

## **LTRS Workshop – competition, consumers and markets** **4 March 2014**

This is a summary of a discussion hosted by the Office of Rail Regulation (ORR) on the 4 March 2014. The workshop built on the [Long Term Regulatory Statement \(LTRS\)](#) which was published in July 2013. This posed questions about where the rail sector needs and wants to be in the medium to long term.

The purpose of this roundtable event was to stimulate debate between experts in the rail, consumer and regulatory sectors on competition, consumers and markets. In particular, consideration was given to;

- What can be done to enhance the role of markets and competition in a diverse sector that has strong monopoly elements?
- What can we do to give consumers more power in the rail sector?
- How can customer choices be better informed in a sometimes confusing marketplace?
- What can we learn about competition and delivering for consumers from other sectors and what are the particular challenges faced by rail?

The workshop was chaired by ORR's chair Anna Walker. This note summarises the key points raised in the discussion. The points discussed do not necessarily represent the views of ORR.

### **Overview**

- As the regulator, ORR has a statutory **duty to promote competition** but this is not a primary duty, and we have to balance this with other duties including our responsibility to the Secretary of State as funder.
- ORR puts consumers at the heart of its work and is a key strategic objective, with planned activities in the business plan to benefit consumers – both passengers and freight customers.
- Competition does not just relate to rail services and open access – it is important to consider competition across the rest of sector – freight, the supply chain and for Network Rail, including improved publication of comparator information both in relation to Train Operating Companies and different parts of Network Rail.
- Timely to look at these issues – there are signs that the European Union will be opening its markets to greater competition, but it is unclear how this will work in practice.
- Part of the role of the new Competition and Markets Authority (CMA) is to make the competition regime more effective in the whole of the UK and regulators including ORR will work with CMA.

### **Competition and markets in rail**

- There are different elements to competition in rail and some discrete characteristics which mean that there is no single whole market solution;
  - Competition – where open access operators compete with franchised train operators doesn't exist over the whole of the network. In some but not all market segments, rail can compete with air, coach, bus and car.
  - Competition for franchises - This has some benefits for consumers as operators compete to provide the best offering to government, but this also relies on delivery of the franchise for the whole period.
  - Competition within the wider industry – for example within the supply chain and between different parts of a monopoly operator.

- Fares regulation – which prevents abuse where there is monopoly supply and the regulation of network benefits (impartiality; through tickets etc) which have ensured the continuance of some of the advantages of a joined up railway.
- Rail is a complex sector with a number of parties playing a role – DfT, ORR, Network Rail, train operators, Europe etc. How we coordinate and ensure these dynamics can work properly and effectively is not one solution, but a combination of options at the system level.
- However, we have a choice over whether we continue to have such complex markets, we should not be bound by historical institutional structures.
- Industry and the regulator should work with all party politicians and governments to consider what their policies will be over the next ten to twenty years, with a view to identifying inefficient cross-subsidy and unlocking more cost effective pricing and greater transparency in the system. This should include a review of the block network grant to consider whether this is detrimental to market development and growth.
- Where we have subsidy running through the industry we need to create pressure on recipients to perform which creates a role for continuing regulation.

#### **Role of regulation in competition and markets**

- There was discussion around how to structure the rules of competition. Parallels were drawn with the health sector – for example, how do I as a consumer choose where I want to go for treatment that does not constrain me, should I need further treatment?
- Comparative data plays an important role in regulating markets. League tables to improve performance can create competition and healthy rivalry between organisations and reduce information asymmetries between the regulator and industries.
- Agreement from industry that peer pressure does create a form of competition, nobody wants to be at the bottom of any league table.
- This is not an alternative to a competitive market but in other industries, for example energy, publishing complaints data has helped to encourage more competitive supply.

#### **The consumer and its role in markets**

- In the rail sector, consumer choices are limited. The traditional view is giving consumers choice, so that they are empowered to walk away or choose another product if they don't like it. This choice is limited for rail customers. On long distance routes consumers may be able to choose between rail and car/bus, but in the commuter market this choice is very restricted.
- 65% of tickets are now paid for by passengers so more important than ever to ensure greater transparency and the publication of information to benefit consumers in CP5 with greater emphasis on passengers becoming more involved in improving the railways, enhancements to stations etc.
- Need for a more direct way to engage the consumer – there needs to be something in it for them now – for example better access to redress and compensation. If operators are more exposed to this risk, they are more likely to resolve issues.
- Consumers are driven by being able to see things happen as a result of their engagement, they want to know that there is something in it for them and that reward is going to be today not tomorrow.

### **Consumer engagement**

- DfT have improved the franchising process, for example requiring operators to carry out consultation with passengers and publishing a promise from the successful operator, which they are required to publicly report on every 6 months.
- Other sectors have used consumer challenge panels to help in network price control setting. For example, in the energy sector, an annual stakeholder engagement panel encourages network competitors to pitch to the regulator on their stakeholder engagement. There has been a real difference in the quality of these pitches between the first and second year. This model has been used with electricity distribution companies, who don't have as much contact with customers, so that there is more of an incentive at the heart of the business to focus on consumer benefits. The incentive for them to do this is a monetary award for successful bidders.
- Passengers don't want consultation and engagement to be a once in a ten year experience and there needs to be consideration to a wide range of stakeholders. Recent franchises will reflect an enhanced consultation process, giving the opportunity for a wider group of people to have a say.
- Consumer engagement – not just being a process but real exposure of operators and markets to consumer views and linking to bottom line, for example compensation and information for consumers to inform choices – when to travel, what to buy.

### **The role of transparency**

- Transparency and better access to personalised information creates power as it improves the ability for consumers to make choices. Average performance for an operator doesn't mean anything to consumers. They want to know how particular services/stations compare on a range of performance measures. There is a current pilot to provide commuters with increased information enabling them to compare services on punctuality and how busy trains are.
- Concern was expressed that the need for increased data needs to be delivered without increased costs in the industry to generate this. The challenge is to deliver this information to passengers in a format that is usable.

### **Summary of issues raised in the workshop**

- General recognition that competition is good and that includes competition for and in the market.
- Importance of cost reflectivity in strengthening incentives.
- Continued value to common standards such as the maintenance of network benefits, but have we got the balance right?
- How do you get the most out of public subsidy?
- Introduction of competition has to be managed with a continued role for regulation in setting the rules.
- Real value in consumer engagement and creating a more consumer focus by exposing bottom lines to consumer satisfaction.