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One Kemble Street
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Our Ref:
Your Ref:

6th February 2012

Dear Richard,

Periodic review 2013, consultation on incentives

Thank you for consulting with London TravelWatch on this review and inviting our views.

London TravelWatch is the statutory watchdog representing transport users in London.

As part of this process we submitted comments to the May consultation.

We would like to reemphasise the main thrust of our response to this May consultation namely that London as the largest market for passenger trains in the United Kingdom, and the region that is most dependent on them, should be subject to specific targets for both Network Rail and passenger train operators to improve the delivery and planning of services

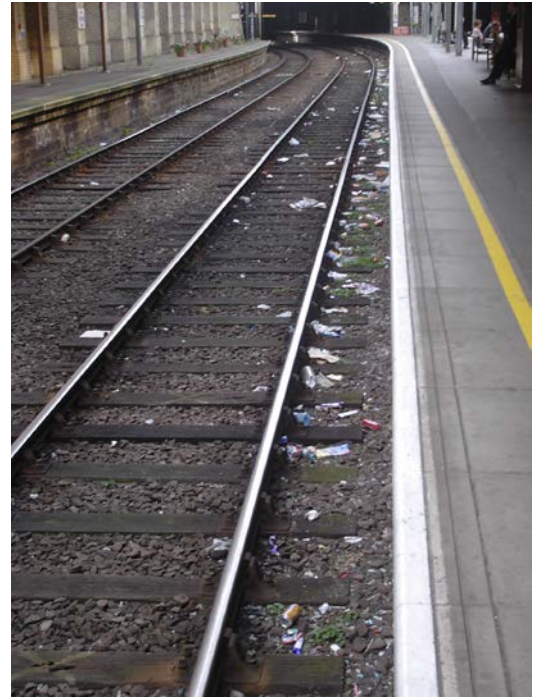
Below we have responded to those questions which we feel we can contribute to as part of this consultation, but firstly I will try and give you our perspective on some of the problems passengers experience as a result of the incentive regime and the fact of an interface between Network Rail and the TOCs and which are not reflected in this document. We hope that Periodic Review 2013 goes some way to resolve them.

Passengers tell us the local environment of the railways is important to them. By this they mean the quality of the station environment, its cleanliness and condition, whether railway buildings and land are well maintained and clear of litter and graffiti. We know the British Transport Police have used a passenger statement in a graffiti case to convince a magistrate that graffiti, in this instance, created concern in the mind of the passenger regarding their personal security.

It is interesting to note that as part of London Underground Limited's (LUL) Public Private Partnership (PPP) ambiance ("the quality of the travelling environment") was one of three key measures used to measure the performance of the PPP. The National Passenger Survey (NPS), particularly in a London context where few stations apart from the major ones are surveyed does not measure ambiance in the way that the PPP did. The outcome of the PPP has been that LUL are much better at managing their estate in this respect than Network Rail. Two illustrative photos demonstrate the point at Barbican where one track-bed is managed by LUL, the other by Network Rail. The pictures were typical in 2009 and taken on the same day. The situation has improved a little.



LUL track-bed at Barbican



Network Rail track-bed at Barbican

Similarly London Overground has improved its NPS scores dramatically. This is, in part, because they have improved the ambiance of their stations.

We know that these issues are not the key passenger priorities – punctuality, reliability, capacity and cost are. How important these issues are to passengers and what value they place on improving them is difficult for us to say.

But we do know that the failure of Network Rail to manage its' estate in respect of over grown vegetation, rubbish, litter and graffiti is the cause of significant passenger dissatisfaction through poor time keeping, unreliable services and train services cancelled because of damage to infrastructure and rolling stock that results from this. It is noteworthy that previously the North London Line was a notorious blackspot on the network for litter, graffiti, rubbish and vegetation problems. The modernisation of the route by Network Rail and Transport for London, and other initiatives by London Overground has meant that most of the issues have been dealt with and kept under control. As a result there has been a major improvement in the Public Performance Measure on this route – clearly route modernisation and new rolling stock has been the major driver to this, but tackling the local environmental issues to the route has also been instrumental in both improving performance and passenger satisfaction.

It is also useful to note from Network Rail and train operator incident log books of how often items such as 'plastic bag caught in pantograph or other moving parts of trains', or trespass incidents (for graffiti) are the causes of significant delay or cancellations of services. Passengers expect Network Rail and train operators to be tackling the root causes of these incidents and managing the estate on which trains run through seems to us to be fundamental to improving performance on the network as a whole.

