House of Commons

Transport Committee

Oral evidence: Rail franchising, HC 66

Monday 24 October 2016

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Watch the meeting

Members present: Mrs Louise Ellman (Chair); Robert Flello; Mary Glindon; Karl McCartney; Huw Merriman; Will Quince; Iain Stewart; Graham Stringer; Martin Vickers.

Questions 145 – 277

Witnesses

I: Mick Cash, General Secretary, RMT, and Mick Whelan, General Secretary, ASLEF.

II: Jo Kaye, Executive Director for Network Strategy and Capacity Planning, Network Rail, and Paul Harwood, Strategy and Planning Director (South), Network Rail.

Written evidence from witnesses:

- RMT
- ASLEF

Examination of witnesses

Witnesses: Mick Cash and Mick Whelan.

Q145 **Chair:** Good afternoon and welcome to the Transport Select Committee. Are there any interests to be declared?

Robert Flello: I know Mick Whelan very well indeed.

Chair: Could our witnesses tell us who they are for our records?

Mick Whelan: I am Mick Whelan, general secretary of the train drivers' union, ASLEF.

Mick Cash: I am Mick Cash, general secretary of the RMT.

Q146 **Chair:** Mr Cash, what are the prospects for a resolution of the dispute on Southern Rail?

Mick Cash: It is a good question. A lot depends on the Government. Following the Committee's report, recently we wrote to the Government to follow up the suggestion that we, the unions, should have further meetings with them and with Govia to see if we can resolve the problem. Again today I am calling publicly for Chris Grayling to meet us to see if we can sort out the problems on Southern and GTR. Ultimately, as you know, GTR and Southern are under a management contract to the DFT, and we want to resolve the issues at the core of the failing operation there. That is why, after the Select Committee report, we wrote more than one letter to the DFT asking for meetings to see if we can get it sorted out.

Our members and passengers would rightly be angry at the fact that we have not managed to sit down with the DFT to resolve this issue. I am concerned because, despite the fact there is a bit of deflection going on, we see a situation where in Scotland we got an arrangement in place to keep the second safety-critical person on every train. As a union, we got the same on First Great Western. We got the same on Virgin East Coast. Yet we cannot get a guarantee of a second safety-critical person on Southern.

In all of this, I am frustrated that the representatives of passengers and people in Southern are not putting enough pressure on DFT to get a resolution to the issue, because that is where the problem lies. I cannot understand why MPs who represent Southern constituents are prepared to accept less for their constituents than we have in Scotland, Great Western and East Coast. The ball is firmly in the DFT's court. I hope they will sit down and work with us, because we put some viable solutions to them. I hope we can get round the table and solve it.

Q147 **Chair:** Were you aware that in the invitation to tender the Department had operational changes, including the driver only operation that you are opposed to? Did you know they were in the invitation to tender?

Mick Cash: Not myself personally, but I suspect the union did. Equally, that was the same in other tenders. ScotRail, for example, would have had an indication around driver only operation.

Q148 **Chair:** But did you know those provisions were in this invitation to tender?

Mick Cash: Personally, I did not know at the time, but I suspect the union might have known. I can follow it up and give you an answer.

Q149 **Chair:** Mr Whelan, were you aware of that?

Mick Whelan: We were aware and we consulted with the DFT, as we do on all franchises. Unfortunately, the DFT go through a token exercise of consulting with the stakeholders and the passengers and ignore the input. We warned about the possible outcomes of changing terms, conditions and methods of working through the invitation to tender. As a consequence, Chair, for openness and transparency, we are currently balloting for industrial action on Southern.

Q150 **Chair:** Do you think that involving the DFT more at this stage would help to get a solution?

Mick Whelan: The responses we are getting are that the company say that the Government have told them to do this and that they have to do it. The people we are trying to resolve the issue with do not have the power to resolve the situation. My colleague is quite right when he openly says that all the stakeholders involved, including the DFT, who are driving this process, have to be part of the resolution.

Q151 **Huw Merriman:** I will ask this question first of Mr Cash. Are the RMT recommending that conductors transition to the on-board supervisor role?

Mick Cash: No. I assume you are referring to the letter that we had to give our members. Faced with dismissal, they have, on legal advice from ourselves, been advised to sign the letter—those of them who have been issued with it—which says that if they do not take up the OBS role they will be dismissed. As a union, we think it is important that we give the best possible advice we can to our members, and we have done that. Our members, as far as I am aware, are signing that, but we are also clearly indicating to the company that it is under duress and that they are still in dispute with the company.

Q152 **Huw Merriman:** Notwithstanding that, as I understand it, your main criticism or concern is that safety is an issue. If safety is an issue, why would you recommend—notwithstanding they preserve their legal rights—that they operate on a train that is unsafe to use?

Mick Cash: There are two separate points, as I am sure you are aware, Mr Merriman, about what we have to do legally and what we are doing industrially. We do not believe it is safe to have an OBS; the reality is that that person does not have the same training and safety-critical credentials as a guard or conductor and there is no guarantee that there is going to be a second person on every train, which is the crucial issue at the heart of this dispute.

Q153 **Huw Merriman:** The reason I make this point is that for a lot of people what is really at the heart of this issue seems very confusing. My understanding is that your members have been given guarantees about their own jobs and guarantees about their pay. Your members are operating this technology on other lines, and the regulator has signed it off as safe. Many are confused as to exactly what this strike is all about.

Mick Cash: Our members are not confused.

Q154 **Huw Merriman:** Many of my constituents are.

Mick Cash: You might remember that they were offered £2,000, which they see as a bribe, to give up a key safety role. They are not prepared to do that. I understand why the company did it, but at the end of the day we want to be in the position that, as our members are saying—it is clear that they have said it—the company will keep a second safety-critical person on the train. If the company gave us that guarantee, and we thought we could have discussions around that, we would not be in dispute; but they will not do that at this moment in time.

Q155 **Huw Merriman:** When you appeared before us last time, the conversation got down to whether there could be any exceptional circumstances where your members would operate the train. In ScotRail, as I understand it, there are no exceptional circumstances. Coming back to your point on safety, is it not more unsafe if a train is cancelled, particularly on such a busy network as Southern, and everybody stays in the host station making it even more unsafe, particularly for those who are disabled?

Mick Cash: Not necessarily.

Q156 **Huw Merriman:** I struggle with the safety bit.

Mick Cash: At the same time you are assuming that all the cancellations are down to not having a safety-critical conductor on the train. That is the spin being put on it. If that was the case, we would not have got a deal in Scotland, we would not have got a deal at First Great Western and we would not have got a deal at Virgin East Coast, where the same arguments apply. What I am interested in, Mr Merriman, is why you are so concerned with asking us why our members do not want to accept this deal and why you are not asking the DFT why your constituents should get a lesser arrangement than they have in Scotland, on Great Western or on East Coast. That is the crucial question.

Q157 **Huw Merriman:** I will tell you exactly why. As you know, I use those trains. When I use the trains and I have to leave the train because the conductor has to leave shift and there is not another one to take over, in exceptional circumstances, when it is safe to operate the train—as it is on

40% of the network—I want to go home rather than wait another hour. I do not think it is safe for people to have to get off the train and not be able to leave the station. To me, your issue about safety is just gamesmanship. I put it to you that what this really comes down to is that if your members are not absolutely critical to the operation of that train—DOO means they would not be—all of a sudden when you call a strike it does not make any difference. I put it to you that it is all about union power and not about the issue of safety, as you dress it up. Why has the regulator signed it off to be safe?

Mick Cash: The pair of us were with the regulator last week, sitting down in a room and talking about the issue of platform-train interface. We were trying to address the very same concerns that you have. It was interesting that at that meeting there was the chief inspector of railways, the chief of the RAIB, the chief of the RSSB and chiefs from many of the rail companies, except one. Southern were not there—they sent their head of safety—and the DFT.

We are trying to sit down and solve this problem. The reality is that there are some real safety concerns. On 14 October, at Clapham on platform 12, a train pulled up at the platform. A passenger got off and fell between the platform and the train. The driver did not see that passenger. The station staff saw and helped to pull the passenger clear; 45% of platforms and stations on Southern are either not staffed or have only part-time staff.

I will tell you this now. At the end of the day, I am in a position where I get very angry when workers are demonised for looking after safety and when people are saying they make safety a self-interest. In actual fact, we have real and genuine concerns. The DFT are trying to mandate a particular system.

Q158 **Huw Merriman:** That would all be absolutely consistent were it the case that your members were refusing to operate or work on any of the trains we are talking about, which you are refusing to allow on Southern, but they are not. Why are they not all on strike? Why did you not refuse to let your members operate on those trains?

Mick Cash: I do not know what trains you are talking about.

Q159 **Huw Merriman:** It is 40% of the network. I am assuming that some of them have RMT members on board as second members of staff. Thameslink has been signed off, for example. Have you no RMT members on Thameslink?

