11th July 2013

Philip Willcox 12/7/2013
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Office of Rail Regulation
One Kemble Street
London
WC2B 4AN

Dear Mr Willcox

On - Rail competition

Newark Business Club welcomes the opportunity to comment on the on-rail competition paper published in June.

PASSENGER'S PRIORITIES

We specifically draw your attention to the summary of Passenger Focus research into priorities for improvement to the InterCity East Coast (ICEC) franchise as set out in the Consultation Document issued by the Department for Transport in June 2012. The top six priorities for passengers are identified as:

Rank	Priority
1	Punctuality and reliability of the train
2	Value for money for the price of the ticket
3	Being able to get a seat on the train
4	Length of time the journey was scheduled to take (speed)
5	Facilities and services on board the train
6	Frequency of trains for this journey

We do not consider that your proposed policy on open access remotely addresses the priorities identified by passengers.

A SUMMARY OF OUR POSITION

We are a Business Club, support the principle of competition and are therefore very disappointed that privatisation has led to the rail network requiring greater financial support from the taxpayer than when in the public sector. We see nothing in your paper that addresses this issue.

We would like to share your vision of a dynamic and commercially sustainable railway but, with the present train services operating through both Newark stations far from achieving that, consider your statement to be meaningless "management speak".

We consider that your policy for the East Coast Main Line (ECML) should be driven by the priorities identified by passengers.

The evidence suggests that it is a lack of investment on the ECML and not a lack of competition that has led to long-distance trains on the route performing badly for so many years (priority 1).

There have been no journey time improvements on the ECML since 1991 (priority 4).

Passenger growth for the ICEC franchise is substantially lower over the last decade than for other InterCity operators.

The ICEC franchise is the only one which currently competes with open access operators and, given these results, we see no evidence to support your view that more competition would deliver real benefits to passengers.

With high walk-on rail fares, of most use to business people, and major increases in season ticket prices during the last decade, we consider your view that on-rail competition has led to reduced fares as truly depressing (priority 2). You appear to have abandoned business passengers.

Given that the ICEC franchise uses 540-seat trains, it is unclear on what basis you claim that the 280-seat trains used by open access operators is an effective way of providing additional seats (priority 3).

Your proposals do not address the issue of service frequency identified by passengers (priority 6). We consider that the frequency of long-distance trains on the ECML needs to be significantly increased.

The ECML has been starved of investment over the years. To effectively support the economy in the areas it serves there is a need for more investment than currently planned for new trains, upgraded track, signalling and overhead line equipment to deliver a reliable train service with higher frequencies and faster journey times.

There is a need for greater transparency on the financial implications of open access operations on the taxpayer.

Your paper does not address the implications of an open access operator failing or even just closing down a train service.

We acknowledge your duty to promote competition for the benefit of users but question whether your proposed policy is in the interest of the majority of passengers. We also consider that you should gave far higher priority to your other duties to improve performance and promote faster journey times, key priorities identified by passengers for the ICEC franchise.

YOUR SUMMARY

It is unclear whether your claim that competition can deliver more seats is based on franchising or open access. For franchising it is clearly true as shown by the West Coast franchise; with open access operators it is highly debatable. In 2006, you rejected GNER's application to run an additional ten 540-seat trains in favour of six open access 280-seat trains. We understand that the franchisee has consistently sought to operate more trains to Leeds and Edinburgh where there is currently no open access but significant off-rail competition.

In addition, East Coast were refused access to operate four additional trains between London and York from December 2012 that would have delivered over two thousand extra seats each day. Contrast that with Hull Trains who require fourteen paths daily to provide less than twice the number of seats than the additional East Coast trains and it should be clear to you that open access is not a very effective way of delivering more seats.

We acknowledge that there are opportunities to get cheap fares for some rail journeys but these require the use of specified trains with heavy penalties if you use an alternative service. Most business people do not have the luxury of specifying the trains they will use. They do not know at what time meetings will end or when they will manage to close a deal so, if they wish to travel by train, have no alternative than to buy expensive "any time" tickets. We see no evidence to support your view that on-rail competition has led to any reduction in these fares and you appear to have totally ignored the requirements of the business community.

THE EAST COAST MAIN LINE EXPERIENCE

As experience of open access passenger services is currently concentrated on the ECML, it is essential the lessons from the route are learnt.

Performance on the ECML that serves Newark Northgate is unacceptable. Your own figures show that trains operated by ICEC have failed to achieve a PPM of 90% for *even one quarter* since records began in 1997; performance from open access operators is no better and sometimes worse.

It as equally unacceptable that there has been no improvement in journey times on the route for twenty-two years, the longest period of stagnation since 1963. Since open access operators started running services on the route journey times for trains operated by the ICEC franchise have increased. The improvements promised in the statement to the Stock Market made by the Department for Transport on 14th August 2007 have not been delivered. The fastest journey time from London to York is now five minutes slower than in 2010, with the best time to both Leeds and Edinburgh extended by six minutes; the best time from London to Edinburgh is now twenty minutes slower than in 1991.

Of equal concern is that passenger growth over the last decade on ICEC is around half the average for other InterCity operators. Your paper offers no evidence that competition on the route has brought real benefits for the majority of passengers using the route or how you have reached that conclusion. Do you seriously believe that poor performance, extended journey times and lower growth than other long-distance routes is the way ahead?