Nevertheless we do hope that more work can be done on determining what customers' value, particularly around these subliminal issues. It would be worthwhile considering an

expansion of NPS coverage to those 'difficult' locations in inner London where many of the examples of poor environmental quality occur.

Setting aside the desirability of keeping railway land clear of waste and refuse there is a statutory duty on Network Rail to keep its land clear of waste and refuse which, because of the lack of a financial incentive, it interprets as responding to complaints in order to avoid prosecution. It is only because the enforcement authorities, the local authorities, prioritise the views from the street and largely ignore railway cleanliness that there are less prosecutions of Network Rail.

In our experience the dual responsibility around some of these issues and the lack of incentive to deal with them is a large shortcoming resultant from how the railway operates. Some examples include:

- i) We have cases of poorly cleaned stations where the TOC tells us that the problem is the poor surface they have to clean, but Network Rail has no interest in improving the surfaces (Cambridge Heath station).
- ii) The responsibility for clearing litter from the track-bed up to 100 metres from the platform ends is statutorily Network Rail's (under the 1995 Environmental Protection Act), but there is an industry agreement that the TOCs must pay $\frac{3}{4}$ of the cost. Although after years of campaigning by London TravelWatch the cleanliness of station track-bed has improved this issue is not yet resolved and the blurred responsibility and lack of incentive to keep the track clear of litter is a concern.
- iii) The clearing of all manner of waste and refuse from railway land, weed clearing and graffiti cleaning is done on an ad-hoc basis by Network Rail, even where they have a statutory duty to keep the land clear of waste and graffiti. Unlike LUL, which manage similar land, Network Rail appear to see this as a burden and are not incentivised to deal with it, nor enforced against by the relevant enforcement authorities (the local authorities) as they have their own priorities. LUL see managing the environmental quality of their land and assets as part and parcel of managing their railway. Network Rail do not, and it is in our experience very difficult to convince their officers at all levels that this is a worthwhile activity to undertake.
- iv) We have a current problem of significant graffiti damage on a regular and increasing basis at one particular location – Bellingham carriage sidings, used by trains leased to First Capital Connect, but also used for Southeastern services, and so covering a significant proportion of the London and South East area, where Network Rail do not seem to be able to take adequate security measures or to remove the significant amounts of rubbish and overgrown vegetation that provide cover for these attacks. The adjacent station at Bellingham is considerably 'unloved' with significant amounts of rubbish and litter in and around the areas of Network Rail responsibility. Unkempt and disused railway buildings add to the impression that it is acceptable to attack rolling stock at this site and without fear of capture or consequence. We and local residents have been trying to get Network Rail to deal with these issues without success for over a year, although we are hopeful that the threat of enforcement action through the courts might finally spur them into action.

London TravelWatch believes that this issue will only be dealt with if Network Rail regards it as one of their core activities to maintain the local environmental quality of the railway. They need an additional high level output requirement placed on them to maintain the local

environmental quality of the railway and flowing from that a budget to tackle the issue, rather than a budget to react to complaints made against them.

Secondly, can we suggest that a benchmarking exercise is done comparing the incentive regime of National Rail generally compared with that which applies to the London Overground. It is plain for all to see that the latter has much to commend itself in terms of outcomes for passengers.

Turning to the questions.

Q3.1: Do you agree that in PR13 we should focus on incentivising delivery of outcomes that customers, wider society and funders value?

Yes

Q3.2: Do you agree with our assessment of the outcomes that customers and society value?

Broadly we agree with this assessment, but nowhere in chapter three does ORR recognise the issue of local environmental quality. It could be recognised generally within passenger satisfaction, but we would like this to be a specific outcome.

Q3.3: How do you see the trade-offs between and within the interests of customers, funders and society? How do you see the trade-offs between current and future customers, funders and society?

Passengers clearly get direct benefits from using the railway, but they are also contributing to wider societal benefits, such as road decongestion, environmental sustainability etc, sometimes at financial and time cost to themselves. It would therefore not be appropriate for passengers to pay the whole cost of the railways. Nor is it appropriate for today's passengers to bare the whole cost of future developments to promote economic growth.

Q3.4: To what extent do you think we should measure and monitor the delivery of those outcomes and outputs we incentivise? What metrics should we use? To what extent is it practical and desirable to monitor delivery of outcomes at the local level?

