

TravelWatch NORTHWEST

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promoting quality public transport.....

Andrew Eyles
 Office of Rail Regulation
 1 Kemble Street
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Dear Andrew

Consultation on proposals to formalise the Rail Delivery Group (RDG)

TravelWatch NorthWest (TWNW) is an independent organisation representing all public transport users in NW England. When responding in March 2012 to ORR's earlier consultation on "A Greater Role for ORR in Regulating Passenger Franchises" we supported the contention that the best way to achieve this greater role would be to make greater use of ORR's existing (Railways Act 1993) regulatory and licencing powers.

Question 1. Please comment on whether you consider that the purpose of RDG set out in paragraphs 2.3 to 2.5 will drive the changes and improvements envisaged by the McNulty study

We see no reason to modify the view given above in considering this question. Whilst RDG members will hold licences to which conditions can be attached, the proposal that, like Network Rail, RDG will eventually become a 'not for profit' Company Limited by Guarantee (CLG) reassures us that it also could if necessary be regulated through licence conditions.

Some of the Alliances proposed by the "shadow" RDG are not separate legal entities or partnerships *per se* and yet they have managed to retain "ultimate accountability" when, for example, complying with EU laws requiring the separation of the roles of infrastructure provider and train operator.

We do have concerns however about how the relationship with DfT as franchise awarder/specifier will work. There will be overlaps and duplication and we do not wish to see another layer of bureaucracy to add to what is already a costly and fundamentally flawed franchising system.

Question 2. We are reasonably content with the proposed structure of the RDG Board.

Question 3. *Please comment on how you consider RDG could best engage with licensed and associate members.*

Associate members are stated to include “representative organisations”. We strongly recommend that **Passenger Focus** be given associate member status. The interests of passengers must be given high priority in the deliberations of RDG. There should always be meaningful consultation with passenger groups whenever passengers’ interests are affected.

Question 4. We consider that whether they are happy to agree to the proposed (Annex B) new “requirement to co-operate” licence condition is really a matter for the Train Operating Companies (TOCs) and Network Rail (NR) to address. However we do think that the criteria for membership should be wider than just a simple financial metric.

Question 5. Again, whether the Board’s proposed voting and quorum criteria will ensure the necessary cross industry support is also really a matter for them to decide. For want of any better proposal we suggest introducing an initial trial subject to a forward review date.

Question 6. The need for any specific commercial protections within the proposed competition compliance document (2.53) is for the industry to decide. We do not think there is such a need taking into account that ORR already has powers to refer matters to the Competition Commission and that it is proposed that ORR and the Commission will be tasked to jointly produce a Code of Practice.

Question 7. We think that the proposed funding arrangements (2.59) are appropriate but question if Network Rail (NR) will be content to initially fund the RDG on its own until the proposed industry levy is applied, and whether NR will then be happy with continuing to meet 50% of the RDG’s funding?

Conclusion.

We emphasise the need for the passenger voice to be heard .Many of the issues considered will have a direct impact on passengers. However we are concerned that a statutory RDG may become just another national management layer on top of the local Alliances (which are not separate legal entities) that it has so far been instrumental in creating.

On the other hand we recognise the excellent work the “shadow” RDG is doing, examples of which are

- creating an industry wide graduate training scheme and
- working closely with industry bodies, such as RSSB.

As stated earlier we recommend RDG makes **Passenger Focus** an associate member.

Thank you for the opportunity to respond. We hope our observations are helpful.

Yours sincerely,

John A Moorhouse

John Moorhouse
Company Secretary