

Transport Committee

Oral evidence: [Scrutiny of the draft Rail Reform Bill](#),
HC 584

Wednesday 22 May 2024

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[Watch the meeting](#)

Members present: Iain Stewart (Chair); Jack Brereton; Sara Britcliffe; Fabian Hamilton; Paul Howell; Karl McCartney; Grahame Morris; Gavin Newlands.

Questions 288–327

Witnesses

[II](#): Andrew Haines, Chief Executive, Network Rail, and Lead, Great British Railways Transition Team; and Lord Hendy CBE, Chair, Network Rail.

Written evidence from witnesses:

- [Network Rail / Great British Railways Transition Team](#)

Examination of witnesses

Witnesses: Andrew Haines and Lord Hendy CBE.

Q288 **Chair:** Welcome to our second panel, on our final day of scrutiny of the draft Rail Reform Bill. Before we get into the questions, I invite our witnesses to state their name and organisation.

Lord Hendy: Good morning. I am Peter Hendy, Lord Hendy of Richmond Hill, and I am the chair of Network Rail.

Andrew Haines: I am Andrew Haines. I am the chief executive of Network Rail and the lead for the Great British Railways Transition Team.

Q289 **Chair:** Thank you. We are very grateful for your time and evidence this morning. If I may, I will start with the question that I put to you, Andrew, when you appeared before the Public Accounts Committee. In the evidence we have received, there is a great wish that GBR does not become Network Rail 2.0. Given that Network Rail Infrastructure Limited will be the corporate entity, how do you intend to ensure that that culture does not just transfer over?

Andrew Haines: As I said when you posed that question to me at the Public Accounts Committee, it would be a criminal waste of an opportunity if we replicated that culture. The railway culture is not fit for purpose across the piece at the moment. It is a culture that has been driven by contracts, which have driven adversarial relationships where you spend more time blaming each other than serving the needs of passengers and freight users. We—Network Rail—play a large part in that, because the incentives on us currently drive us to manage and comply with the contracts.

We believe that the integrated rail body is the best solution to that, because it makes the infrastructure subservient to the whole system. Rather ironically, integrating Network Rail within that system is a fundamental plank of that, because it means that the infrastructure manager will no longer sit outside the service provision, worrying just about assets and its contract. It will have responsibility for delivering to passengers and freight users in a way it currently does not, under its licence. The fundamental thing that will change the culture is making the profit and loss account that delivers for the end users of the railway the central plank of how you manage.

Q290 **Chair:** Thank you. Is using NRIL as the corporate entity the best way of creating GBR, or are there other models that we could explore, such as setting up a new parent company of which Network Rail Infrastructure would be a subsidiary?

Andrew Haines: There are two things. One is just the sheer logistics. Network Rail—the railway infrastructure, whatever name you give it—is a big beast. There are over 40,000 of us. There are millions of assets and thousands of contracts. You could set up an entirely new entity, but you



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would create a huge amount of bureaucracy to transfer all those people, assets and contracts to the new entity; and you would transfer them all, because all the contracts and assets would novate, and all the people. You could go through the pretence of creating something very different, but all those things come. Importantly, if you create an infrastructure subsidiary within that body, you risk perpetuating the current fundamental issue; you allow infrastructure engineers to manage infrastructure engineering without looking at service to users. That is why we are so passionate about the infrastructure being subservient to the overall users of the network. If you create an isolated silo within GBR that just looks after infrastructure, you risk perpetuating all the negative behaviours that we have seen over the last 30 years.

Q291 **Chair:** Thank you.

Lord Hendy: It seems to me that the counterfactual of that, if you don't want to make NRIL into GBR, is that, as Andrew says, you leave the infrastructure in a separate organisation. If you think it is introspective now, and do not think that the contractual circumstances of Network Rail properly serve passengers and freight, it is even more likely, if you leave it as it is, that it will continue to look inwards and not outwards. My previous experience of running an integrated transport organisation—although a smaller one—in London, is that although the infrastructure is a very important part of running a railway, it should be subservient to the desire to serve passengers and freight properly at the right cost to passengers and the taxpayer.

Andrew Haines: The majority of my personal experience is in the train operating field, and three of my five regional managing directors are train operators by background. The reason that has not resulted in a transformational culture in Network Rail is that the culture is a function of the incentives and contracts that we work to.

Q292 **Chair:** We have heard from other witnesses that the Bill is just one piece of a much wider jigsaw. Are you broadly content with the approach that the Government are taking, that the Bill is small and focused and that much of the other detail—the other infrastructure for reforming the rail industry—will sit around it? Is that the right approach, or would you like more to be specified in the Bill?

