Which?, 2 Marylebone Road, London, NW1 4DF
Date: 19th October 2012 To: Philip Willcox, ORR. Response by: Richard Dilks

Consultation Response

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ORR's approach to transparency – consultation response from Which?

Dear Mr. Willcox,

Which? is an independent, not-for-profit consumer organisation with over 700,000 members. It is the largest consumer organisation in Europe. It is independent of government and industry, and is funded through the sale of Which? consumer magazines, online services and books. Which? is a registered charity under the name Consumers' Association. If you have any queries or would like to discuss this further please contact Richard Dilks (tel: 020 7770 7693 or **richard.dilks@which.co.uk**). No part of this response is confidential.

Thank you for the opportunity to respond to this consultation.

The consultation seeks views on ORR's approach to transparency, which it defines as an 'absolute necessity' that helps passengers make better informed choices. It credits transparency with being able to deliver better value for passengers and taxpayers. ORR states that it wants to see transparency hold the rail sector and ORR itself to account; expose industry spending; enable passengers and freight customers to exercise choice; and stimulate the design and introduction of new consumer-led services and products. These aims feed into ORR's more specific strategic objectives and build on a programme of work that has seen ORR publish greater amounts of data in greater detail over the last two and a half years.

Which? welcomes these efforts, while believing that they could be taken further – as we detail below. Our response is organised as follows: our key points about transparency, followed by greater detail on them; a case study on lack of transparency in action (on ticketing); an annex of consultation question responses, including detailed suggestions for ORR's National Rail Trends Portal.

Key points

Data in one form or another will be the key product involved in ORR's approach to transparency.

One of the founding reasons for the existence of Which? is to provide high quality, unbiased and useful information to consumers.

As such we consider that data of whatever kind provided by ORR should be:

- High quality;
- As comprehensive, comparable, understandable and standardised as possible;
- Readily available;
- Used to drive improvements for passengers.

Key points in detail

The consultation recognises the importance of **high quality**[1]. Which? emphasises the need to gather high quality data as an input to the information available to passengers. The principle of 'garbage in, garbage out' is very relevant. There is then a matching need to ensure outputs are also of high quality. Data must be easy to understand[2], relevant and timely. Any known problems with existing ORR data must either be resolved as swiftly as possible[3] or communicated as clearly as possible[4].

Being partially transparent may be just as damaging as not being transparent at all. Comparing like for like is a key part of informing and thus empowering consumers, so making data **as comprehensive, comparable**[5], **understandable and standardised**[6] **as possible** is vital. To some extent there is a natural tension between data being comprehensive and understandable, but Which? considers this can largely be resolved by suitable, clear presentation and functionality that lets consumers interrogate the data in the ways they want to. As we outline below[7], disaggregation plays a role here – with data being as specific as passengers' own journeys. Which? supports the ORR/Passenger Focus research conclusion that passengers want information to 'reflect their own personal experience of train travel'[8].

That data is **readily available** is also important – if very few consumers are experiencing the results of ORR's approach to transparency, the impact of that transparency is inevitably limited. Much good work has been done by ORR in publishing ground-breaking data about the sector, first with the National Rail Trends Yearbook and now with the National Rail Trends

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[1] Para 4.17 on p34.

[2] See our responses to Q1 in the annex below.

[3] Such as with station usage data. The July 2012 issue of *Modern Railways* highlighted several important shortcomings of this data. It has been described as being based on out of date travel matrix, not including Oyster data, resulting in under-reporting of up to 65%: http://www.publications.parliament.uk/pa/cm201213/cmselect/cmtran/writev/rail2020/ror39.htm.

[4] An example is that passenger journey figures are composed of journey opportunities, so that a journey from one point on the network to another may be counted as several journeys rather than just one. This is a change in methodology from the pre-privatisation era and as such we think that it should be given more prominence than its current position in the small print detail of the relevant National Rail Trends Portal pages.

[5] Para 3.30 on p26 recognises a narrower version of this – reporting that ORR has agreed guidelines with train companies to ensure the consistency of data given by them to ORR.

[6] For further detail on these points, please see http://www.which.co.uk/documents/pdf/making-open-data-real-which-response-277278.pdf

[7] See our response to Q1 in the annex below.

[8] Para 3.25 on p25.

Portal. We are concerned, however, to note that only 8,500 people have visited the Portal[9]. This is a very small total in the context of the 1.45 billion passenger journeys on the network in 2011-12.

