Introduction

Our Cooperative Society welcomes the opportunity to contribute our views, expertise, and evidence to inform the work of the Road and Rail Market Study. We are the UK's first consultancy cooperative operating in the road and rail marketplace, having been born out of a desire to provide the market with access to expertise and capacity that has become artificially constrained in traditional supply chains. Our founders are heavily involved in the civil engineering marketplace, having worked across public and private sector organisations on the delivery of rail and road infrastructure projects and programmes across the UK for the last 30 years.

In this response we take you through our views on the current marketplace, and potential areas of focus to yield the necessary improvements required to achieve a well-functioning civil engineering market. We are available to discuss these views further and to participate in any further discussion on any element of this response or more detailed plans around implementation.

Questions

1. Do you agree with our articulation of the characteristics of a well-functioning market as set out in paragraph 1.11? If not, what could be changed and why?

> 1.11 We currently consider that a well-functioning civil engineering market would be expected to have the following characteristics, thereby serving the interests of consumers of those services, including public bodies:
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> (a) Appropriate project budgeting and design specification, including input from potential suppliers, to test the viability of different options in advance of launching a procurement.
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> (b) Effective procurement design, which balances quantitative and qualitative criteria, and incentivises suppliers to participate in tenders, submit accurate cost estimates and articulate any quality / cost trade-offs.
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> (c) Proportionate planning and regulatory processes that minimise cost, complexity and unwarranted delays for both the procuring body and participating suppliers.
>
> (d) Predictable and shorter timescales for the delivery of infrastructure projects, underpinned by a productive supply chain.
>
> (e) Ultimately best value projects that deliver an efficient unit cost of infrastructure, meet high quality standards and underpin growth.

In principle we agree with your stated characteristics of a well-functioning civil engineering market, with one exception. The statement "d) Predictable and shorter timescales for the delivery of infrastructure projects, underpinned by a productive supply chain" could be read to infer that delivery predictability of infrastructure projects is due, in part, to a non-productive supply chain. It is our view that the efficient and effective delivery of infrastructure projects is artificially constrained by market over-dependence on large organisations in the professional services and civil engineering contracting space. There is a largely under-utilised supply chain of smaller organisations and SMEs that are currently dissuaded from taking prime positions on infrastructure projects.

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2. Do you agree with our proposed scope (both the product and geographic scope) and themes for this market study, as set out in Section 3. If not, what areas would you suggest we include, exclude or prioritise, and why?

In principle we agree with your proposed scope and themes for this market study, but would suggest that there is a notable omission which should be included. Skills, or specifically the capacity and competency of the market to deliver the full project lifecycle, should be examined as part of this market study. A 360 degree review as to whether there is the required breadth and depth of expertise within the client bodies and current supply chains, alongside a commentary on what skills are required to commission, deliver and operate infrastructure projects of the future, would enable a review of the 'As-Is' market whilst recognising what transformation is necessary to deliver a 'To Be' marketplace (and all the challenges that this will entail). The skills to deliver 2050+ are still in the classroom, not the supply chain, and it would be an oversight to not factor this into the market study.

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3. What, if any, are the key differences in the markets for the supply of roads and railways across the 4 nations of the UK that should be reflected in our analysis?

The markets in 3 of the nations (Wales, Scotland and Northern Ireland) reflect a healthy input from regional supply chains, with a clear link between local and national delivery. The market in England reflects an over-reliance on dominant multi-national organisations. As a consequence of this approach, there is a marked difference in service and true 'social value' associated with major infrastructure delivery. It remains unclear whether this is a deliberate ploy of market manipulation to create homogenous monopoly suppliers, with delivery becoming ever more faceless, or a failure to appreciate and acknowledge the creativity and benefit that smaller, local, more agile supply chains can deliver beyond the Green Book.

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4. Please suggest any rail and road infrastructure projects across the UK that could be useful case studies to inform our market study. We are particularly interested in understanding where:

a) the project realised good outcomes in terms of cost, quality and innovation (including some explanation of the factors driving this in each area); or

b) the project realised poor outcomes in terms of cost, quality and innovation (including some explanation of the factors driving this in each area); and/or

c) the project yielded important lessons that could inform improvements in the operation of the market.

In an age of data rich, intelligence poor project dashboards and 'clickbait' narratives, any case studies will need to go beyond mere surface inspection to reveal the truth about 21st century project delivery. Our experience indicates that rail and road projects don't go wrong…they start wrong. This may be due in part to the imposition of arbitrary constraints such as governance milestones (National Highways SGAR or Network Rail GRIP stages), SoW (Start of Works) and OfT (Open for Traffic) dates, which introduce artificial evidence of project maturity or completeness. These milestones may often be achieved with a 'fat tail' of material works extending long beyond, with associated costs and erosion of benefits realised.

The Reference Class for rail and road projects should, through necessity, seek to extend beyond UK delivery to better understand the root cause behind good and poor outcomes. We would recommend a review of Oxford Global Projects datasets on mega and major projects beyond the UK, which will identify not only outlier performance (good and bad), but may also redefine what average or P50 performance actually looks like.