Lord Hendy: That is a great opportunity for me to say on our behalf that we are totally committed to the reform of the railway. I had the misfortune to be chair of Network Rail in the timetable crisis of May 2018, which was at least partially our responsibility. The work that has been done since then persuades us that, without a doubt, rail reform is the right thing to do. We are totally committed to it. We are delighted to see the Bill. Our only disappointment is that it will not go through in this parliamentary Session. It is absolutely the right thing to do. The Government have chosen a short Bill. It would be extraordinarily hard to blame them for that. In view of that, there are things that need to be done in secondary legislation, which no doubt you will come on to. We



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don't mind a short Bill. What we really care about is fixing the railway for its customers. If this is a contribution to it, it is great, frankly.

Chair: Thank you.

Q293 **Karl McCartney:** You both have vast experience in the rail sector and transport but I will ask Andrew this, given your previous roles. In its infancy the Strategic Rail Authority was, maybe, handcuffed by the Department for Transport and, ultimately, the Treasury; but just prior to, and post, the 2005 general election, it was probably getting to grips with what it was tasked to do. Have you learned any lessons from that, or taken anything forward to where we are today and what you would like to happen in the near and middle future?

Andrew Haines: It is a really good point, because the Strategic Rail Authority had a lot going for it but it was not able to direct infrastructure. It could make recommendations, it produced studies and it had a long-term strategy, but the infrastructure entity was entirely divorced from it. That, I think, was the fundamental flaw. The big lesson that we have learned is that, as this is an integrated rail body, it will be the first time since 1994 you will be able to look at the system as a whole and say, "What outcomes does the taxpayer want? What do passengers and freight users demand of the railway? What is the best way to use public and private sector resources to bring that together?"

Q294 **Karl McCartney:** Lord Hendy.

Lord Hendy: Yes, Andrew is right. If I cast my mind back to the Underground, which was part of TfL, which I ran for nearly 10 years, running the infrastructure—with the aberration of the PPP, which did not last long enough to get into the culture of any organisation—you manage the train service for the benefit of the customers. You can make many changes either with the trains you have, or the staff on stations and the drivers. Only if you needed to spend money on infrastructure would you do so.

One of the difficulties that we face is that our solutions necessarily have to be infrastructure solutions, because we are an infrastructure organisation. The infrastructure is the last place you should go when you have exhausted the other, cheaper and quicker methodologies for altering the service for the benefit of passengers and freight. I found it strange, and still do, that we talk about solutions only in terms of infrastructure and, a bit, in terms of signalling, because we are responsible for its operation, when actually we should be solving the issues that occur in the management of the railway in an integrated way of which infrastructure is only a part. It is an important and costly part, and needs to be looked after, otherwise we prejudice the safety of passengers and our employees, but it is only a part of the solution.

Q295 **Karl McCartney:** A bit like the Circle line, which is not really a circulatory route any more, but a teacup service.



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Lord Hendy: Well, yes, I think that is one of the few service changes that in my time I actually discussed with the Mayor. The other principle that I think you would want to see is that the railway was run by a competent and effective management, at the direction of the Government, because it is public money; but the detail of it should be managed as an integrated railway, locally and regionally run for the benefit of passengers.

Q296 **Karl McCartney:** I only pointed that out because I worked on it myself, when I worked for you, but you wouldn't have known me then.

Lord Hendy: It was one of the more controversial changes to change something called the Circle line into something that wasn't a circle. I think the frying pan line wouldn't have gone down quite so well.

Andrew Haines: May I add one more point to reflections on the Strategic Rail Authority? It was abolished in 2004, but something we lose sight of is that even post covid we are now about 80% up on rail utilisation, compared with where we were in 2004. A lot of the issues that have driven this legislation are a function of a network that is now much more congested, in both track capacity and train utilisation. The ability to optimise the system is much more acute. It was less of an issue for the SRA because there was more spare capacity. I was running South West Trains, one of the biggest train operators at the time, but we had nothing like the levels of congestion, on either track or train, that are currently being faced, even with the post-pandemic drop-off. That is why the Bill is very timely.

Karl McCartney: Yes, that was why I put the question to the Scottish representative in the previous panel. Certainly, it is a real problem on the east coast, and an issue that is not going away. Thank you.

Q297 **Fabian Hamilton:** That leads us, gentlemen, to the next question, which is relevant to the replies that you have already given. Are you confident that the IRB will have sufficient independence from the Secretary of State to carry out its stated aims?

Lord Hendy: It seems to me to be quite inevitable. The Government put a huge amount of public money into the railways and it is naive to suppose that the railway could be run without some degree of direction by the Secretary of State. I cannot see how you could possibly suppose we would think it should somehow be so independent that it would spend huge sums of public money without direct accountability to the Secretary of State.

In the end, it depends on the attitude of the Government and the Secretary of State, and the competence of the management. As I said earlier, I have some experience of running a transport organisation at the direction of a politician—spending public money. It seems to me that the Bill, as we have read it, allows us the opportunity of sufficient flexibility to do that. It depends on the Secretary of State and the Department not wanting to take decisions at the current level of detail. You would not



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expect to be directed on the length of individual trains, the times they left or the stations they stopped at, but you would expect direction about what the Government expects of the railway, in terms of its effect on the economic life of the country. One of the reasons why politicians of all parties are so keen to invest in the railway is that it is so crucial for economic growth, housing and jobs.

