure to the free market is simply another nail in the coffin for rail performing a sometimes unprofitable but socially important role. It is important to note that whilst it is true that this is a system, used frequently throughout Europe, in most cases this is in the context of the majority of services being run by a publically owned, single operator. As noted above there will also be issue around economies of scale and rolling stock availability.

16. Option 2 – two franchisees for each franchise

Again, there is the potential for lost cross-subsidy if one franchise picks up non-profitable services. Also, doubling the amount of franchises, franchise bids and the duplication involved would add a huge cost to running the railway. Fragmentation is a barrier in the way of efficiency. This would exacerbate this problem

17. Option 3 – more overlapping franchises

This would remove the economies of scale issue and create barriers to efficiency. It would also lead to complexity in timetabling and increased fragmentation.

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

19. This would essentially create a system of open access only operation on the railway. This would create an enormous amount of uncertainty, complexity and fragmentation. It would threaten unprofitable services and would completely disregard the public service ethos of the railway.
20. Competition is an important driver of efficiency, productivity and innovation in many parts of our economy. But it must also be recognised that it has limits and is simply not possible in certain industries. The railway is extremely complex and is an essential public service. There is no natural way to create competition and run the railway. Franchising created a competition for the market, not in the market. This has failed. However all of the options suggested in this consultation will make the situation worse by creating false competition.
21. Some markets should not be broken up. We have created a multitude of private sector monopolies. Efficiency will only come about by ending fragmentation, stopping money leaving the industry in dividends to shareholders or foreign governments, and creating a holistic attitude to our railway. These options would do the reverse of this and make a bad situation worse.

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