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5. How does public procurement and contracting in the markets for the supply of roads and railways contribute to, or undermine, the characteristics of a well-functioning market? In your answer, please comment on:

a) engagement between the procuring body and potential suppliers during the early stages of project design;

b) the use of different types of procedures (eg open competition, frameworks);

c) the design of tenders, including the number and type of requirements and the use of quantitative (eg price) and qualitative evaluation criteria;

d) the approach to risk allocation across different parties; and

e) the use of contract mechanisms (eg insurance provisions) and pricing mechanisms (eg fixed price, cost plus).

In general, public procurement invariably focuses on procurement exercises that place greatest emphasis on attracting interest from major professional services and contracting organisations due to a belief that they are the organisations with experience, capacity and capability to deliver major civil engineering and infrastructure projects. This belief is fuelled by a narrative that only these organisations can provide the requisite resources to underwrite the efficient delivery of these projects. As a consequence, the market for the supply of roads and rail projects has become artificially constrained to those organisations that are a) perceived to have the capacity to deliver, b) have the scale to warrant the necessary tender costs as part of their business expenditure, and c) have the scale to afford the necessary limits of liability that are incorrectly assigned to major infrastructure projects.

Theres needs to be a recognition that the large contracting organisations promote services as contracting/construction entity, when at best they are a supply chain coordination vehicle and pay little or no attention to the requirements of true project integration capability. Simply discretely packaging subcontract works to gain lowest cost responses and through poor contract management, coordination and integration then push delayed delivery risk back up to the client body. Current procurement, in our collective opinion, does not help in this regarding by promoting a culture of focusing on lowest price and therefore creating and environment where contract change becomes the focus of the construction companies to increase profitability of the awarded works.

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6. To what extent do you think the structure of the industry contributes to, or undermines, the outcomes of a well-functioning market? In your response, please comment on:

a) differences in the size and degree of specialism of different companies;

b) the tiered nature of the supply chain and use of subcontracting; and

c) financial arrangements, such as payment periods and the use of retentions.

Public sector clients receive services from a consultancy market dominated by single source, multi-faceted ‘global solutions providers’ whose primary focus is revenue growth and market share. Research (Flyberg and McKinsey) evidences expensive, commoditised services ignoring whole-life thinking leading to unnecessary rework.

The current structure of the industry undermines the delivery of the intended outcomes of major infrastructure investment in a well functioning market. The prime

suppliers, who invariably have seats at the table on these investments, are generic, multi-disciplinary organisations who purport to provide a 'one stop shop' for all client requirements. These suppliers offer 'reach back' into their organisations for specialisms, with prime:sub relationships with SMEs to provide extended breadth and depth of specialism capacity.

Since COVID, highly competent individuals and specialists have left the market or become increasingly marginalised as IR35 rules are interpreted by these prime suppliers to serve their own interests, depriving the public sector of more efficient ways to solve problems and deliver projects.

The consultancy and contracting markets remain dominated by large single source enterprises. These 'providers' effectively control the routes to market for SMEs, with their focus being the up-selling of their own internal resource base to meet the pressure of payroll and corporate overheads. Effectively client service is provided by functional resource pools delivering a commoditised and homogenised process. We know this frustrates clients as expertise and service quality and right first time is compromised by 'what resources' the 'providers' have available at that time. Opportunities exist for SMEs, but these are becoming fewer, with tax rules cited as barriers to SME entry. Prejudicial commercial arrangements are regularly adopted due to the SMEs inability to evidence substitute or successor service provision.

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7. What, if any, are the significant procurement, planning or other regulatory barriers that inhibit the performance of this market? What could be changed and why?

The principle issue inhibiting performance is not necessarily attributable to procurement, planning or regulatory barriers. Whilst more could invariably be done to promote or encourage the inclusion of a broader supply chain, such as SMEs, assignment of arbitrary value targets achieves very little in shaping performance outcomes.

More could and should be done to evidence SME engagement and involvement in shaping market delivery, and this should be auditable in the golden thread that links the SOBC to Post-Implementation Evaluation. The formulation of forensic procurement and supply chain strategies, rather than a 'one size fits most' Routes to Market would be a marked improvement on the current state, enabling a degree of market segmentation between different project types and risk profiles. There are parallels in other sectors, such as retail and manufacturing, where there is a place for bulk suppliers/providers and agile specialists to successfully coexist and deliver best in class products for consumers.

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8. What are the opportunities for further innovation in the markets for the supply of roads and railways across the UK? If yes, what are the barriers to achieving these and how might they be overcome?

The barriers to unlocking true innovation continue to be the routes to market permitted by DfT and others parts of central government down to the road and rail infrastructure organisations who in turn create frameworks and other procurement vehicles that do not promote the ability to make access to funding and support easier available to the true innovative organisations that sit within the SME community. This coupled with the incredibly challenging costs of entering either of these markets, stifles innovation and ultimately innovators look to other industries domestically, or worse take their innovations overseas to the advantage of other economies/nations/supply chains.

The hard-nosed look at the routes to market and associated support arrangements specifically within the roads and rail sector, and the associated methods of contractual/commercial engagement will shine a light on the challenges face and help understand the steps needed to address the blockers in an open, collaborative and supportive way.