Would we expect a lot of interaction? Of course we would. Would we expect to account for what we were spending? Of course we would. Would we expect the Secretary of State to look at the business plan that is rightly specified in the legislation and decide whether it accorded with the Government's aims for transport? Of course we should. You might, as we certainly do, meet people—maybe not in these sessions—who say, "Why are these politicians interfering so much in the railway?" The answer is that it is crucial to the economy and for economic growth, and that we spend a huge amount of public money and we should be accountable for it. It is to the Secretary of State that we are accountable.

Q298 Fabian Hamilton: Thank you for that. Mr Haines, has the Bill got the balance right? Obviously, you need operational independence, but clearly you are accountable. It is a balance, isn't it. Does the Bill have the balance right, and are you convinced? I think Lord Hendy mentioned earlier that he is not sure that the Bill will become law by the end of this Parliament. Do you have a view about that?

Andrew Haines: For me, the Bill has the right balance because it requires the body to set out a business plan, which is the basis for that agreement, if you like. It gives power to the Secretary of State to issue statutory directions, but we know that generally speaking there is quite a high threshold for Secretaries of State in all Departments before they do that, and they have to act in consultation.

Ultimately, as Peter says, it will come down to two or three things. The first is the appetite of Ministers at any particular time. Interestingly, the current Secretary of State and the shadow Secretary of State have both said that the level of political intervention is unhelpful, so I don't think there is any political dispute about that. Secondly, it would clearly depend on the competence of the body. No politician is going to sit back and watch people fail and do crass things. Related to that, the third thing is that we have to demonstrate that when things go awry, as they will in the railway, they are dealt with effectively. A lot of the current level of intervention is not enshrined in legislation; it is a consequence of things that have gone wrong in the system. The ability of the integrated rail body to lead competently and self-heal will be critical to confidence in politicians.

Lord Hendy: Perhaps I could add, from experience, that the Williams review arose from the May 2018 timetable change. I was a witness to the then Secretary of State trying to wrestle between the different parts of the railway and find out what part they played in quite serious economic damage that was caused in two parts of the country by the failure of the



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railway to run an efficient and reliable service. That is an appalling position to put an elected politician in. He should have been able to say, "You're in charge of the railway. What are you going to do to fix these problems?" The fact that nobody in the railway at any level could account for the total performance of the railways is the starting point for where we have got to. As Andrew says, you cannot overemphasise the fact that the management of the integrated rail body has to be competent. That is a judgment that politicians will have to make in appointing the management; but they should then expect the management to be able to run the railway, and account for its performance.

Q299 **Fabian Hamilton:** This Bill adequately begins that process.

Lord Hendy: We think so.

Andrew Haines: Yes.

Q300 **Chair:** I have a supplementary to Fabian's question. There will always be times when a choice of investment in the railway will be, ultimately, a political one. There won't be the budget to do everything that everyone wants. Hypothetically, let's say there is some investment in the west coast main line that creates an extra peak-time path up the line. That could be used for freight, for a commuter service to Milton Keynes or for an additional express intercity service. Different parts of the country, Members and councils will lobby for their preferred outcome. Is that a scenario in which the Secretary of State could legitimately intervene, or should it be left for the IRB to make the best industry choice?

Lord Hendy: Let me give you a parallel from my Transport for London days. We had a long-term business plan that set out the transport interventions needed to deliver the London plan. This is a consistent process set down by the Greater London Authority Act 1999. The consequence of that was a list of capital interventions in the railway and other transport systems in London. We diligently went away and looked at what needed to be done to achieve them, how much it cost, how long it took, and what the business case was. That list was then presented to the Mayor—quite rightly, because he had to pay for it, in effect—and he made some choices on it. We presented it in order of the best things to do for the business case and the money in the timescales.

Those are reasonable political choices. If I were the Secretary of State, I would want that list to be ordered in a way that enabled me to see clearly what the right choices might be. If we were the management, we might argue for some of them. It is my experience that both Mayors, who were of very different political parties, chose different things on the list. They did not always choose No. 3. They generally chose Nos. 1 and 2, because we could prove that they were the best interventions.

It would be a bit of a shame, in hypothetical circumstances, if we were to argue with a Secretary of State about one train path, but I would like to think that whoever was in charge could look at a list of investments in the



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railway and make a rational choice about the best ones to do for the economic future of the country. Of course it would be more difficult, because it would be geographically based, from Wick to Penzance, and to the extent that devolved authorities would be involved in their own choices. There will have to be some choices made and I would think they should be viewed politically, because the ones at the top of the list will be vast sums of money, won't they?

Andrew Haines: A very specific example you gave was where taxpayers invested in creating new capacity. It seems to me entirely reasonable that a publicly funded investment would be used for the intended purpose. The irony of the current situation is that the taxpayer invests in the infrastructure upgrade but has no way to be satisfied that it will be used for that purpose, because the paths are allocated in a way that is entirely contractualised and there is no guiding mind to optimise the use of the capacity.