Mick Cash: Yes, and there are issues with Thameslink around how they operate safety. We have seen in recent years growing concern around platform-train interface and trap and drag. Mick will tell you about this. Passengers have been dragged along on DOO services. It is a growing concern. Forty per cent of trains are overcrowded. There are more and more passengers. There are 1.7 billion passengers these days. That is why these issues, even though they might not have been an issue a few years ago, are a growing concern to us. Examples are now coming forward where we are seriously concerned about the impact of extending driver only operation. We want to get back to a situation where we have a guard on every train.

Q160 **Huw Merriman:** Mr Whelan, as soon as the technology comes on board, it all comes down to your union and whether your drivers will operate the doors if it is no longer the case that the RMT members have to. Is it likely that the ASLEF union will sign off on members to operate those trains? I see that you are shaking your head to answer that.

Mick Whelan: I have to clarify this. It has been our policy for over 15 years to seek to eradicate DOO. DOO was designed for three-car 317s on the Bedpan line in the late 1980s and early 1990s. The one thing that we claim success for in the industry post-privatisation is the increased footfall that we have. Unfortunately, when you have 1,100 people in 12 cars, we do not feel that two seconds to check 24 sets of doors is adequate time to deal with the safety of the public.

To come back to one of your earlier questions to my colleague, the reason why we give that advice to our members is to do with employment legislation, which says there is no ceiling for an award against trade unions if we give the wrong advice, so we are obliged—

Q161 **Huw Merriman:** Mr Whelan, that was absolutely clear, but I put the same point as I put to Mr Cash. You are talking about a technology that you are now saying you do not want your drivers to operate because it is not safe.

Mick Whelan: The industry says it is not safe.

Q162 **Huw Merriman:** But your drivers must be driving those trains where it currently exists. Why?

Mick Whelan: We currently drive them. The difference between us, the DFT and some of the companies we have to deal with is that we are honourable.

Q163 **Huw Merriman:** In that case, why? Please answer the question.

Mick Whelan: I am going to finish, if you will allow me to, Mr Merriman. Where we have agreements we seek to change them, and we have for some time sought to renegotiate those agreements because we feel they are inherently unsafe. The industry is now catching up with our feelings. If you want to, go and check as a matter of record the Hayes and Harlington incident, the Wickham incident, the Croydon incident and the recent reports from the industry that say we can no longer rely upon the technology that underpins what they call the traction interlock, which not only makes DOO inherently unsafe but makes all the methods of dispatch that we currently have unsafe. Drivers cannot rely upon whether the doors are closed or not with the technology that underpins it.

Q164 **Huw Merriman:** But surely you and Southern management must visit the Southern stations to check that everything is safe, and there must be some procedure for agreeing.

Mick Whelan: No. At the moment, we have massive discord across the industry about what is safe on platform-train interface. The reality is that it is not.

Q165 **Huw Merriman:** According to Southern, you visited 115 stations. If you are telling me they are lying, that is fine.

Mick Whelan: I have been on many Southern stations, but may I say that I have never visited one on a safety tour?

Q166 **Huw Merriman:** According to Southern—this is your chance to say that they are telling me completely the wrong things—and I have asked them, because I wanted to get to the bottom of it—

Mick Whelan: If they are saying that I have visited, it's wrong.

Q167 **Huw Merriman:** Not you. ASLEF and Southern have looked at 115 stations and, where it has been required, lighting has been changed and foliage has been cut back. Are you saying that has not occurred?

Mick Whelan: Those visits may have taken place. I do not know the exact number so I cannot attest to it formally. But you have also seen the reports that we have put in. We have reported that it is not fit for purpose and they have not done the same level of testing as they have done on other routes such as Thameslink. Actually the reports we have put in say that we are not happy with it. Those reports also say they do not comply with modern RISs on the technology you have to have to run those sorts of trains, which includes the ability, on speakers outside the train, to ask people to stand back. There is a thing called the passenger corridor. The technology we currently have does not fully cover the passenger corridor. We have blind spots all over the place where, unfortunately, due to the level of footfall, people do not stand back on the platform.

Q168 **Chair:** You are all raising safety concerns, which clearly are at the heart of this. We will be returning to the whole issue of safety in another part of our inquiry, so I do not want to look at those issues further at this point except to register the different views.

I am a bit perplexed about what happened at the consultation stage on the invitation to tender. Mr Cash says he was not aware that these provisions were in that invitation to tender, although the RMT might have been. Mr Whelan, you say that you were. Were you involved as unions in the consultation that took place at that stage?

Mick Whelan: They do not tell us what is in the ITT specifically. We get asked for certain opinions, for example, on driver only operation and other methods of working. We give that response both in written and verbal form. Our response is that we will not support it, and do whatever else. The invitation to tender, even after it is published, is subject to an awful lot of business confidentiality. Even after it has been granted, there are aspects that we are still not allowed to see because of that business confidentiality.

Q169 **Chair:** Mr Cash, could you clarify for us whether your union is involved?

Mick Cash: With regard to Southern per se, I do not know what process they had in place at the time they asked us. They have got more open. For example, when ScotRail was going on, we had more input into that. We saw more of the information and documentation.

Q170 **Chair:** Was a different system being used there? Did you have more information?

Mick Cash: I suspect that, in terms of the amount of information we got, the visibility of the ITT and the information we could react to, it would have been a bit more transparent. Therefore, we would have been able to react to the circumstances around that. I can try to find out, and follow through after the hearing today, about what we actually knew and responded to. Rest assured, if we were approached we would have given some sort of response.

Q171 **Chair:** More generally, how much weight do you think the Department gives to passenger interests rather than financial issues in the whole franchising process?

Mick Whelan: I do not believe they give due cognisance to their employees, passengers, other stakeholders or even the taxpayer. The reality is that the Department for Transport in recent years has created two sub-bodies to give guidance and assistance to the industry. One is the rail delivery group, which has no stakeholder interest on it at all. The other is the rail executive, which also has no stakeholder interest on it at all.

Mick Cash: I would not know offhand how much information there is or how much they do directly with passengers. I think they use Passenger Focus. They do surveys to inform them about what types of issues are relevant to the passengers. I am not certain how much of a challenge an organisation like Passenger Focus can make in ensuring that the voices of passengers and their critical concerns are put in—whether it be about disability, elderly people, safety and suchlike. That is a question the Department would be able to answer in more detail. Our perception is that there is not a great deal of it, but it will always come down to what information is out there for the passengers to react to. For example, when the Northern franchise was being let, we ran a lot of campaigns on Northern Rail and TPE around what was going on in re-letting those franchises. That is because information had become available. I wonder sometimes whether the DFT likes to keep things a bit tighter so that you do not have campaigns being run that create difficulties for them.

Q172 **Chair:** The Department issues a customer report after a franchise has been let to show what the commitments are. Is that sufficiently detailed and open?

Mick Whelan: I have never seen one.

Q173 **Chair:** Have you never heard of that?

Mick Whelan: A number of researchers work for me, so there may be some on file somewhere. I am just saying that personally I have never been made aware of one.

Q174 **Chair:** Mr Cash, are you aware of it?

Mick Cash: No, I am not aware of that. I can try to find out whether we see them and what our reactions are, but by then it comes down to what is in the franchise agreement and what the commitments are, although I am told that a franchise agreement can be changed, because it is an agreement between two parties.

Q175 **Chair:** But you are not aware of something called the customer report.

Mick Cash: Personally I am not. I am not certain about the union, but I will find out and get a note to you on that point.

Chair: It does not sound as if it is very open, if you have not heard about it.

Q176 **Robert Flello:** I want to clarify a little bit about the safety impact and the safety implications. So that I am clear in my own mind, could you tell us the length of train that would be under DOO? What sort of distance does a driver have to look down through the cameras?

Mick Whelan: Currently, the maximum distance, we believe, is about 12 coaches, which involves 24 doors.

Q177 **Robert Flello:** What distance is that?

Mick Whelan: About 600 feet.

Q178 **Robert Flello:** The driver is responsible for looking back over 600 feet. With the camera system, does whatever the camera sees show up on the screen immediately? Is there a delay of a second or two, or longer?

Mick Whelan: There are about seven different types of train management system involved in this. On some trains, there will be a camera by every door and you have to look at 24 separate images in a limited time. On some it will be something that goes the length of the train or shows a part of the platform; it varies. One of the major problems is that we are a make do and mend railway. Our Victorian infrastructure was so good that we now find ourselves with different architecture, some platforms with pillars and some with curved platforms. Something may give you a perfect view at 9 o'clock in the morning but you might struggle with it at half-past 12 if the sun is in a different place.

Q179 **Robert Flello:** The driver is potentially looking at 24 images. How big are the screens in the cab that the driver is looking at?

Mick Whelan: Again, that will vary. They can be as little as 6 x 6 or 12 x 12. It depends on how many images are on each screen and how long you get to look at each image.