COMPETITION

You rightly make the point that on-rail competition is primarily driven through franchise competitions. On the ECML seven franchised operators compete over various sections of the route. The only station served by ICEC where there is no competition is Newark Northgate and we see no evidence that passengers using that station are disadvantaged. Our key concern is the gaps in the standard-hour timetable that East Coast sort access rights to fill in 2012. The fact that they were refused rights as there were no available train paths suggests that open access trains are operated to the detriment of Newark, and other passengers south of York.

You draw attention to the difficulties that open access operators have in getting long-term certainty over access rights but that applies equally to franchised operators. After winning the ICEC franchise in May 2005, GNER did not get access rights to operate their half-hourly service from London to Leeds until May 2007. After winning the same franchise in August 2011, National Express have never received the access rights to deliver their contractual commitments. We consider that for future franchises, access rights to deliver contractual commitments must be guaranteed.

Your document does not address the external competition faced by the railway and how they can most effectively compete with car, coach and air transport. At present, rail has just 25% of the Edinburgh to London market. It is unclear whether the opportunity costs of awarding paths to smaller destinations has been tested. Arguably open access trains to Sunderland and Hull are using paths that would be better used for more trains to Scotland, giving journey time improvements and increased frequency to improve rail's competitive position in the Edinburgh market.

With Hull Trains owned by First Group and Grand Central together with Alliance Holdings owned by the German State Railway it is clear that neither of the current open access operators is a small entrepreneurial company, so what are the implications for the re-franchising of ICEC services? Will Arriva and First Group be allowed to bid to operate ICEC and, if so, how will it be possible to prevent them having an unfair competitive advantage with the detailed knowledge of the finances of the open access operation they currently run? If they are not allowed to bid, it would reduce the competition for the franchised services. What is certain is that the amount of money necessary to introduce a worthwhile rail operation is likely to beyond the resources of smaller companies that might provide more effective competition.

FINANCIAL TRANSPARANCY

Your document makes several references to revenue abstraction. We expect competition to have an initial impact on the revenue take of other businesses but why should open access operators abstract any revenue from franchises? Franchise operators set inter available fares to cover both Network Rail's fixed charge and premium payments; as open access companies do not pay those charges why should they have any share from inter availability fares for other than passengers they actually carry?

The ICEC franchise has done well generating premium payments; East Coast/Directly Operated Railways paid the largest premium of all long-distance operators in 2011/12 but those payments would surely have been even higher if open access operators did not abstract revenue with obvious implications for the taxpayer.

You are aware that passengers using franchised services fund the railway through premium payments. Your proposed policy would divert those funds to either private, or foreign state, sector shareholders or passengers almost certainly increasing the overall cost of the UK rail network. This appears not to comply with current government policy that is seeking a greater contribution from fare payers to the cost of running the railway. In our view you need to give far more consideration to the implications of your policy on premium payments as your paper offers no clarity on the financial impact of your proposed policy on the ICEC or other franchises.

The pre-existence of open access paths is now requiring infrastructure interventions at enormous cost to the taxpayer largely to facilitate the number of trains between Doncaster and London. There is an urgent need for far greater transparency on the financial impact of open access operators on the taxpayer.

Whatever access and charging system you introduce it must ensure that open access operators only receive revenue generated from passengers they actually carry; with modern technology this should be easily established. The present revenue sharing system looks suspiciously like an indirect subsidy from the taxpayer.

We understand that the rolling stock requirement for the ICEC franchise is driven by the peak service into London. All of their rolling stock diagrams are profitable and in use by 08.00; in addition a franchise operation is a mix of cross-subsidy, e.g. London to Newcastle subsidises London to Aberdeen. If we are to retain this type of network benefit and cross subsidy between profitable franchises like ICEC and non-profitable ones like Northern there is a need for regulation. Without it, large sections of the rail network would close or subsidies from the taxpayer greatly increase.

Your paper does not address the implications of an open access operator failing or even just closing down a train service. Bad luck for Wrexham maybe but with far more serious consequences if it involved a key location(s) on the ECML. An Administrator would not be able to run the service as they would not have the necessary safety certificate. So what action do you propose to take to protect passengers from the the withdrawal of any open access service?

THE WAY FORWARD

Services on the West Coast Main Line have been transformed with largely taxpayer funded investment, the improved journey times and service frequency generating a major increase in passenger numbers through an integrated timetable. We consider that the same approach on the East Coast is far more likely to drive strong economic growth and increase premium payments for the Government than more on-rail competition.

A feature of the ICEC franchise is that around one-third of journeys to/from London are generated at stations from Newark southwards. To meet that known demand and improve journey times to key northern cities an increase in service frequency is essential. The lowest growth forecast in the current HLOS suggests that this will mean 6tph from 2018 and we consider that 7tph is necessary if a serious attempt is to be made to increase rail's share of the Edinburgh/London market.

We also suggest that a really determined approach to reducing rail industry costs is more likely to lead to lower fares than more competition.

We acknowledge your duty "to promote competition in the provision of railway services for the benefit of users of railway services" but suggest that those benefits for the overwhelming majority of users of the ECML have been shown to be very limited. It is surely time that you gave far higher priority to your other duties "to promote improvements in railway service performance" and "journey times that are as short as possible" both high priorities identified by passengers for the ICEC franchise. We see improvements in these areas as far more likely to bring real benefits for passengers than more on-rail competition.

Yours truly,

M. Allen.

MICHELLE ALLEN
Chairman