Q301 **Chair:** Would you like the circumstances in which a Secretary of State can intervene to be listed in the Bill, or would that not be helpful?

Lord Henty: I wonder how much of that you can do. In the past five years we have had covid, which was an extraordinary thing for the country, in the nature of a world war or something. I don't know whether I am clever enough to draft an exhaustive list. I don't recall that in previous days the British Railways Board ever had such a list. Certainly, there was no list when I ran Transport for London. The Mayor asked me what he wanted—not too frequently, but enough to make sure that he was in charge and knew what was going on. I would find that difficult. Andrew, do you have a different view?

Andrew Haines: No. I would, not least as a taxpayer, have difficulty with the idea that the public would be investing so heavily in the railway system but there would be no meaningful conversations to hold an integrated rail body to account. It would be artificial, because it does not seem credible to me that people would not be talking about those things. As I said before, history tells us that Secretaries of State use direction quite sparingly. They are conscious of the threshold and they need to consult. I do not regard that as any threat to the effective operation of the IRB.

Q302 **Chair:** The reason I ask is that some witnesses have said that there is concern that a future Secretary of State will not be able to resist the temptation to meddle and, therefore, however it is drafted, it should be possible to intervene only at the strategic level.

Lord Henty: Were this Bill in law today, a future Secretary of State could never intervene as much as the current Secretary of State and Minister have to intervene now, because of the nature of the huge number of granular decisions they are given as a consequence of the Department's direct involvement in specifying the train service. I do not think that this is something we would worry about unduly. We are trying



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to argue out of the position we are in now, where the Department has such granular control of those things without being able to see the whole of the railway.

Q303 Grahame Morris: There are a couple of points I am interested in clarifying, and part of it arises from an earlier response you gave to the Chairman's questions at the beginning. Andrew, when you appeared at the Public Accounts Committee in April, and you kind of repeated it today, you said, "the system cannot promise to deliver in return for the taxpayer's input, because the system does not function as a system; it functions as a series of different actors at the moment."

The draft Bill does not envisage anything other than an extension of the role of the private sector, so there will be at least 30-odd companies operating trains, and there will be active encouragement to more open access operators. It is possible to quantify the cost of fragmentation. I seem to recall that it is about £1.5 billion a year. How can we be confident, with all these separate actors, that they will speak from the same script rather than their own? Can we be confident that, under the draft Bill, we will have an end to fragmentation and all the actors playing their part from the one script?

Andrew Haines: The Bill does three things that significantly improve the ability to manage the bits of the system that are best managed as a system. It absolutely allows, still, for private freight operators and open access operators, and for devolved Administrations to specify. The first of the three very helpful things that it does is to bring together the specification of the contract for the vast majority of operators, alongside infrastructure, so that you do not get misalignment of specification of infrastructure output and train operator output. It puts a requirement on the ORR to take into consideration the access use policy of the new body, which would be designed fundamentally to look at system optimisation. It also requires a business plan to be published, which would set out the aspirations of the integrated rail body. Yes, there will of course still be other actors, so there will need to be co-ordination, and there will be some issues around that, but those three fundamental planks are things that are not currently there, and they add significantly to the ability of the railway to deliver as a system.

Q304 Grahame Morris: There is no proposal under the Bill to repeal the 1993 Act. Although there are, I think, seven franchises being run by the operator of last resort—by the Government—that is a temporary arrangement, isn't it, because there is a ban, arising from the Act, on the UK Government permanently being an operator of rail franchises? Mind you, 70% of our trains are operated in whole or part by foreign states. Should we be looking to repeal the 1993 Act, to give flexibility? We heard earlier from the Cabinet Secretary from Scotland, who raised concerns about the issue.

Andrew Haines: The decision to maintain private operators is a political decision, but the Bill allows the specification of infrastructure to be done



alongside the specification of those contracts. That is what allows this to be a truly integrated rail body, as the Strategic Rail Authority, for example, was not.

Grahame Morris: It would not preclude the repeal of the Act—assuming we had a change of Government. Thank you.

Q305 **Chair:** Can I ask you to comment on the proposed role for the ORR in the new structure? Do you think it is the right proposal, and, if not, how would you like it to be drafted?

Lord Henty: There is a lot that the Bill would bring that would make the railway easier to run. Andrew has more experience as a regulator, albeit in a slightly different environment, but I am hoping that the provision made in the Bill and the use of secondary legislation would make suitable alterations to the ORR's role, to make the railways easier to run. If you set aside the safety regulation, which is crucial, it is important that entities on the railway such as open access and freight operators have a right, and a right of appeal, because the IRB will be making some choices about how the railway is used. Andrew, do you want to say some more?