Q180 **Robert Flello:** So that I am clear in my mind, the driver is looking back 600 feet at 12 different images on a relatively small screen. Does the weather affect those cameras?

Mick Whelan: The weather can affect them. Sunlight can affect them, as can the lux factor of the various lights and various platforms. Trains on adjacent platforms and all sorts of factors can affect them. I must make it clear that, although we are talking about a specific type of DOO on Southern, we still have archaic DOO in many areas, which involves people pulling down the window and looking back down the length of a train. They get musculoskeletal issues arising from that. DOO in some places is down to monitors on platforms. Elsewhere we still have mirrors in some locations. People are confusing the whole issue around DOO. The policy issues around DOO and the lack of safety are not purely based on our experience on Southern.

Chair: I am going to stop questions there, because I do not want safety to become the key issue, apart from its being flagged up.

Robert Flello: I thought it was one of the main issues.

Q181 **Chair:** We are having a special session on safety. There are other questions. I think everyone has raised their concerns and views on that.

It could be said that the current problem or dispute is to do with changing technologies and different views of how they could be used. How do you see the future of jobs more generally on the railway, in terms of changing technologies? Do you see different jobs emerging or the need for new training or reskilling? How do you see the future more generally on this?

Mick Whelan: I am not particularly concerned in the short term, say the next 20 years or so, partly down to the fact that there are other main areas of investment. We will see a railway that will slowly move towards a digital revolution, but even then we will go from two-colour lights to three-colour lights to four-colour lights to digital and back to semaphore in some areas. Over that period of time, the members I represent will need a greater rather than a lesser skillset, while transition happens. That will all come down to future investment.

Part of the issue in the UK has always been that because of the intensive nature of our railway system we are never in a position to stop, rip it up, do it from scratch and introduce technologies in the way they have been introduced on the continent. That brings its own challenges and factors. When you get to the digital stage, the complexities and intensity of our railway mean that train drivers will still have to be trained and utilised in a traditional way, because when there is degraded working, and the systems do not work, they will have to operate as they do now. I do not see a great change in skillsets for the members I currently represent.

Mick Cash: There is a lot of change coming into the industry. I am reminded that, back at the start of the 20th century, somewhere in the region of 500,000 or 600,000 people were employed in the railway and it operated for quite a large number of passengers. Today, we are talking about 120,000 and 1.7 billion. In that progression, there has been a whole load of technological change the industry has had to adapt to since it first started in the 1830s, or whenever it was.

I want to make a point about technology and Southern. There will be 25 new 700 series trains introduced and cascaded into the Southern service. The vast majority of the trains operating Southern services will still be 377s if and when DOO is fully implemented. It is the same technology and the same trains; we just want a guarantee of a second person on them. It is not about technology on Southern, as far as we are concerned.

Mick has identified that one of the biggest problems in the industry today is overlaying the infrastructure, which was built in the Victorian age, with new technology and new standards. That is a big change. If you designed a brand new train today with a brand new rail system, it would be all buttoned up and you could just move on and off. The platforms would be straight. They would not be curved, they would not have gaps and there would be a whole different light process. We do not have that these days on the railway. Trying to overlay a lot of new technology on the current infrastructure is a challenge.

Another side of the new technology is the capacity of the digital railway that Network Rail are on about, which is around getting more trains operating. It is also about ticketless travel. Technology is coming. We have had to adapt in the past, and we have, and we will adapt in the future, but we do not want that to be to the detriment of good, well-paid jobs and jobs that provide a safe service.

I came through the tube station at Euston earlier. You get your card out and go through a barrier. Thousands of people are going through at any one particular time, so you have to have a mechanism in place to be able to control and monitor the amount of people using the service. In the future, the railways are going to grow. Ticketless travel will be a preferred option for more and more people. Therefore, you are going to have to ensure that not only can you use a card or a ticket or whatever, but that there are processes and enough people in place to ensure that it runs safely and effectively, and that people are carried safely and get on and off station platforms and trains safely.

Q182 **Chair:** Are franchise conditions sufficiently enforced?

Mick Whelan: On Southern?

Chair: I am speaking more generally now. Let’s leave Southern for the moment.

Mick Whelan: It was such a lovely opportunity, Chair. Sorry.

Q183 **Chair:** This inquiry is about the franchise system. Clearly Southern is a big part of that but it is not the whole of it. Are conditions sufficiently enforced?

Mick Whelan: We have had 20 years of the franchising process. Other than companies that have chosen to hand the keys back with no penalty, we have never seen anybody have their franchise taken off them for safety, failure to deliver KPIs or other reasons. We see very little censure but an awful lot of reward. Of course, we had the experience in the first 10 years of franchising, the early days, that many people underbid for franchises but were allowed to renegotiate those franchises halfway through, particularly in the midlands where I was a regional officer. Our experience of franchising has been that very little of a regulatory nature is done to a franchise when they fail to deliver on whatever aspect. Where it is different is in the devolved franchises, where they do not retain the revenues and everything is based upon KPIs rather than ticket sales.

Q184 **Graham Stringer:** In your opinion, which franchisees should have had their franchise removed?

Mick Whelan: Unfortunately all of them, in my opinion, because I do not believe in privatisation. It has been a spectacular failure.

Q185 **Graham Stringer:** We may share that view, but in terms of the system that is operating—I accept that you disagree with it in principle—which franchisees do you believe have been allowed to carry on operating when they have not been compliant?

Mick Whelan: Most of them at various times. It depends on the areas you are talking about. One of the things that frightened me was when Great Western got the direct award for what is currently happening. At the time of the west coast debacle, First Great Western had a three-year option on their franchise. If they took up that option, they would have to give £800 million back to the Treasury. During that period of time they were allowed to run a financial contract for 18 months and then they were given an extension via the back door through direct award with no penalty, and the Treasury lost out on £800 million. I do not understand how we reward people for failure, or failure to carry out what they should be doing.

Q186 **Graham Stringer:** Were any franchises being operated unsafely, in your opinion, over the 20-odd years of franchises?

Mick Whelan: We have had issues many times. I have to say that they have been subsequently addressed; otherwise we would not have advised our members to continue operating for them. Some of that has had to be done with the threat of possible industrial action or strike. Yes, there have been occasions when we believe things operated unsafely. Outside the passenger sector, which we are mainly talking about, there are grave concerns about casualisation in freight and the risk that brings, with fatigue and so on.

Q187 **Graham Stringer:** Can you expand on the casualisation of freight? I do not quite understand that.

Mick Whelan: Open access was designed to allow operators to come into the industry to create competition. That competition was meant to drive innovation and investment, and drive down fares on the passenger side. That has never happened. On the freight side, we increasingly see new operators coming to the fore, with the advent of zero-hours contracts. We believe that with multi-user infrastructure sites, for example, it becomes less safe.

Q188 **Chair:** Should there be a change of system on enforcement of franchises? How should it be changed? You say that all the franchises should have been removed, but that is quite a sweeping statement. Who should be enforcing them? Should they be taken away from the Department?

Mick Cash: You mentioned the point about franchising earlier. There are very few alternatives, other than to renationalise. In terms of the way you would enforce a franchise agreement—who would do it and how—there are issues around whether the DFT has the capacity to do that. Directly Operated Railways has been privatised. In terms of how you can turn them round and keep franchises honest, it all depends on the ability to take the franchise away from them. That is the best enforcement at the end of the day. I do not think there is enough capacity to do that.

Q189 **Chair:** Is it a matter of capacity or a matter perhaps of conflict of interest? The Government are giving out the franchises and benefit from the premium that may be paid. Then they are the enforcer as well. Do you think there is a conflict of interest?

Mick Cash: Certainly the DFT, as a matter of public policy perhaps, may want to look at only one option, which is the private sector. Its director of franchise, a person called Peter Wilkinson, is keen on the private financing of the railway, whether or not that person is also in position where he directs Government policy.

There could be a different way of ensuring that franchising operated in a more balanced way. There have been reports in the past that you would save £1 billion a year by getting rid of the fragmentation caused by privatisation, which includes franchising. That would allow you to have one body—say, British Rail—taking over and operating all the franchises, working them in a publicly owned and integrated network. That would save money. You would not have to go through all these arrangements every so often, doing a franchise with somebody having to make a decision about whether it is going to be the private sector or the private sector. Increasingly, because it is costing the private sector more and more to put a bid in, there are less and less of them. At the moment, I think there are only two bidders for South West Trains. There is a hell of a lot of competition going on there, isn't there?

Q190 **Chair:** You refer to an equivalent of British Rail. What about devolved rail?

Mick Cash: I think they privatised DOR. They got rid of Directly Operated Railways and they have given it to a couple of consultant companies to oversee. The operator of last resort was Directly Operated Railways. I think they are now using a couple of major consultancy firms to run it. You might want to ask the DFT what happened with the cross-country direct route.