London TravelWatch believes that outputs should be monitored. The monitoring and review of performance, publically expressed and the Public Performance Measure (PPM) seems appropriate if it is done at a local level in order that passengers can relate their experience to the metrics rather than a single statistic that does not reflect local, possibly poor, performance.

We have direct experience of the National Express Service Quality Management System (SQMS) they used to monitor their stations. This system suggested all was well, but at a local level some stations were in a terribly neglected state. This was because good performance elsewhere (Ipswich station for example) overwhelmed some of the most squalid conditions of smaller stations in inner London. Whilst we welcome the use of SQMS it does need to be well thought out and reflect actual passenger experience.

More general monitoring by customer satisfaction surveys are welcome, but again need to reflect actual passenger experience and not be too generalised.

Q3.5: What do you see as the key enablers for Network Rail's successful delivery of outcomes in CP5? How should we best measure Network Rail's performance against these enablers? How should we best incentivise these?

Generally the key enablers you describe in paragraph 3.48 are fine, although the reference to: (ii) Excellence in asset management (as per CP4) gives some concern as it is the failure to manage its assets in respect of local environmental quality that gives us concern and which we would like addressed in CP5.

Similarly we want Network Rail to work collaboratively across the industry, and indeed wider than that for example with local authorities, but we know of examples where this does not happen to the disbenefit of passengers, particularly at London's major terminals. Please see our recent report on Interchange and Walking in London, and the example of London Paddington. This can be found at:-

<http://www.londontravelwatch.org.uk/document/14002>

Q3.6: What do you see as the key features of the transmission mechanism? How do Network Rail's customers respond to changes in Network Rail's behaviour and how does this translate into the experience of end-customers and society? How should we take this into account in the design and implementation of our incentives?

A key feature of the transmission mechanism for passengers is:

- i) Monitoring a wide range of outputs and outcomes that matter to passengers. An all encompassing passenger satisfaction score may well be of general interest, but unless it drills down into the detail may well lead to unintended consequences. SQMS monitoring is also useful, but needs to be well thought through. For example the National Express East Anglia SQMS gave positive scores for soap being available in a toilet facility, though the facility itself could be unusable.
- ii) The governance structure and ethos of the company is key and will be a function of the membership of the Board and members. It would seem to us that there is room to create a governance structure that better reflects the ultimate customers of Network Rail, i.e. the passengers.
- iii) The profit incentive is diluted between TOCs and Network Rail or there is no identifiable business plan case to implement schemes. Too often we hear support from all sides of the industry for a proposal as long as someone else pays for it. Often there are proposals that would benefit passengers, but they are not implemented as a business case cannot be made, particularly in the short term. Improving the pedestrian link between Euston and St Pancras stations is an example. All the industry players support the proposition, but no one is willing to take a lead, let alone pay for it.

Q3.7: How do you think industry reform would affect the transmission mechanism? How do you think changes to franchise agreements would affect the transmission mechanism?

Longer franchises for the TOCs and more responsibility for stations should lead to greater investment in stations and improve the passenger experience, certainly in the early years of

the franchise when the TOCs are more willing to invest, and that this is clearly stated in the specification of the franchise that this should be an expected outcome, but alone will not deliver all that passengers want. Lack of investment, a key problem with short franchises, will still occur as the franchise runs towards the end of its term.

Managing the TOCs by licence condition may well mean more flexibility for the DfT / ORR to respond proportionately to TOC failings.

Q4.1: What are your views on our proposed principles for efficiency sharing arrangements between Network Rail and train operators? To what extent do you think they will improve the incentives on train operators to work with Network Rail to reduce its costs?

Much of the problem with the fragmentation of the railways into infrastructure provider and train operator could be overcome by better aligning the fortunes of the Network Rail and the TOCs. Therefore this proposal is supported.

Q4.2: What are your views on our proposed design of a route-based efficiency sharing mechanism, as described in chapter 4 and in Annex B? To what extent do you think they will improve the incentives on train operators to work with Network Rail to reduce its costs?

We generally support this initiative if it is to be genuinely about efficiency sharing and will not lead to collusion between the TOCs and Network Rail.

There is an example of this in the litter on railway land issue. There are railway industry agreements to share the costs of clearing litter within 100 metres of the platform. This led to a situation where both parties benefitted from leaving litter to pile up far beyond what was acceptable. It was more efficient for both parties to leave the litter on the track-bed!

Q4.3: What are your views on our assessment of the role of bespoke arrangements? In what circumstances do you think bespoke arrangements are likely? What advantages and disadvantages might they bring? How should we best assess them? What are your views on the scope for excluding some of Network Rail's costs from the default efficiency sharing mechanism?