Andrew Haines: For us it is important that the powers to amend the access management regulations are included in the Bill, because we have ended up with an odd situation whereby very detailed parts of regulation are now enshrined in law in a way that was never intended in the original architecture. As a result of EU legislation in the first decade of this century, things that were part of the ORR policy, which the ORR could change, albeit in consultation with stakeholders, have been enshrined in secondary legislation. That creates some anomalies. We cannot change the date on which timetables are published. There are very prescriptive rules about what performance regimes need to do. There are delay attribution codes. A phenomenal level of detail is now enshrined in secondary legislation. That is why we think the powers in the Bill to amend those are crucial.

The issues are not so much about the fundamental duties of the ORR, which are amended, with a requirement to take into consideration the access use policy; the issues are with a system that has been set in stone because so much is now enshrined in legislation, albeit mostly secondary legislation. We would be very supportive of retaining the provision in the Bill around the ability to alter those regulations or, indeed, ultimately, dare I say it, to take them out of secondary legislation.

Lord Henty: And for the avoidance of doubt for the long term. If you go back to covid, it is quite hard to see what might happen. We are not going to get a Rail Reform Bill in every parliamentary Session, so whatever is done will have to last for a long time. In our view, attempting to time-limit the opportunity to change those would be wrong.

Q306 **Jack Brereton:** First, I want to ask you again about how we get the balance right. We have seen an increasing trend of involvement of the



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Department, but we haven't seen it go the other way. Mr Morris mentioned the number of operators who are now operators of last resort. We have never seen any go back the other way. How do we ensure that we see that trend and a move away from the Department being so involved in the day-to-day running and move towards the policymaking it should be focused on? How do we make sure that that actually happens? Thus far, we have not seen the trend come back the other way. Andrew, do you want to start?

Andrew Haines: The Williams review, which was the genesis of this draft Bill, was commissioned because of three things. The first was the May 2018 timetable. Secondly, there had been the failure of a further franchise, LNER, and the view was that others were likely to fail. The third was that there were just too few bidders for the contracts that were coming forward.

For me, that is at the heart of it. If you want to create a vibrant private sector market for train operators, there need to be contracts that are attractive and risks that the private sector can reasonably bear. The reason that people were not bidding for those contracts was that the value of the risk that they were being asked to take was a multiple of what it was when the contracts were first let because the value of the revenue was that much greater. What was an acceptable risk in the 1990s was not an acceptable risk at the end of the last decade because the value of the risk was just too great.

The idea of having contracts that are attractive to the private sector is fundamental to this. It allows you to go back into competition. A key piece of work, as part of the overall rail reform programme, is to develop those contracts. That has been put into abeyance because of covid and what it has done to change that completely. What we hear from the private sector is that they want contracts that are lower risk, but they need certainty about the architecture as well. There was no point in letting contracts for train operators all the time that the question of whether there was going to be GBR and an integrated rail body was left unanswered.

Q307 **Jack Brereton:** Lord Hendy, do you have confidence that the Department is going to let loose more and allow the dial to return to a more stable position?

Lord Hendy: I do. You may be worried about the Government interfering in the railway in the future, but they are closely engrossed in it now. If you stand back and look at it, the purpose of the Bill is for the Government to step back from the granular detail that is currently filling up the Minister of State's and the Secretary of State's box. I cannot envisage any circumstances where as a result of this Bill there would be more Government attention to such detail.

Andrew Haines: It is almost not possible.



Lord Hendy: It is almost not possible, as Andrew says. The intention of this, surely, is to get the Government to say what they want out of the money that they pay for the entire British railway system—they want the most that they can get for the least money—to devolve the decisions to a body and then to have that body deal with them, almost certainly regionally, because that would be the way to do it. That takes the decisions out of the Government's purview and out of the Department's systems.

Q308 **Jack Brereton:** I also want to ask about how we attract more private investment. When it comes to infrastructure in particular, we have not been as good as other countries at attracting private investment to help to pay for not just some of the operations, but also the infrastructure costs. We know that the amount of public money is ever decreasing. Andrew, what more do you think we could do? Why haven't we been as good at attracting some of that infrastructure investment from the private sector?

Andrew Haines: Typically, infrastructure investors want stable returns to people investing in infrastructure. They are not looking for very high yields, but they are looking for predictability. Typically, they tend to be pension funds. We know that there is a lot of money out there. We think that having a long-term business plan and a degree of separation from Ministers helps with that. We are hoping to announce very soon a significant private sector intervention in the replacement of Network Rail's fibre network, because the ability of the private sector to utilise the spare capacity meets Treasury criteria.

We think that the new body needs to be incentivised to do that as part of its business planning processes, so that it is not overly dependent on public funds. We are very supportive of moves to create a joint development corporation, which will allow us to utilise and harness a lot of the land. Network Rail is currently the second largest landowner in Britain—second only to the Crown—so we have very significant assets. The ability to utilise those to bring in private sector contributions is very significant.

We think that there are real opportunities. A stable platform, with strong incentives set by Government as part of the business planning process, will do that. Peter can talk about how that is being done in TfL as well.