Q191 **Chair:** I am asking you for your views on how things might be run better. What about organisations like Transport for London, Transport for the North and Rail North?

Mick Cash: I would not know about Transport for the North. I do not know how it operates. It seems to have been created for a particular reason, but I do not know how it is democratically operated.

Q192 **Chair:** Is Rail North a good idea? That is operating now.

Mick Cash: I have my doubts, because at the end of the day it would seem that they are going to be given a franchise for the politicians in the north of England to put Government cuts in.

Q193 **Chair:** It is local authority controlled, isn't it?

Mick Cash: Specified on the basis of the DFT franchise process, so ultimately they will have to turn round and go with what the franchise agreement says.

Q194 **Chair:** Is it a good idea or a bad idea?

Mick Cash: It will be a good idea if they can change the franchise agreement. For example, in the ITT in Northern Rail they specified that 50% of services should be driver only operation. If the people of the north do not want driver only operation, the test will be whether they can say, "No, we want to keep a guard on every train." On the franchise, by the way—

Q195 **Chair:** Mr Cash, we have discussed that issue, and, as I say, we will come back to it in another way. I am now trying to establish whether you think the whole solution has to be some equivalent of British Rail or whether you see some favour in the devolved organisations we have. From the evidence we have heard in the Committee, the devolved organisations seem to perform better than some of the others.

Mick Cash: There is a thin dividing line between devolution and fragmentation. We already have Merseyrail, as you know. We have Northern Rail. I am not 100% certain how that is going to operate and whether it is just about further fragmentation of the railway.

Q196 **Chair:** Mr Whelan, what are your views on the current devolved organisations?

Mick Whelan: I welcome devolved organisations and autonomy when it is not purely passing on cuts. I am a great advocate of LOROL; I was heavily involved. Because of the Olympics there was a vast amount of money invested in it. Of course, their revenue structure is not based upon profit or loss; it is based upon KPIs, and whether they deliver performance, punctuality, cleanliness, signage and disabled access. That is a railway for the people, by the people. I have no problem with it.

What is being built into the Northern Rail strategy concerns me greatly in two modes. The first is purely about passing cuts on to councils under the guise of a slight degree of autonomy and power, which I do not believe is the sort of devolution that we are talking about. The second area takes no cognisance of the fact that areas like Humber, Tees and Mersey have had vast investment on the freight side. It is going to grow 5% year on year, every year between now and 2030, yet we have not facilitated any road or rail to carry the additional freight. Again, we have a strategy that is not underpinned in any way, shape or form, and will not allow the devolved authorities to raise the money to deal with those issues and create the capacity we need as a country. While on one hand I like devolved authorities, they need the strength, the power and the money-raising ability to be effective.

Q197 **Karl McCartney:** I want to ask both of you this question. Do either of you accept that the railways, in a general sense, are better now than they were in the 1980s or early 1990s when they were last run under British Rail?

Mick Whelan: I accept that we have had a vast degree of investment coming into the railway that we did not have in the 1980s or the 1990s. Unfortunately, that was not a by-product of privatisation but a by-product of £30 billion having to be spent on the asset base because we did not know what it was. We had a little incident called Hatfield. Many people died who should not have died, and we discovered that Railtrack did not know the state or condition of the whole of the assets of the railway in the UK. A vast amount of money went in to ensure that the railway was up to standard. We have seen investment since, which I welcome.

The real issue is that the level of investment that was meant to happen through the privatised process did not happen. The competition that was meant to drive investment, innovation and reduction in fares does not happen because there is no competition. Under the franchise process, the direct award process or whatever, we have a number of serial regional monopolies. If you are in Scotland, you have ScotRail. If you are in Wales, you have Arriva Trains Wales. Whoever has won the Northern franchise—the biggest franchise in the country—will be one operator. They have no direct competition. One of the reasons there is no direct competition is that the fare structure does not allow it. If you travel on a Virgin train, you can only use a Virgin ticket. Therefore, they protect their fare box. I am quite sure that in many sessions like these, and the many consultations that come before you, most of the people decrying any change within the industry have been the vested interests themselves who are afraid of what might happen to their share of the fare box or what is happening in their areas.

Q198 **Karl McCartney:** Obviously you are looking after the vested interests of your members.

Mick Whelan: That is my role.

Q199 **Karl McCartney:** Obviously my range of questions is going to take quite a while if a yes/no answer is not forthcoming and we get a nice long soliloquy like that every single step of the way.

Mr Cash, you mentioned British Rail. Do you think British Rail was good and should be brought back? Do you think it was better in 1985 than it is in 2015-16?

Mick Cash: I had the benefit of joining British Rail in 1978. I have seen all the changes that have occurred in the industry since 1978. I remember them well. If I was here then as an 18-year-old, talking to you, and you asked me that question, I would have said the exact same thing then as I am now. If British Rail had the same amount of money that has been given to the privatised structure that we have today, we would not be arguing about British Rail and franchising. We would have needed half as much money to be able to get as much of the work and investment done, and get more out of it.

I accept without a shadow of a doubt that the railways have grown since I joined in 1978. This is a little fact I have in my head, Mr McCartney. I used to be the lead officer for Network Rail. Network Rail has a five-year funding period, which was introduced a few years back. In the last five-year control period, which ends in 2019, Network Rail will have spent £90 billion on maintaining, operating, enhancing and renewing the railway. That is a lot of money. That is the Government and the state doing that. If that continues, we will continue to have a first-class safe railway.

Q200 **Karl McCartney:** If we can continue with the franchise system that we have in place at this point in time. Do you think that you as union representatives have ever worked to assist with a franchise, or do you think you always work or are seen to be working against a franchise, to ensure it does not work in the best way it can, rather than the best way it can?

Mick Cash: All the money for Network Rail—the vast majority of the investment—has come from the state and is backed by the state. The franchises, the operators and the major groups that operate behind them have given very little at the end of the day.

Q201 **Karl McCartney:** I am asking about your role as a union. That is what I specifically asked, and you are still answering the last question.

Mick Cash: I am just saying to you that I do not think franchising helps. I think investment helps. Public-backed—

Q202 **Karl McCartney:** But do you think the unions have ever helped at all with a franchise, or do you do your utmost to ensure that a franchise does not work?

Mick Cash: How would we help with a franchise?

Q203 **Karl McCartney:** You are one of the stakeholders.

Mick Cash: Are we? I do not think we feel like one of the stakeholders. Take the situation with franchises. Go-Ahead recently announced £100 million of profit, yet Network Rail had to give them £20 million to help improve what is going on at Southern. Go-Ahead did not take a lot of risk, did they? Their shareholders did not take a risk to improve what is going on with Southern.

Q204 **Karl McCartney:** We went back 15 years. If we go forward even five years, say 10 years, do you dream of a Labour Government headed by Jeremy Corbyn? Do you think we would have renationalisation of the railways then, and that would be a good thing?

Mick Cash: I am not trying to get party political here. I am a Labour party member, but my union does not affiliate to the Labour party.

Q205 **Chair:** We do not want too much about dreams.

Mick Cash: I am trying to dream of the future.

Q206 **Karl McCartney:** The last time we were here we touched on nightmares.

Mick Cash: When we, as a union, contributed to the Shaw report—it sounds like something from the '70s—one of the things we said was that, if the industry is to maintain its growth and its ability to deliver for passengers, it has to have long-term plans. It has to have five-year plans—more than five-year plans. I would support a process whereby you can guarantee funding and commitment to the rail network from Governments of whatever political ilk. That is where it failed in years gone by. By the way, in the BR days they were getting funding cuts every six months.

Q207 **Chair:** Do you think the control periods are a good way of doing that?

Mick Cash: I think so, yes.

Chair: Mr Vickers.

Karl McCartney: Mr Whelan might want to have a go at that one, Chair.

Chair: I will bring you back.

Karl McCartney: I do not want to ask any more questions, but Mr Whelan has not had a chance to answer my question.

Q208 **Martin Vickers:** Mr Whelan, you spoke about the lack of competition, but, as I understand it you are not a supporter of open access passenger operators. Why not?

Mick Whelan: There is not enough regulation around them. The reality is that on a congested railway there are not enough paths for them.

Q209 **Martin Vickers:** But if paths are found and the company concerned is financially sound and meets all the safety regulations, and so on, surely if they can provide services, it is in the interests of the passengers.

Mick Whelan: Well, it would be if they could provide services. What are they going to provide them with? Bearing in mind that we have a system where the only trains in the UK are always centrally bought and cascaded down, any open access operator is not going to bring greater, newer or better technology. It is going to be digging things out of mothballs that we have already decried in the past as possibly not fit for the 21st century and not safe or right for the travelling public. Our actual experience of open access operators has mainly been in safety areas, where they have failed spectacularly but have still been allowed to keep their licences.