We welcome the attempts of Chiltern Railways, London Midland and South West Trains (the latter in partnership with the ORR), referred to in the consultation[10], to give passengers greater information on probable train crowding. The latter trial with South West Trains involved posters at stations and some online information telling passengers how likely they are to get a seat on particular trains in order to test passengers' willingness and/or ability to choose less crowded trains. We conclude from the research report that more prominent posters at stations greater effort devoted to online promotion would have resulted in even more encouraging findings. As it was, two thirds who had seen the information found it at least fairly useful and just over one fifth who had seen the information have regularly or occasionally changed trains as a result[11]. We cite this as an example of the importance of data (in this case information on likely crowding levels) being readily available.

Even if large numbers of consumers can access data that meets the criteria above, the impact of them doing so will be limited if consideration is not given to **driving improvements for passengers** as a result. The passenger trains sector does not, on the whole, enable customers to switch provider. Direct competition is extremely rare[12]; indirect competition[13] is a very small proportion of journeys. On many parts of the network high proportions of passengers are effectively captive, with no viable alternative ways to travel. Using data to drive improvements is a next step that would justify ORR's transparency approach and make the sector more responsive to its customers – passengers. This in turn could be to the long-term benefit of both passengers and the sector – if making the sector's costs more transparent leads to a decrease in those costs, which could lead to a halt to above-inflation fare rises[14].

Which? considers it is not enough to rely on passengers to lobby for improvements if they are given more information[15]. We strongly support the proposal in this consultation[16] to establish best practice, partly via publication. We encourage ORR to think of ways that good performance in terms of relevant KPI can be praised and developed while poor performance can be addressed. We agree that transparency 'can also be an effective remedy where competition is being impeded by poor quality or limited information that can undermine negotiation and effective competition between companies'[17]. We welcome the focus ORR has on encouraging stakeholder participation in the development of policy[18]. However, some next steps may need to be firmer, and may need imposition rather than simply encouragement. We therefore also support the ORR's intention to consider using its statutory powers[19].

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[9] Para 3.34 on p26. Please see our response to Q1 in the annex below.

[10] Summarised on p30.

[11] Para 3.56 on p30.

[12] Such as the competing services between York and London, where journey times are comparable between operators.

[13] Such as the various price/route/timing options for journeys between Birmingham and London.

[14] As envisaged by the Government – for example see the 'notes to editors' section of this 7th October 2012 press release: http://www.dft.gov.uk/news/press-releases/press-dft-20121007a/

[15] As para 19 on p9 does.

[16] Para 3.40 on p28.

[17] Para 3.42 on p28.

[18] 15d on p9.

[19] Para 2.23 on p19.

Case study of a lack of transparency in action – ticketing

We note, as ORR does, the existence of DfT's ongoing ticketing and fares review[20]. ORR's own fares and ticketing information and complexity research[21] provides many telling illustrations of why greater transparency matters; of why improving passengers' understanding of how, when and where they can use their ticket matters.

That over 50% passengers surveyed online agreed that it was a 'bit of a lottery as to whether you find the best price for a rail journey or not' is a classic demonstration of asymmetry of information and passengers' inability to interpret what data is available. Given Which?'s own research[22] into confusion about peak times, we are not surprised by the finding that only 26% of passengers were confident of what off peak times are. It's hard to imagine only 26% of road users in London on a given day not knowing when the congestion charge applies.

It is also instructive but not surprising that 70% were unaware (all passengers) you can only travel on specified train with an Advance ticket, with even 37% of those actually holding Advance tickets unaware. This also fits with Which? research[23]. Again, it is hard to imagine this being the case at an airport.

We would definitely like to participate in the seminar referred to in para 1.8 on p13 and would be very happy to discuss any of this response with you.

Yours sincerely,

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[20] Our response: http://www.which.co.uk/documents/pdf/which_response_dft_rail-fares-and-ticketing-review_jun12-299223.pdf

[21] http://www.rail-reg.gov.uk/server/show/ConWebDoc.10937

[22] http://www.which.co.uk/news/2010/08/train-tickets-peak-rate-stretches-after-11am-225626/

[23] As referred to four times in the ORR's fares and ticketing complexity report.

Annex – responses to consultation questions

Q1: We would like to hear consultees' views on the content and functionality of the NRT Portal. For example:

> *· Is our strategy of publishing official statistics and other key performance metrics, while encouraging the industry to publish everything else, the right approach?*

Which? would prefer to have all data gathered in one place for passengers to access conveniently. This does not of course necessarily mean that such data must all originally be published by ORR (for example the integration of ORR's statistics with National Passenger Survey data, as already exists in the NRT Portal, is valuable).

> *· Is the NRT Portal an appropriate dissemination method for rail statistics?*

Yes.

> *· Does the current content and functionality meet users' needs, and if not, how can it be improved?*

Yes, it can be improved. The titles of each link should be clearer and grouped by readily understandable themes. The overall layout should have a palpable hierarchy with a series of summary data, clearly labelled as such. We question the need for a login to create bespoke reports. We believe there should either be separate sections of the Portal for passengers or industry, or a re-orientation of the Portal towards passengers. ORR should research what information passengers most want to see, alongside internal consideration by ORR of what data would be most useful for passengers, and in what format.