Lord Hendy: Sure. A crucial part of the business plan that is required from the IRB in this Bill is to talk about the sorts of investments in the railway that might be recommended to Government. Actually, it is by listing them, by showing what could be done, that you can go to people who would benefit from them. I am sure that we have discussed this before here. You go to people who might benefit from them and say, "It's more likely to happen if you put some money in." When I left TfL, most of the bigger items in the investment plan had some element of third-party funding from developers and other people who would benefit from the investment, were it made.



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One of the weaknesses of the current system is that everything is uncertain. Nothing can be certain enough for anybody to indicate that they are really keen to put any money in until the day the Government announce it. Then everybody keeps their hands in their pockets, because why would you bother when the Government have said that they are going to pay for it? A pretty outstanding example of that is the skyline in Birmingham, which is full of cranes, waiting for HS2, but none of the people who have owned the land or are developing it have put any money towards the scheme itself, which is being paid for by the taxpayer. I would not claim that the funding arrangements for Crossrail, for example, were perfect. Looking back on it, I think that we could have extracted still more money out of people who are beneficiaries, but it had significant elements of third-party funding.

One of the anticipations that we should have of an IRB in this Bill is that when it presents the sorts of things in which Government could invest to the Secretary of State, it is able to say how much can be got from third parties. It is not terribly difficult to do, actually. Only yesterday, we were discussing with the Secretary of State and the Minister of State how we might achieve it, even in quite small schemes such as Access for All. Third parties benefit from that, and it is not right that the railway and the taxpayer should pay for the whole of the benefit. If we go out and try hard, as we have done in certain specific circumstances, we can get the odd £500,000 or £1 million from people to put into the scheme. Therefore, the scheme should go up the list.

Andrew Haines: You will know that there are examples of opportunities for other parties to invest in Stoke, where we as Network Rail have a legal duty to protect our asset and we cannot take into consideration what might be wider benefits to the system as a whole. That creates perversity as well. As a system, we do not optimise local authority funding, developer contribution or true private sector, third-party opportunities. That is why the integrated P&L is so important, as opposed to an infrastructure body that is statutorily required to protect its assets because it does not benefit from a growing railway system.

Q309 **Jack Brereton:** We have talked about access and management regulations. There are concerns that some of those changes may favour some operators over others, particularly around the vertical integration of track and train. How are we going to make sure that some operators and users of the railway are not disadvantaged by some of those changes?

Andrew Haines: First, we still have an independent regulator that has very clear duties. Secondly, it is very clear that the licence will continue and there will be licence obligations on the entity. Thirdly, any changes to the access and management regulations will be subject to significant consultation, as is required. All those three things give real protection from any misuse of that opportunity. It is really important that, as a system, we are able to be more responsive. We are anomalous in having so many of our normal methods of working—our abilities to flex and



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respond to demand—being constrained by legislation. I do not think that there is another entity in the British system that is so constrained in that regard. That does not work in the interests of the users.

Q310 Jack Brereton: Lord Hendy, do you think that these changes will facilitate more competition and choice for passengers by attracting alternative operators to the network?

Lord Hendy: I am pleased that you mention passengers. In the previous question, you talked about favouring one operator over another. I think that the primary intention of the railway is to create connectivity for passengers and freight. The integrated rail body must make its decisions in the light of the best benefit to passengers.

Is that likely to encourage competition? It is likely to encourage the right sort of competition, provided that that is the Government's intention. There is no reason why not, but you would want the decisions that it makes and the appeals that are made against it to be made primarily on the basis of passenger or freight benefit. That is the point of the railway. It is the point of the operators. Sure, they have contracts and commercial interests, or public interests, if they are owned by the Government, but the overall intention of the railway is what we are talking about here. That is what the IRB should be concentrating on.

Q311 Gavin Newlands: I am conscious of time, so I will try to move this along. What is your understanding of the conditions that would be placed around the requirement for the IRB to produce a business plan?

Andrew Haines: The Bill itself does not give specific provisions.

Q312 Gavin Newlands: That is the question.

Andrew Haines: It fits into a broader context. There is still a lot of requirement in the Railways Act. I listened to the Cabinet Secretary in the Scottish Government talking earlier. For example, there is a very detailed HLOS statement issued by the Scottish Government as part of the Act. The idea that the business plan would not have to incorporate that seems to me not to be credible, because there would still be separate legislation. You would not want two parallel issues.

Lord Hendy: It must be that it has to be interpreted. I think it is very helpful that it is generalised. Every investment in the railway lasts longer than one parliamentary term. Most of the money we spend lasts 50 to 60 to 100 years, so you would want to see a long-term plan, and the budget and business plan on a short-term basis being an interpretation of what meets the bottom line from the railway in P&L terms, which is demanded by Government. It is not difficult in my head, and I do not think that Andrew sees it as difficult in his head, to interpret how that must look.

Andrew Haines: Absolutely.