Q210 **Martin Vickers:** The main franchise holders are still running units that are 40 years old. What is the difference?

Mick Whelan: I told you privatisation had not been a success.

Q211 **Martin Vickers:** Surely the interests of the passengers need to come into the equation. Passengers in my part of the country value Hull Trains greatly, for example. That is a valued service, but you want to cast them to one side.

Mick Whelan: I do not want to cast them to one side. We recognise Hull Trains, and we work with Hull Trains. If it had not been for our assistance in the early days when they had their teething problems, they might not be operating now. To go back to Mr McCartney's question, obliquely through yours, in 20 years of privatisation, until recently we had never taken an interest in who won a franchise. We have not been part of the bidding war or the process, because it has been less than transparent. We have then worked with whoever won the franchise.

The west coast upgrade would not have happened without our assistance. The introduction of Pendolinos, 222 Meridians and all the trains that were brought in across the country last year, as well as every major infrastructure project, could not have happened without our flexibility in working with the stakeholders in the industry—both franchises and on the infrastructure side.

A brief answer to your question is that we may not like the model but we work within it and we seek to make it safe. We seek to ensure that taxpayers' money is well spent and that people have a safe and operable railway. Open access, unfortunately, on our increasingly congested railway is not the answer. We have so much duplication and so many multi-user areas that I wonder, even with what we have, if there could not be better synergies in place.

Q212 **Martin Vickers:** But if an open access operator is providing a service that is beneficial to passengers, perhaps we should restrict the number of paths that are available to the main franchise holder rather than the opposite.

Mick Cash: Why franchise them? Why not just have a free-for-all?

Mick Whelan: Our experience over the 20 years—I have not done quite as long as my colleague; I have only done 32 years—is that there have been many attempts in the past to introduce community railways or other types of railways, but they do not have to operate to the same standards as the main franchise holders. One of our main concerns about open access and other providers is whether that would be the case. Even more recently, on some of the devolved questions, it was about the quality of the services and whether they will all be operated to the same standards as the rest of the UK railway structure.

Q213 **Graham Stringer:** Within five years of the privatisation, in 1999 there was a peak of deaths on the railways. Railtrack went bankrupt and Network Rail, effectively, became a publicly owned body. I have two questions following from that. First, have you noticed a real difference since Network Rail has been in public ownership? Secondly, are you satisfied with the governance arrangements of Network Rail, which are not replicated anywhere else in the world, as far as I know?

Mick Whelan: We have worked with Network Rail, and for a long period of time, when money was being heavily invested in the railway, it was moving in the right direction. Post 2008-09 and the financial strictures on all areas of the public economy, we have seen some changes. There is a slight race to the bottom in the awarding of Network Rail contracts to other parties. The consequences of that you might want to deal with on a future date. As you know, freight is in the doldrums, post-coal and post-steel. We have had the announcement this week of DB Cargo giving redundancy notices to 1,100 drivers across the country, because of its problems.

The real problem with the way that Network Rail works is that it contracts out to the main freight holders for their infrastructure works. If that pot of people does not exist, who is going to maintain the infrastructure when there is no one else to do it? Until recently I believed Network Rail was maintaining the integrity of the structure, even though in the next couple of control periods and after the Peter Hendy report we will see things devolve from CP5 to CP6. Moving things for five years or more always worries me, because of Potters Bar and previous incidents. Because of where we are financially as a country currently, there is a slight change in attitude to Network Rail. They quite naturally seek value for money, which we all welcome, because it is taxpayers' money, but we are now seeing part of the casualisation process I spoke about earlier creeping in, because of that race to the bottom.

Mick Cash: In terms of Network Rail making a real difference, the stat I gave you earlier indicates that they have been the vehicle for a huge amount of investment in the industry: Border Rail; what happened at Birmingham; Great Western; Reading; and even Manchester at Piccadilly station. The company itself has been a vehicle for delivering quite a lot of major infrastructure changes.

I was an infrastructure worker. I was sold like a piece of meat to a company called GTRM many years ago. We were brought back in-house in 2002. I was an officer by then. Savings and efficiencies were made by Network Rail so that they could run a more efficient and safer railway, as far as we were concerned. There have been real differences on safety. An example is that they have built up a whole network of training establishments, which means that there is future employability and the development of engineers and staff. It was not there before, but it is now. I see that not only in terms of investment in the industry but in how they operate. There has been a real difference. In this control period, £25 billion of the money spent up to 2019 is not going to be on running Network Rail per se but on enhancing and renewing the tracks and doing big projects. That in itself makes for a better and more efficient railway.

On governance arrangements, I am not 100% certain what you mean. Different mechanisms have been tried for governing Network Rail. They are more transparent in what they do. I have frustrations as to how they operate. Mick talked about casualisation developing in the freight companies. One of the things I worry about is that we still have a hell of a lot of casualisation in Network Rail in the contractors they use and the agencies. Over the weekend, I was reading about Frank Field's campaign on HMRC umbrella companies. There are a lot of agency workers in Network Rail as we speak, who, I believe, still use umbrella companies. There is an issue about whether they fully comply with where they should operate in terms of tax, particularly for a state-owned company. That is an area we have been pursuing with Network Rail for a period of time. There are things that are really good and there are things that could improve, but I tell you what; it is a darn sight better than the alternative.

Q214 **Graham Stringer:** The question I was asking was whether the governance that basically gives a role to all the interested parties is satisfactory. It is unusual for a body that is funded by the taxpayer and not really under direct control, via the Government of the taxpayer, in the way that British Rail used to be. That leads to this question. There have been a number of reports showing that there should be better integration between Network Rail and the operators, the McNulty report being one of them. Would the publicly owned Network Rail, with that structure, find it easy to operate with the rest of the private sector in the rail industry?

Mick Whelan: There are two issues that make that difficult. They work well together. We are in an industry now where we have slight alliancing, deep alliancing, no alliancing and all sorts of stuff. When I ask people to explain it to me, I don't quite understand it and I have been around a long time. Network Rail licenses the operators and then the ORR regulates them, which causes a slight dichotomy in who does what.

The biggest area of contention between Network Rail and the operators is the penalty regime. If it is the fault of the infrastructure, Network Rail pays penalties to the users of the track. If it is the fault of one of the users, they pay penalties to Network Rail and all the other users that they have delayed. That relationship makes things quite fraught at times.

Mick Cash: Alliancing and working with the train operating companies is important. When we talk to senior people in Network Rail, or even our own people, about South West Trains and ScotRail, it is about the ability to work together on the ground, so that when there is disruption or problems they can get trains working or are able to do the work. The thing that underpins it all is the financing—where the costs are; who gets blamed and whether or not we get to the situation where you are robbing Peter to feed Paul. I am sorry to come back to Mr Merriman on Southern, but it got £48 million out of Network Rail, on top of another £20 million. That is money that comes from Network Rail's budget.

We talked earlier about governance. One thing I do know is that sometimes when I talk to people I feel that Network Rail cannot cough without getting authority from the Treasury these days. There are tensions and issues about how it can operate with the private sector in the franchise arrangements when it is a public body. The financial arrangements are difficult and they need to be looked at.

Mick Whelan: If I might come back briefly on the question, it is only in the last two years that we have had any direct contact with Network Rail and meet with them on a regular basis.

Q215 **Chair:** Has that improved?

Mick Whelan: After 18 years, we now have diarised meetings with Network Rail.

Q216 **Chair:** You have both made it clear that you do not agree with the current system, but is there any one thing that you think could make a difference to how the system works and would make it work more effectively in the public interest?

Mick Whelan: Mick spoke about transparency. The real problem with the current system is that, while we go through notional consultations with the DFT about our aspirations, what we would like to do and where we can work together—particularly in areas such as diversity—the confidential nature of all these processes does not lend itself to real questioning about what people want to do, how we can avoid duplication and how we can make things better.

Of course, franchising itself is bad enough, but then you move to direct awards where nobody competes, and you do not know if the person who has been given a direct award underbid by £50 million, £30 million or £20 million, or what they might have been expected to do if they had won the bid as opposed to what they were expected to do if they were given a direct award. That does not give leadership or guidance to the industry. It does not let the stakeholders know where we should be going and what we should be doing. Because of the isolationist nature of what we do, when we give leadership and guidance to the industry, to the directors of the 25 companies whose first obligation is to their shareholders and not to the industry or to the people they employ, we find that the whole structure of the industry does not lend itself to the sort of improvements that you and we would like to see.

Q217 **Chair:** Mr Cash, is there any one thing you think could make it better, given that you do not accept the whole system?

Mick Cash: I assume people do not want to go back to British Rail, but if we had the ability to have Network Rail operating the trains as well as the infrastructure, it would be a novel idea, wouldn't it?

Chair: Thank you very much, both of you.

Examination of witnesses

Witnesses: Jo Kaye and Paul Harwood.

Q218 **Chair:** Good afternoon and welcome to the Transport Committee. Would you give your name and position in your organisation, please?