We now make **detailed suggestions** for ORR's consideration on what should be in the NRT Portal.

In its response to BIS' Midata consultation[24], Which? specified what details it thought desirable for consumers to get from various industry sectors. For the trains sector, Which? suggests data be available in this order of preference:

- Journey level by operator (e.g. Leeds to London with East Coast, Leeds to London with East Midlands Trains);
- Route level by operator (e.g. First Hull Trains on the East Coast Main Line);
- Regional level (e.g. Yorkshire and Humber);
- Operator level (e.g. Grand Central).

Further, it would be valuable if data could be analysed at owning company level (e.g. Stagecoach).

In more detail, Which? suggests the NRT Portal has:
- Data available over a range of recent time periods, alongside more historic data;
- Real-time punctuality and reliability figures alongside PPM figures;

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[24] Please see http://www.which.co.uk/documents/pdf/making-open-data-real-which-response-277278.pdf

- Frequency at journey or route level, with easy to make comparisons between comparable (i.e. with similar passenger loadings for distance travelled) journeys and routes with other operators – in line with the points recognised in the consultation on comparability of service level[25] and need for benchmarking[26];
- Investment in track data at journey or route level, displayed alongside age of trains run and per mile fare data for all ticket types at journey or route level, in turn compared both within an operator and between other comparable operators;
- Train facilities data for an operator's fleet, alongside age of trains;
- Overcrowding data with an indication as to how reliable this is[27];
- Existing government subsidy data mapped to journey level if possible, route level if not, and mapped against the fares data detailed above;
- Train leasing cost data, with comparisons to other operators;
- Complaints data, building on the good work in the National Rail Trends Portal currently[28].

We think these data from the National Passenger Survey would be particularly relevant to passengers and should be mapped against the data above:
- Cleanliness and repair;
- Ticket buying facilities;
- Station upkeep and repair;
- Staff availability;
- Speed of journey;
- Value for money – mapped against the fares data listed above;
- Onward connections;
- Toilet facilities;
- Crowding – mapped against overcrowding data listed above;
- Delays – mapped against compensation listed above.

Which? directs ORR's attention to the twelve recommendations and other findings of the UK Statistics Authority report of June 2012[29].

> · *What role should other industry bodies and third parties (for example application developers, passenger bodies and rail companies) play in the dissemination of rail statistics?*

We consider the Portal needs to be much more widely promoted, in light of the relatively low numbers of visitors. ORR should engage with relevant stakeholders and media who in turn can reach larger audiences to substantially raise the numbers of visitors and so the numbers who are gaining value from this data. ORR should also engage with the developer community to see how data can be most usefully displayed and disseminated, including for smartphone access.

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[25] At the start of section 2 on p14.

[26] Para 2.7 on p16.

[27] For instance highlighting where automatic passenger counters exist and where they do not.

[28] We note that TfL has recently released complaints data across its network. Consideration should be given to displaying complaints in the most meaningful way possible. As an example, the way TfL stacks numbers of complaints against numbers of journeys – see http://www.tfl.gov.uk/assets/downloads/corporate/Part-1-Item05-Commissioners-Report.pdf

[29] Assessment Report 212, available from www.statisticsauthority.gov.uk

Q2: We are interested to hear views on what other areas of our work consultees believe should be published and why.

We believe it would be interesting to have a focus on passengers in this – for example publishing progress updates on passenger-facing work such as that to improve ticket vending machines.

Q4: We would also be interested to hear views on the benefits and otherwise of duty holders reporting on best practice by the publication of specific KPIs.

While it is difficult to comment on this in the abstract, we support this so long as the KPIs are consistently applied, relevant and kept under appropriate review. We believe in the benefits of publishing comparable and high quality information on organisations' performance and practices.

Q5: We would be interested to hear consultees' views as to the potential use that could be made of Network Rail historic performance data. In particular the extent to which this data provides a means by which the market, via third party developers, could meet consumer demand for real time train information products and services and/or information about performance at even more disaggregation than the current route sector publication.

We are pleased to find a focus on Network Rail included in this consultation and these questions, alongside the focus on train and freight operating companies and passengers. We are also pleased to see the reference to TfL's data practices included in the consultation and encourage ORR to seek other examples to help Network Rail to focus on its ultimate customers – passengers.

Q12: Consultees views are sought on how we should go about evaluating the risks and benefits of more transparency and what factors we should take into account, including how we should measure whether our objectives for transparency are being achieved.

We direct ORR to the recommendations of the Dr. Kieron O'Hara report for the Cabinet Office on privacy and transparency.