



HIGH SPEED TWO PHASE ONE INFORMATION PAPER

J₁: FUTURE OPERATION AND COMMERCIAL ISSUES

This paper outlines the current direction of policy for future operation and commercial structures in respect of the HS2 Phase One infrastructure and rolling stock.

It will be of particular interest to those potentially affected by the Government's proposals for high speed rail.

This paper was prepared in relation to the promotion of the Bill for Phase One of the scheme which is now enacted. Although the contents were maintained and updated as considered appropriate during the passage of the Bill (including shortly prior to the enactment of the Bill in February 2017) the contents are now historic and are no longer maintained.

If you have any queries about this paper or about how it might apply to you, please contact the HS2 Helpdesk in the first instance.

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J1: FUTURE OPERATION AND COMMERCIAL ISSUES

1. Introduction

- 1.1. High Speed Two (HS2) is the Government's proposal for a new, high speed north-south railway. The proposal is being taken forward in two phases: Phase One will connect London with Birmingham and the West Midlands and Phase Two will extend the route to Manchester, Leeds and beyond.
- 1.2. HS2 Ltd is the non-departmental public body responsible for developing and promoting these proposals. The company works to a Development Agreement made with the Secretary of State for Transport.
- 1.3. In November 2013, HS2 Ltd deposited a hybrid Bill¹ with Parliament to seek powers for the construction and operation of Phase One of HS2 (sometimes referred to as 'the Proposed Scheme'). The Bill is the culmination of nearly six years of work, including an Environmental Impact Assessment (EIA), the results of which were reported in an Environmental Statement (ES) submitted alongside the Bill. The Secretary of State has also published draft Environmental Minimum Requirements (EMRs), which set out the environmental and sustainability commitments that will be observed in the construction of the Proposed Scheme.
- 1.4. The Bill is being promoted through Parliament by the Secretary of State for Transport (the 'Promoter'). The Secretary of State will also appoint a body responsible for delivering the Proposed Scheme under the powers granted by the Bill.
- 1.5. This body is known as the 'nominated undertaker'. There may well be more than one nominated undertaker – for example, HS2 Ltd could become the nominated undertaker for the main railway works, while Network Rail could become the nominated undertaker for works to an existing station such as Euston. But whoever they are, all nominated undertakers will be bound by the obligations contained in the Bill and the policies established in the EMRs.

These information papers have been produced to explain the commitments made in the Bill and the EMRs and how they will be applied to the design and construction of the Proposed Scheme. They also provide information about the Proposed Scheme itself, the powers contained in the Bill and how particular decisions about the project have been reached.

¹The High Speed Rail (London – West Midlands) Bill, hereafter 'the Bill'.

2. Overview

- 2.1. The information in this paper relates to the commercial and governmental bodies that may in future operate and manage this railway. The Bill does not amend the existing statutory and regulatory structure set out in the Railways Act 1993 (as amended by the 2005 Act) with the railway regulated by the Office of Rail Regulation, the independent regulator. Unless future changes are made to the regulatory approach, the expectation is that these arrangements would apply to the operation of the Proposed Scheme.
- 2.2. It is important to note that neither the Bill nor the EMRs contain provisions that determine how the Promoter will structure operations and asset management legally or commercially. As long as they are consistent with the wider legal and regulatory environment that applies to the GB railway, a range of different approaches could be implemented for the Proposed Scheme without requiring any changes to the Bill or the existing regulatory structure.
- 2.3. Decisions on the appropriate operational and commercial structure for the Proposed Scheme will not be, and do not need to be, taken until much closer to the actual operation of the railway.

3. Infrastructure operations, asset management and charging

- 3.1. Models that could secure private sector investment in the infrastructure prior to passenger service commencement, or at a later stage, will be kept under review by the Promoter and enacted where this is commercially practical and likely to deliver good value for money to taxpayers.
- 3.2. Unless, or until, such an arrangement is put in place, the Promoter's intention is that the nominated undertaker will be the infrastructure manager and infrastructure licence holder for the Proposed Scheme. However, the Promoter retains discretion to develop an alternative structure as the programme develops.
- 3.3. The nominated undertaker could discharge these functions directly, or could engage one or more suitably qualified third parties to operate and/or maintain the infrastructure on a commercial basis, in a similar way to High Speed 1 Ltd which sub-contracts operations and asset management to Network Rail.
- 3.4. In line with the rest of the rail network and regulation, it is envisaged that infrastructure operations and train operation will be undertaken by separate companies. Safe, efficient and successful operations will require robust systems to be implemented to integrate all elements of the new railway into an operational whole, including track, trains, stations and information and management systems.
- 3.5. High speed services will run on Network Rail's infrastructure as well as the new railway. The HS2 Phase One infrastructure manager and train operators will

therefore need to work closely with Network Rail and other train operating companies to manage the operational interfaces.

- 3.6. In addition to day-to-day rail operations, cooperation will be needed in respect of the wider network roles undertaken on the railway by Network Rail, including long term planning, timetabling and coordinating network-wide responses at times of major disruption.
- 3.7. As licence holder, the nominated undertaker would levy track access charges on users of the HS2 Phase One infrastructure. The access regime will be developed in partnership with the Office of Rail Regulation, in line with the Railways Infrastructure (Access and Management) Regulations 2005.

4. Rolling stock and depots

- 4.1. The case for the Proposed Scheme assumes that rolling stock and supporting facilities will be funded by the public sector. If this model is applied, there could be a later commercial opportunity to transfer fleet and facilities to the private sector after the assets have been built.
- 4.2. The procurement strategy will be developed and led by the nominated undertaker. The strategy will require extensive market testing. As part of that process, the nominated undertaker will consider the potential for securing private sector funding at an earlier stage in the project.

5. Operation of train services

- 5.1. A commercial passenger train operator is likely to be secured prior to operational start in 2026. Depending on the procurement strategy that is developed, their role may include rolling stock introduction and shadow operations before passenger services formally commence.
- 5.2. The appointment of a train operator may be done using the franchising powers set out in the Railways Act 1993, which allow the Secretary of State to designate train services as franchised services, and to contract with a train operating company. The Office of Rail Regulation will be responsible for determining track access allocation in line with its statutory duties, including potential future applications from non-franchised passenger operators.
- 5.3. Service requirements and commercial terms will be developed as part of the procurement process. The ultimate design of commercial agreements will need to reflect up-to-date information and will be subject to consultation. Train service options will be developed in an open and consultative process that takes account of passenger, community and freight priorities across the whole GB network.
- 5.4. The case for this railway assumes freight trains do not operate on the high speed infrastructure. However, such operations are not precluded by the Bill, and

future applications may be made for track access by freight operators with suitable rolling stock.

6. More information

- 6.1. More detail on the Bill and related documents can be found at: www.gov.uk/HS2