Jo Kaye: I am Jo Kaye. I am the director of network strategy at Network Rail.

Paul Harwood: I am Paul Harwood, strategy and planning director for the south of England for Network Rail.

Q219 **Chair:** We heard at our last meeting from Go-Ahead managing director Charlie Hodgson that the single biggest factor underpinning the current calamity on Southern Rail was wrong information given to GTR about projected delays because of the major infrastructure works taking place. For example, they were told that there would be 10,000 delay minutes per annum when the reality has been 10,000 per week. Was that Network Rail's fault?

Paul Harwood: The actual assumptions were included in the ITT by the Department for Transport. We would have fed some information into the generation of the ITT, but I understand that those specific ones were fed in by the Department for Transport.

Q220 **Chair:** But where did they get them? Was it from Network Rail?

Paul Harwood: No.

Q221 **Chair:** Not from Network Rail.

Paul Harwood: Not in that specific instance, no.

Q222 **Chair:** They were their own calculations.

Paul Harwood: Indeed. I should expand further. If we go back to Christmas 2014, there were issues at the heart of a lot of the performance for a while. It was an industry position that pulled that together. Effectively, GTR would have inherited the train service and the obligations for that specific piece of work from an industry position that was pulled together. The Department for Transport put the specific assumptions in the ITT, but the industry generated the timetable and activity at London Bridge. Indeed, the previous train operating companies would have had a significant role to play in that.

Q223 **Chair:** Does Network Rail take any responsibility for information given on infrastructure works and future planning?

Paul Harwood: Absolutely, yes. We put information in; we feed it into the Department. They feed that, together with a whole variety of other inputs, into the invitation to tender process. We feed in information in terms of our core renewal works, our organisational structure and various timetable information. It is a composite of all sorts of different information going into the Department for Transport.

Q224 **Chair:** Do you think that Network Rail needs to improve how it makes its assessments? There have been other problems on infrastructure works that have not gone to plan.

Paul Harwood: There is no doubt, particularly going back to London Bridge and the wider issues, that we have learned lessons. It was probably the most significant piece of work we have ever undertaken on such a constrained piece of infrastructure affecting so many people, with the poor passengers having to go through that. There is a lot of work there. We have learned from it and we are projecting it forward into the works we have coming. Euston has already been mentioned. I am specifically involved in some of the work on Waterloo coming up in August next year. We are going about that in a different way and learning lessons from the London Bridge works. It was probably the most significant piece of work we have ever undertaken. We got some of the assumptions wrong about how things would turn out.

Q225 **Chair:** What about the projected work on Euston station linked with High Speed 2?

Jo Kaye: We have picked up a lot of the lessons from London Bridge and are carrying those forward into our planning for Euston. We are doing our planning for Euston alongside our industry colleagues. The timing of the franchises on the west coast should enable the actual parties who will need to carry through those plans to be in place during the planning period. That will be a big advantage. We have moderated some of our assumptions about how passengers cope with big changes that happen quite quickly. We are taking forward a number of those lessons in the future planning of the projects.

Q226 **Iain Stewart:** I represent a constituency that heavily uses the west coast main line into Euston. Would you say a bit more about that? The London Bridge experience was not good. My constituents, and indeed the constituents of many other Committee members, will want some stronger reassurances. Could you give a bit more detail about exactly what would change from what happened at London Bridge in the planning for Euston?

Jo Kaye: There will certainly be different assumptions about how people will be able to cope with significant changes in infrastructure.

Q227 **Iain Stewart:** Assumptions of what?

Jo Kaye: For example, one of the issues that we faced at London Bridge was that drivers' lack of familiarity with the new layout meant that they were driving more tentatively, and that contributed to more delay. The passengers themselves found the changes quite disorientating. Clearly if you are a regular commuter, you use the service and the location a lot and you become very familiar with the best way to get to where you need to be. When we make significant changes like that, they can really unsettle people and it takes them a little while to get back into a normal rhythm. We fully accept that we underestimated those two factors at London Bridge and that they came together in a way that was clearly very unpleasant for the people concerned. Going forward, we have therefore moderated our assumptions about that, and changed the way in which we will plan. We will try to do more incremental changes that give all industry staff and passengers an opportunity to get used to the changes, limiting the very significant big bangs that might otherwise occur. Those are a couple of things.

We will work with the operators on the west coast in a very joined-up way, to make sure that the plans are fully tested by them and bought into by them. The other thing that was different about London Bridge was that the franchise changed just before that very big piece of work took place. We believe that getting the timing of that better will have a significant benefit for those involved in the Euston works relating to HS2.

Q228 **Iain Stewart:** There are going to be new franchises let on both Intercity West Coast and the one currently operated by London Midland. There are also the London Overground services. How are you going to balance the competing priorities of those different operators? I appreciate that the plans have not been finalised, but the last I heard was that the current timetable can more or less be maintained but the built-in resilience goes, so if something goes wrong there will be major disruption. Could you talk me through a bit more about how you are going to balance the intercity needs against commuter needs and against the overground needs?

Jo Kaye: Balancing competing needs is something we do on a daily basis effectively in Network Rail, because overall we have a network that is at or near capacity in many places. In the specific case of Euston, we will work with our operators to develop an operable plan. That includes more mitigation being put into place in advance, so that as and when disruption may occur all the parties are better placed to deal with it. There are some very practical things such as additional staff on the stations to help out passengers. Those kinds of practical steps can be put in place long in advance of the work starting so that, should any disruption occur, we are better placed to deal with it.

Overall, we are working through developing a written timetable that delivers the existing needs of the franchises. The other important thing to note is that clearly co-operating and doing the best job for the HS2 works at Euston will be built into those two franchises, so that the winner of the franchises has an incentive to work with us and to make the best that we can of that.

Q229 **Iain Stewart:** When do you anticipate being able to make public the plans for Euston in the construction phase so that I can start telling my constituents what to expect?

Jo Kaye: Clearly, the Bill needs to get to the point of Royal Assent. We anticipate that will be in December this year, or January next year perhaps. In accordance with our normal timescales for starting to inform customers of works, we will start to go through the process of explaining to people how we see the staging and how that will work for them. We will build on the lessons from London Bridge, which we just talked about, and equally on the work that we do next year at London Waterloo, which is another example of major works at a London terminus, and carry those forward. We will advise people about the times when it is best not to travel but, equally, what their alternatives are so that they can make choices in an informed way.

Q230 **Graham Stringer:** This question is relevant to improving or building stations. Are you briefed on why there is a hole in the roof of Victoria station in Manchester, having spent £42 million on it?

Jo Kaye: Yes. There was a discussion at our executive committee this morning on that very unfortunate incident. There is an ongoing investigation by the supply chain that helped build Manchester Victoria as to what may have caused it. Until that investigation is concluded I cannot confirm anything further, but it received the attention of our executive committee this morning.

Q231 **Graham Stringer:** When is it going to be put right?

Jo Kaye: The most appropriate type of repair is being taken forward now, as I understand it.

Q232 **Graham Stringer:** Do you have a completion date?

Jo Kaye: I don’t—not here. We can certainly follow up with you directly on that.

Q233 **Graham Stringer:** Is it likely to be true that it was caused by the wrong sort of seagulls chewing the roof?

Jo Kaye: I would observe that we have seagulls in a number of other stations across the UK, and the material used in the roof at Manchester Victoria is certainly not unique to there. We have used it successfully in other locations. I suspect the investigation will tell us, and that will be one of the factors we look at. I suspect there will be more to it than just that.

Q234 **Chair:** Let me focus on operator performance. I am very confused about what information Network Rail has on operator performance and what information the Department has. Do you pass information to the Department? If not, where does the Department get its information?

Jo Kaye: All the performance data in the industry originates from the real-time running of trains in one way or another. Network Rail publishes real-time data live, and periodically, on the performance of the industry as a whole, regardless of who may have caused particular problems or what incidents may have occurred. That is in line with the expectations of our regulator. Effectively, the operators' performance is a subset of that, and operators report that directly to the Department for Transport. They use our core data, our common dataset to do that. The operators' performance is only one part of the overall industry performance, which is why there is not an immediate match between the figures that you might see.

Q235 **Chair:** That sounds extremely confusing to anybody wanting to work out what is going on. We were denied access to operator performance data from Network Rail when we were looking at the Southern Rail issue, on the basis that there could be inconsistencies between the information the Department uses and the information that you have. Does that make any sense?

Jo Kaye: I am not aware that we were approached for information in that way and that we declined to give it. I will happily follow that one up. There are likely to be differences between the data, because the contracts that are contained within the franchise allow for issues such as force majeure, which you may have heard of in previous evidence sessions, and issues such as how the operator chooses to recover the service after an incident. Because we, Network Rail, are not involved in those discussions between the Department and the operators, we would not be able to provide data as to the outcome. As I say, the data that Network Rail provides is at much more of an industry level. We try to provide as much of that on an open data source as we can.