Q313 Gavin Newlands: You rely on your interpretation. People can interpret



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things in different ways, potentially. Do you think that more should be on the face of the Bill to make it easier to interpret, if you want to put it in that way?

Lord Hendy: For me, it is so obvious that I don't think that it needs to be said. The level of detail is what would have to be produced in order to answer to the Secretary of State, and, indeed, to Parliament, about what the railway was doing. It would be absurd if it was so high level that you could not see what individual investments were going to deliver. In fact, it would be good for individual investments to have more transparency than they currently do.

Q314 **Gavin Newlands:** You referenced a parliamentary term. I think that is how you put it. Your point is that it is a five-year business plan. Given the timescales for the railway, which you have alluded to, and control periods, why should there not be a 10 or 15-year business plan, as opposed to a five-year plan? What is the point of a five-year plan?

Lord Hendy: If that is what I said, I didn't mean to say it.

Q315 **Gavin Newlands:** That is what I am saying.

Lord Hendy: Right.

Q316 **Gavin Newlands:** I am interpreting what you said.

Lord Hendy: It is inevitable that it has to be a much longer-term plan, of which there is a near-term element that is very clear about what the railway will do in the next year and the next two, three, four and five years. You have to plan big investments long in advance. It is not a failure. Quite simply, it is evident if you invest in some of the things we are talking about. We have a big scheme to invest in digital signalling for the 21st century. That will inevitably go on, probably beyond my lifetime.

Andrew Haines: The Department for Transport has asked us to develop a long-term strategic plan. That is very much a 20 or 30-year plan. I would love to say that there was a cheque from the Treasury for 10 or 15 years, but it is not credible to think that you are going to get that level of certainty for your operating expenditure. Indeed, when the railways experimented with very long franchises, in practice they ended up with break clauses, because it does not suit anyone to be tied to a funding stream for 10 or 15 years that cannot accommodate shocks or changes.

Q317 **Gavin Newlands:** You said that there would be a longer-term plan, but with a short-term element.

Andrew Haines: Yes.

Q318 **Gavin Newlands:** I don't want to put words in your mouth, but would you prefer a long-term business plan that is updated every five years? Andrew, you brought up the long-term strategy. How does that business plan relate to the long-term strategy for rail?



Andrew Haines: You could play that either way. You make a very valid point. Understanding the interplay between a long-term strategic plan and the five-year cycles of funding is something to be worked through. I am not a legislative expert, so I don't know whether that is appropriate on the face of the Bill.

Q319 **Gavin Newlands:** I don't either.

Andrew Haines: It feels to me that a level of detail is probably not necessary in the Bill, but I can absolutely see that that mechanism is necessary and it is going to be really important. The significance of that longer-term funding is that railways take a long time if you want to do significant infrastructure interventions. The trans-Pennine route upgrade has been 10 years in the preparation. We are getting under the skin of it now. It will be another 10 years before it is complete. That is a 20-year programme, so having visibility of that and understanding that you are funded for the costs and accountable for delivering the revenue benefits is really important.

Lord Hendy: We can demonstrate that the five-year operations, maintenance and renewal funding of Network Rail has produced circumstances where the money is more wisely spent and more efficiently spent. Very importantly, it also gives the supply industry some confidence in employing and training people and investing.

In my life at Transport for London, the amount of our capital plan that was funded by the Government varied according to the circumstances. Following the financial crisis of 2008, it reduced quite dramatically. I do not think that the railway can expect to be immune from those shocks, but we can make the case for long-term investment. Equally, the Government will want to see some short-term budgeting, simply because they have other things to spend their money on as well. We would not expect a total commitment for long-term operational funding. It would not be realistic.

Q320 **Gavin Newlands:** When might we see a long-term strategy for rail?

Andrew Haines: Realistically, I suspect that that will probably now be after the next election.

Q321 **Gavin Newlands:** I thought that you might say that, to be fair. I have a couple of quick supplementaries. You are part of the transition team. How does the IRB, or GBR—whatever you want to call it—see its future relationship with trade unions and staff working out? In the end, might we see a potential return to national bargaining, or do you still envisage it being completely down to each specific operator?

Andrew Haines: All the time that we have private companies, my understanding of employment law is that they will be the employer. Therefore, that would not constitute national bargaining.



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There is absolutely a need for a strategic relationship with all the partners in the system. The workforce are critical partners in that. I spoke at the PAC hearing about the fact that I was very pleased that, ultimately, we were able to do a deal with the RMT that delivered real productivity, because we could demonstrate to everybody that it was in the long-term interests of the railway and the people who work in Network Rail.

Q322 Gavin Newlands: One of the points of friction when it comes to rail reform is this. Labour has launched a plan for rail, the Scottish Government have their position, and so on. One thing that is not addressed is the role of ROSCOs, which many still think is an issue within the system, as it is money that goes out of the system and then goes elsewhere. In the end, if an incoming Government chose to procure directly, rather than use ROSCOs, does the draft Bill as it stands, and as you understand it, give the IRB power to do so?