Bespoke arrangements are fine, but there must be a mechanism to guard against unintended consequences and there has to be a monitoring regime to protect passenger interests. Please see our response i) to Q 3.6.

Q4.4 What are your views on our assessment of potential impacts of a route-based efficiency sharing mechanism, as described in chapter 4 and in Annex B?

No view

Q4.5: What are your views on our preliminary proposal for exposing passenger and freight operators to changes in Network Rail's fixed costs in subsequent periodic reviews?

No view on this level of detail.

Q5.1: Do you think that the current possessions and performance regime broadly help to align incentives between operators and Network Rail in the best interest of customers, funders and society? If not, why not?

The current performance regime appears to have improved performance and therefore broadly works in the interests of passengers.

The possessions regime appears to work in the interests of the TOC and Network Rail and possibly for funders and society, but is unfair to passengers insofar as they have to put up with a much poorer service during a possession at the same cost of travel because they happen to be travelling on a Sunday or a bank holiday..

Q5.2: Do you think it is appropriate to retain Schedules 4 and 8 as liquidated sums compensation regimes?

Clearly Network Rail needs to share some of the TOCs losses due to disruption and so these regimes need to continue.

Q5.3 Do you think it would benefit customers, funders and society and encourage greater co-operation if Schedule 8 compensation rates from Network Rail to train operators did not reflect the full impact of possessions on revenue and costs? We also welcome any further views on this issue in relation to Schedule 4.

It would be good that schedule 8 payments were below the full cost to the operator to incentivise them to work with Network Rail. We would welcome more routine compensation arrangements to rail travellers when they are delayed over a certain time in order that all passengers receive the compensation due to them.

It would be good that schedule 4 payments were below the full cost to the operator to incentivise them to work with Network Rail.

Q5.4: Do you think existing incentives are as effective as they can be in ensuring that Network Rail and train operators perform at a level that is economically and socially optimal, and whether they sufficiently drive Network Rail behaviour? In particular, we invite views on whether we should place further incentives on Network Rail to ensure it fully takes into consideration the impact of service disruption on passengers, i.e. disruption above that already reflected in Schedules 4 and 8 compensation payments for loss of fare revenue, and how we could go about doing this.

Network Rail is not incentivised to improve the softer aspects of passenger journeys as there is no direct benefit to them. For example we have tried to persuade Network Rail to improve Paddington station and its environs as an interchange for passengers. To date they have not responded. Network Rail, as a station manager, prioritises commercial rent income and advertising revenue sales over passenger information, for example.

The TOCs are more responsive to passenger requirements, but any investment requirement is difficult for them to justify due to the short franchises they operate, particularly towards the end of their franchises. Where cap and collar applies to the franchise it is almost impossible to make a business case for investment.

Q5.5: Do you envisage any barriers to modifying or replacing the Schedule 4 and 8 regimes in cases where both a train operator and Network Rail wish to? What do you see as the advantages and disadvantages of bespoke approaches? Do you agree with our proposal regarding the circumstances when we will approve bespoke Schedule 4 and 8 arrangements?

Where the TOC farebox for particular services is such that running a replacement bus service is cheaper than running a rail service we would be concerned that Network Rail and the TOCs would collude to undertake planned engineering works at their leisure as there was no incentive on either party to complete the works as quickly as possible.

Q6.1: In what circumstances do you think bespoke charging arrangements are likely to occur? What advantages and disadvantages could such arrangements have? How might they work for or against the alignment of incentives?

No view

Q6.2: What protection do you think might be needed for third parties not included in the scope of a bespoke arrangement?

See response to 5.5

Q6.3 Do you agree that it would be helpful for us to set out a set of principles on the basis of which we would decide whether to approve bespoke arrangements? Do you have any views on what those principles should be?

See response to 5.5

Q6.4 How do you think we should treat bespoke charging arrangements that might span Network Rail control periods or change within control periods?

No view

Q7.1: What are your views, additional to those set out in your response to our May consultation, on our treatment of the following options:

(a) The scope of our proposed review of the volume incentive, including disaggregation by Network Rail route and consideration of a down side as well as an upside?

(b) That we continue to support the rationale for the capacity charge, and will support Network Rail in its work to revisit and recalibrate the charge for PR13?

(c) That we should establish the extent to which infrastructure capacity is under-utilised before proceeding to develop one or more indicator by which to monitor capacity utilisation?