Over the last few years we have certainly seen emerging opportunities in the market, where people have created apps and other things to give people a much more personalised view of performance for their particular journey. For many people, train performance is a very personal thing. Aggregate levels of data at industry level are not necessarily terribly helpful in that debate. People are more interested in the performance of a particular line of the route that they live on or that they often use, down to the performance of individual trains. Much of the data that we provide enables people to dig down into that level of detail, such as they want to do.

Q236 **Chair:** That does not sound very satisfactory, does it? If this Committee or anybody else was looking at how well or otherwise a train operating company was actually fulfilling its duties, shouldn't they be able to get clear information? You say it is personalised. It might have a personalised impact on an individual, but if a company has contractual responsibilities surely we should be able to find out quite easily whether or not it is exercising them.

Jo Kaye: Network Rail absolutely supports transparency of data in all this arena, which is why we publish as much as we do in the way that we do. Clearly, you have spoken to Department colleagues about the manner in which they collect data about specific operators and how that is published. We publish as much data as we can, but we are not sighted on the contractual discussions that go on between them.

Q237 **Chair:** Is there any ongoing dialogue between you and the Department on how this information is made available?

Jo Kaye: We continue to discuss with the Department and our regulator the transparency of data and how it is best presented to the public, of which this is one of a number of things.

Q238 **Chair:** Are there any particular areas that you are focusing on at the moment?

Jo Kaye: Some of the preparation in the industry is for newer metrics of performance to take place in the next control period. We have been using the public performance measure for some time. Clearly people are more or less comfortable with that, because it describes the performance of trains at their destination within particular time bands. There is a move in the industry to have more granular information, and different information for different operators. If you operate a high-intensity metro service, people tend to be more interested in service frequency and the interval between trains—in a much more London Underground style—than they are in the performance of a particular timetable. In other cases, for long distance, timeliness is a much more important thing. The steps in the industry at the moment are about how we are to move from the somewhat one-size-fits-all public performance measure to something more granular and more relevant to the particular type of operation that people are experiencing.

Q239 **Huw Merriman:** This follows from your line of questioning, Chair. Ms Kaye, in terms of force majeure in the franchise agreement—you touched on that yourself—this Committee has been trying to get to the bottom of whether force majeure really sticks with respect to industrial relations on Govia. Surely Govia would point out that this was not a Southern performance issue but actually a Network Rail one. Do you provide the information to verify that, or have you not been asked by the Department for Transport to provide that information?

Jo Kaye: We regularly provide very detailed information to the Department and to individual operators, as our customers, on the root cause of delays. In fact, all the industry effort on the day trains run properly attributes any issues to the right root cause so that we can have informed conversations about where the issues really lie.

Q240 **Huw Merriman:** I am aware that you do that on an ongoing basis, but have you had situations where the Department for Transport has come back saying, "According to Southern this was a Network Rail issue. Can you just verify that it was?", or have you not been approached?

Jo Kaye: It is not my particular area of expertise, so I would not like to say for certain whether or not particular conversations have gone on. Certainly in general terms, there is a lot of ongoing conversation about performance in that area—particularly given the focus on Southern and GTR—about the root causes of any issues. We happily provide that data to anybody who needs it.

Q241 **Huw Merriman:** We are hoping that ultimately we will be given that information as well. When the franchising agreements are set, does Network Rail regularly go through the terms and try to pick out where there may be a particularly challenging term for the operator at the same time as you are doing major engineering works? Are you involved as a stakeholder in making recommendations about franchise terms?

Jo Kaye: There are probably four main areas in which Network Rail is involved in the franchising process overall. First of all, in our long-term strategic planning we aim to inform the Department as to what options they may choose to try to purchase through a franchising agreement. In the second instance, like other people you have spoken to at this Committee, we respond formally to the pre-consultation stage and give our views about what we believe is achievable. Thirdly, once the invitation to tender has been issued, we work on a bilateral basis with each of the bidders, to give them the information they require to develop a good bid and to take forward new initiatives that they might wish to consider. Finally, once the bids have been submitted to the Department for Transport, our role is to provide a number of specialist reports on certain elements of the bid so that the Department can take that into consideration in their overall evaluation.

Q242 **Huw Merriman:** To use one live example, as you touched on it, London Bridge was a huge engineering project, and always very high risk in terms of the impact on performance. The franchise agreement between Govia and the Department for Transport seems to have a requirement for the introduction of driver only operated technology. Those are two very large, risky ventures. Did you comment on whether that might be the wrong time to introduce that technology, or did that not come to your attention?

Jo Kaye: The driver only issue was not one on which we specifically commented. As you have noted yourselves, it is in operation elsewhere on the network, so it was not a particular concern for us. Certainly our focus would have been much more in the space of the infrastructure projects that we were looking to deliver, and therefore the impact that we believed at the time, with the information that we had, they would have on the operation of that franchise.

Q243 **Huw Merriman:** I know it is difficult to foresee, but in hindsight and seeing what has now occurred in terms both of the challenges of the industrial action and of the London Bridge project, do you believe it was the right decision not to have commented?

Jo Kaye: We are only invited to comment on parts of a bid. We are not invited to comment on all of it.

Q244 **Huw Merriman:** So you could not have commented anyway.

Jo Kaye: There is always the possibility that the majority of that conversation was in a part of the bid that we were not asked to review. I do not want to give the impression that we did not see fit to comment. It just may be that in that particular case the issue was not in an element of the bid on which we were asked to provide a report.

Q245 **Will Quince:** Following the point about franchising by Mr Merriman, how do you strike the balance between train operating companies' ambitions and what is, in effect, the Network Rail reality when it comes to the forward planning of infrastructure capacity, especially when new franchises come forward? I put that specifically in the context of our new franchise, which Greater Anglia has won on the Great Eastern main line.

Jo Kaye: In general terms, we look to support innovation being brought to the railway by new bidders and the franchises that they seek to secure. We always temper that with what we believe is the realism of what can be achieved. Again, this can only be achieved in the areas of the bid on which we are asked to comment. Where we are asked to, we feed back our views on whether we believe what is in the bid is deliverable and realistic. The Department takes account of that as part of its overall evaluation.

Q246 **Will Quince:** This is not a particularly easy question. Network Rail was established in 2002. You were supposed to be "efficient, dynamic, commercially minded and independent." Do you think you have lived up to that promise?

Jo Kaye: In a number of areas, we are making good progress. I would be the first to say that we have a longer journey to complete. You have seen recently the discussions we have had about the transformation of our business into a more devolved one, which I think will better enable things like innovation. Value for money has clearly become a much more significant consideration for us since we were reclassified as a public sector body. Developing a new relationship with the Department in the context of that continues to be a key role.

In the area of franchising, we believe that now we are an arm's length body of Government we can play a greater role in the evaluation of bids, and so on, so that they have the very best information from a whole industry level when they make those evaluations. I would be the first to say that, yes, of course we have further to go. We seek continually to improve what we do, and we will continue to do that over the coming years.

Q247 **Will Quince:** Putting it into context, I think you are a lucky organisation. Rail users blame the train operating companies for delays. In reality, depending on the line, probably somewhere between 40% and 70% is often down to Network Rail, yet understandably commuters blame their train operating companies because that is who they have contact with. Network Rail does not often get the blame. Excluding things like fatalities on the line, which are not your responsibility but nevertheless fall under your remit and under your statistics, signalling and the track all fall under Network Rail. Taking my line as an example, we have regular disruption caused by overrunning engineering works going past the weekend. There are regular line and signal failures. Do you genuinely think you are in control of both planning and costs?

Jo Kaye: Again, I would not suggest that we are perfect in either of those respects, but we have continued to make significant progress. You noted yourself that, although Network Rail is held responsible for a large proportion of the delay on the network, not all those things are entirely within our gift. For example, the effects of extreme weather are down to Network Rail, and there is clearly a debate to be had about the extent to which we are able to be actually in control of those sorts of things. That said, we continue to work on each of them very seriously. Whenever we deliver poor performance to the public, that is very regrettable and we publicly apologise, as we have regularly done. In many areas, we should remember that our performance is also monitored by an independent regulator, who has several times in the past enforced on us for what they consider inappropriate or unsatisfactory delivery and issued fines accordingly. I do not consider us to be completely isolated from the consequences of our actions.

Q248 **Will Quince:** Taking all that on board, you are heavily reliant on taxpayer subsidy to exist.

Jo Kaye: Yes, we are.

Q249 **Will Quince:** Given that you are, in effect, propped up by the taxpayer, what is your incentive to be efficient?

Jo Kaye: Our incentive to be efficient is exactly that. It is a big responsibility to spend taxpayers' money in the way that we do, and we take that very seriously. Clearly we are also accountable to our customers, the train operators we have been talking about, and to wider stakeholders. The railway does not exist in its own bubble. It has significant impacts on the wider economy, and we are very aware of that.