Andrew Haines: I do not believe that statutory powers are needed for that. Certainly, the Government in England and, indeed, in Scotland have done some direct procurements historically. My understanding is that you do not require additional powers to do that currently.

Q323 Gavin Newlands: That is my understanding as well. I am just seeking clarity for the record.

In terms of the Luxembourg protocol, if once this was ratified somebody chose to or wanted to join EUROFIMA, for instance, would that be okay? Would that require further legislation?

Andrew Haines: I am not an expert on those provisions.

Lord Hendy: Neither am I.

Q324 Gavin Newlands: That was probably an unfair question for you. I have a very quick last question. You heard the evidence this morning from Cabinet Secretary Hyslop. You may have seen the evidence yesterday as well. You are well aware of the infrastructure relationships that exist in Scotland at the moment, with the ScotRail Alliance. Obviously, that is not devolved to Scotland. Do you accept that there is a worry at Scottish and Welsh Government level that the new IRB moves that accountability further away from the devolved Administrations?

Lord Hendy: I am not sure that we would say that it necessarily does. I carry the framework agreement between the Department for Transport and Network Rail constantly now because it has some references to my obligations to the Cabinet Secretary in Scotland. Indeed, she is punctilious in making sure that I attend to them and I think that that is absolutely right. We are an important part of the railway in Scotland. Of course, they absolutely have the right to make representations on the railway that they would like to have, but our practical view is that we can make it work in Scotland, and we have. We can make it work in Wales, and we have. One of the important things about those relationships is that we treat those people—as, indeed, we should treat the combined



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authority Mayors—as partners and not some sort of secondary stakeholders.

Q325 **Gavin Newlands:** I appreciate that. Would you accept that in trying largely to copy the Scottish model and providing for full integration of track and train in England, but not devolving to Scotland, it sets in stone that Scotland can never fully integrate track and train? In copying Scotland, you are now hamstringing Scotland's ability to fully integrate track and train. Is that not a fair assessment of the situation?

Andrew Haines: I do not believe that it is the intention of the Bill to make it any harder. As I said, we have a very detailed set of requirements from the Scottish Government, as part of the HLOS. That part of the legislation is not changed. We can go a lot further in Scotland than we currently have on integrating. I do not believe that it is the intention of the legislation. No doubt there will be discussions with Ministers in Westminster and Holyrood around the Bill's intentions there. I have not heard any sense of that. There is a lot more upside for the Scottish Government as regards how we can run the railways well.

Gavin Newlands: Those questions are probably more relevant to the folk sitting behind you, who are the next panel.

Q326 **Chair:** I would like to ask about one final area—GBR having a centralised ticketing platform. It was initially mooted for GBR, but then the Government decided that it was no longer required, and the train operators and private companies could easily provide it. We have heard evidence from private operators that having a central platform would be desirable and open it up to new entrants. Do you have a view on whether GBR should provide a central platform?

Andrew Haines: What we see at the moment is that there are some very strong private sector players, in the form of Trainline. The products of a number of the train operators have not been invested in at the same level and, therefore, there is not as much consumer choice as we would like to see, not least because ease of retailing is one of the ways we grow the rail network. Whether you do that through a single centralised system or enhanced retailing outputs from individual operators is something we can live with one way or the other. What we absolutely need to do is create a healthy, competitive market, because customers are best served by good, strong competition.

Lord Hendy: The related issue is the transparency of the whole process of information and ticketing. That is something Keith Williams concentrated on very strongly. It is clearly a subject on which many users of the railway have quite a lot of criticism at the moment.

One of the real advantages of an integrated rail body is to get to grips with the impossibly complex fare structure, which is a different issue from the retailing of tickets but is tied up with it. What we all want is for the railway to generate more revenue, cost the taxpayer less and deliver



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more. A body that is better able to rationalise the fare structure and make it more understandable will generate more revenue. That is crucial to us. We would not want, if we were there, to consume any more public money than we needed to. One of the best ways of doing that is to generate revenue from a system that is easy to use and transparent to its customers. That is as important as reducing the cost.

Q327 **Chair:** I would love to continue the discussion, but we have our final panel to move on to. Before I conclude, is there anything else that you would like to put on the record that we have not covered this morning or is not in your written evidence?

Lord Hendy: Only to emphasise our personal commitment to railway reform, irrespective of how it affects us personally. It is the right thing to do. Bringing forward the Bill is a significant step forward. We would like nothing more than to see legislation that enabled a more coherent structure for the railway, to reduce its cost and to increase its revenue.

Andrew Haines: I reinforce Pete's point. It must be quite rare for a Select Committee to have a chair and a chief executive advocating their own demise, but we believe that Network Rail has outlived its useful purpose. An integrated rail body is a much better approach.

Lord Hendy: Absolutely.

Chair: Thank you very much. We are very grateful for your time and evidence this morning.