No additional response

Q7.2: What are your views, additional to those already expressed in your response to our May consultation, on the policy we are considering further to levy a charge to incentivise better use of capacity?

No additional response

Q8.1: Do you agree with the criteria that we have applied in assessing different options to Network Rail's cost of capital and our approach to its financial structure?

No view

Q8.2 Do you agree that we should use a cost of capital for Network Rail that reflects the risks faced by the business, even though this may not reflect the company's actual financing costs?

No view

Q8.3: How do you think we should deal with the surplus cash that results from such an approach?

Reinvest in the railway, in measures that improve train service reliability and punctuality, and at stations in accessibility (such as step free access), improved environmental quality and overall facilities.

Q8.4: What advantages and disadvantages do you see in our regulating Network Rail in a way that preserves the options for changes to the company's financial structure?

No view

Q8.5: How should we strike the right balance between the interests of current customers and funders and future customers and funders?

Current passengers feel they get poor value for money from their fares. Surplus cash should be used to directly benefit existing passengers.

Q9.1: How do the incentive properties of our different treatments of different classes of expenditure affect operating decisions on the ground, e.g. is it the potential financial gain or loss that motivates actions or is are decisions more based on other factors such as relative complexity, cultural factors (e.g. tradition or professionalism) or the nature of Network Rail's financing and governance arrangements?

No view

Q9.2: Are the incentives on Network Rail affected by the different ways we may assess support, operations and maintenance costs, compared to renewals and enhancements expenditure? In particular, we may use a base year for support costs that is rolled forward by an efficiency assumption, whereas for renewals we will probably not roll forward a base year but will take a view on the likely level of expenditure in each year on a pre-efficient basis and then apply an efficiency assumption.

No view

Q9.3: Do you expect Network Rail's work on whole-life costs to change its decision-making, and in what way?

No view

Q9.4: Is there any evidence of ‘capex bias’ at Network Rail? To what extent is this undesirable?

No view

Q9.5: Should we seek to equalise the incentives for different types of income and expenditure? How best might we do this?

No view

Q10.1: Do you agree with our overall proposed approach to incentivising innovation? If not, what do you propose we do instead?

The issue of fragmentation of the rail industry affects all areas of investment including innovation. The rail industry is keen on innovation, but prefers for someone else to pay for in part because of the cap and collar regime when returns are clawed back by Government but also because the uncertainties around which party should fund innovation and where the benefits accrue.

An industry fund would be the best way to stimulate innovation. Investment decisions being taken on the basis of the business case for the whole industry.

Q10.2: What merit do you think there would be an innovation fund? How should such a fund work? How would we guard against ‘crowding out’ and ensure the fund did not displace existing expenditure?

In a fragmented industry it will be difficult to guard against these issues. The innovation fund could be earmarked for those projects that benefit both sides of the industry or the passenger.

Q10.3: What merit do you think there would be in an innovation prize? How should such a prize work? Who should be eligible to enter? What sort of prize would best stimulate genuine innovation?

This will have some benefit of rewarding and recognising innovation, but probably not stimulating it if significant funds are needed.

Q10.4: In relation to the use of output KPIs, what KPIs do you think we should target and why? Should we monitor them only or should they have some incentive attached to them and if so what?

No view

Q10.5: Do you think that KPIs should be introduced for companies other than Network Rail to monitor innovation across the wider industry?

No view

Q10.6 Beyond any comments that you may have made to us in response to our May consultation, do you have any comments on our overall approach to environmental incentives? Specifically, do you think we should introduce other environmental incentives beyond those that we are proposing? Do you think we should go further in encouraging the rail industry to improve its environmental performance even if this resulted in a shift to other modes?

Rail travel, compared to other modes, is a good environmental option, but the industry cannot rest on its laurels. The improvements to motor vehicle engine environmental performance compared to that of railway locomotion environmental performance is an example of this.

To make the assessment of this, however, one would want to look to whole life analysis over the longer term. Pushing passengers off of the railway onto the roads should be guarded against.

Please see comments at the beginning of this letter on other environmental issues which have a significant impact on London passengers.

Q10. 7 We are keen for the industry to propose methodologies for monitoring emissions and producing improved whole-life, whole-industry business cases. What role do you think the ORR should play in this process?

The industry is unlikely to do this sort of work given its fragmented structure and so the ORR or DfT should lead on this.

I hope this is helpful. If you have any questions please contact me.

Yours sincerely

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