We are very aware of both the benefit and the difficulties it can bring if we do not get it right. We take those responsibilities very carefully.

Q250 **Will Quince:** In the same vein, of course it is very important that train operating companies have good relationships with yourselves in order to get that synergy. When it comes to things like part 8 payments, it is not necessarily in the train operating company's interest to hold you to account. They are almost financially incentivised by your failure. What you pay them in part 8 payments and what they actually end up paying to their customers in delay repay are two very different figures.

Jo Kaye: Yes. I think you are referring to schedule 8 of the contract.

Will Quince: Yes.

Jo Kaye: The purpose of schedule 8 is to compensate operators for loss of future revenue by virtue of poor performance on the part of the parties. That is clearly an aim that we support overall. There is then the further complication of what gets passed on to the travelling public. We are not sighted on that in any detail. Our focus is on making sure that the schedule 8 regime works as effectively as it can, to compensate operators in the way that it is set up to do and that those payments are processed effectively so that operators can do what they need to do. That is what is important to us. There have been different issues raised about delay repay and how that might operate, which you dealt with in a separate hearing.

Q251 **Will Quince:** Finally, can I get your thoughts on where full vertical integration is possible, especially on single operator routes?

Jo Kaye: Vertical integration is one model. It would require a change in the law. Obviously, there are alternative models available, such as alliancing, which we touched on earlier. That gives many of the advantages of vertical integration without perhaps needing to change the statute. As you say, not all alliances would be equal, in that, where there is a much clearer match between a primary operator and a piece of infrastructure, it is a much easier construct for imagining an alliance. On some of our busier pieces of railway, for example the west coast main line and the east coast main line, there are multiple customers operating. Constructing an alliance where risk and reward are shared is a much more difficult imagining. That said, we have a range of collaborative arrangements already in place with many of our customers. In many cases, when people go into collaboration with the right mindset and the right attitude, it can achieve as much as structural change, if not more.

Q252 **Chair:** What went wrong with the South West alliance?

Jo Kaye: Nothing went wrong with the South West alliance. It was the first of its kind, so it is important to note that both parties went into it wanting to see what could be achieved. We achieved a number of very good things that we have taken forward in further alliances, such as the one that we have developed in Scotland, and into our looser collaboration frameworks, which I referenced. We took the opportunity to reshape that.

One thing that we have clearly all learned is that there are different time horizons for the parties. Franchise holders tend to have a shorter lifespan and to be more thinly capitalised, whereas the heavy infrastructure asset base has a much greater level of risk and capital required of it. Those two things take some reconciling, but we learned a lot from it. We have reshaped that alliance and it continues in a slightly different format. I would not say that anything went wrong with it.

Q253 **Chair:** Wasn't it terminated?

Jo Kaye: The particular contract form that we originally signed up to for the pilot period was terminated and replaced with another. I consider that to be a reshaping of the relationship, not a termination.

Q254 **Chair:** Would you say the alliances work effectively?

Jo Kaye: Some alliances work exceptionally effectively.

Q255 **Chair:** Which ones? Tell me what is working well.

Jo Kaye: We are making good progress in Scotland. Clearly there are some current performance difficulties in Scotland, but the parties have come together and delivered a plan to improve that, in exactly the way that alliancing is designed to set out to do.

Q256 **Chair:** When we were looking at Southern Rail we found that GTR had implemented revised timetables during the recent industrial dispute. How are those timetables assessed for performance?

Jo Kaye: The first thing to say is that timetables are constructed on a set of industry-agreed rules. There are timetable rules of which each operator is aware and that Network Rail sets. They then create their timetable from that. Effectively, for an emergency timetable period, the operator bids to us a timetable based on the rules that the industry is aware of. We are then able to take a view as to how that will perform. Many of the models that tell you about industry performance actually take a very long time to run because by necessity they are quite complicated.

In the case of the emergency timetable, there was certainly a lot of detailed planning that went into understanding where some of the risks would be, and particularly from a safety perspective how we would deal with expected overcrowding at locations where there were fewer trains, for example. That was done on a whole industry basis before the timetable was signed off.

Q257 **Chair:** That sounds exceedingly complicated for anybody to understand, if they are trying to work out whether the company is fulfilling its responsibilities. Specifically, is train operator performance measured against the plan of the day, determined at 10 o'clock the night before in that case?

Jo Kaye: Could you repeat what you have just said?

Q258 **Chair:** Is train operator performance measured against the plan of the day, determined at 10 o'clock the night before in the case of GTR?

Jo Kaye: I think I understand what you mean. Yes, I believe that is the case. Once you have implemented an emergency timetable, you are then, from a practical performance perspective, measured against it. I could not comment on how that is dealt with in the contract between the operator and the Department, as we are not sighted on those exact arrangements. Certainly the way that you would see performance on all the real-time systems on the day would be against the timetable that was in place by 10 o'clock the previous night. We have used that if we have had to implement an emergency timetable, for example, in extreme weather. It is important to us as an industry to get that emergency timetable agreed by the close of the previous day, so that when customers are looking for what their service will be the next day we are able to give them an accurate representation of what the plan of the day is.

Q259 **Chair:** You referred to conversations between Network Rail and the Department in relation to this and other matters. How do they actually take place? It all sounds very obscure and complex.

Jo Kaye: There are a number of industry fora at which these kinds of performance-playing issues are discussed. There is an industry-wide body called the national taskforce which looks at these kinds of issues; a number of them are grouped under the heading of what you know as the rail delivery group. There are lots of topic-specific industry-wide bodies that look at these and related issues.

Q260 **Chair:** If somebody is trying to work out whether a company has breached its conditions, is it possible to do that? Those sound to me like very complicated mechanisms, to make it very difficult to assess.

Jo Kaye: You would need to know a number of things. You would need to know how trains performed on the day. I believe that that is a very open and transparent process. As I said, we provide open data feeds on all of that real-time information, so that people can access it if they need to. If you were trying to determine whether someone was in breach of their contract, you would need to know exactly what that contract said. The extent to which the individual who was trying to make that inquiry would know that would vary a little, I guess.

Q261 **Graham Stringer:** I have a couple of questions about the problems there have been on Southern. We have spent a lot of time on that. Could Network Rail have done anything to alleviate the situation in any way? Is there anything that you would have done differently?

Paul Harwood: In terms of the works at London Bridge, we have already talked about the lessons we have learned. Better communication with the passengers would certainly have made a difference. A complex one might have been the timing of the actual franchise. As Jo mentioned, the franchising process spanned when the major works were taking place at London Bridge. We could not control that, but it makes it quite complicated to engage with the train operating company that actually has to make it work. It was combined with the three train operating companies coming together as well. Normally, we would have wanted better and longer-term engagement with the train operating company around developing the plan when you have that much of an infrastructure challenge. We were not able to do that.

Q262 **Graham Stringer:** Could you have made representations to Government and said, "Setting up this franchise on this particular schedule is not very clever and it might get complicated"? Do you have the right to do that?

Paul Harwood: We have conversations all the time trying to help the Department understand what the consequences of the franchising schedule are, but I understand that they have quite a complicated programme to get through. They try, to an extent, to manage their resource capability and smooth that where possible. They have certain contractual requirements, and certain contracts run out at certain points in time. Yes, we would have fed in. We always have conversations with them, but they have a fairly constrained opportunity to do that.

Q263 **Graham Stringer:** Did you have that conversation on this occasion?

Jo Kaye: We should remember that, in the case of the Thameslink franchise, the whole franchising competition—the franchising schedule overall—had been delayed somewhat by the collapse of the West Coast competition and the subsequent Brown review. Clearly, the original timescales to which that competition would have taken place would have given us a much greater opportunity to work with whoever the winning bidder was, but, because things had moved to the right as a result of that review, both parties found themselves in a less than ideal situation. Going forward, we continue to have discussions about when we believe the best time would be to run a franchise competition, but within the constraints that Paul has talked about, which are effectively the contracts that are signed, the opportunities there and procurement law.

Q264 **Graham Stringer:** You have just mentioned the rail delivery group. All the reports on the railways over the last 10 or 12 years, or possibly longer, have talked about greater co-ordination and better communication between all the bodies. As one of the involved parties, do you have any view on how GTR—the Southern franchise—could have dealt with the whole situation more effectively, rather than just the timetabling and the letting of the franchise?

Jo Kaye: One of the core purposes of the rail delivery group is to help the industry behave in a much more joined-up way that is not immediately structurally available to us. Again, there is much more that we can continue to do over the next years in that respect. It has recently got a new chief executive and it is starting to make much greater advances in that area.

Q265 **Graham Stringer:** I know that is its purpose. I am asking in this particular instance whether Network Rail, as part of the rail delivery group, with an interest in seeing the whole of the railway work as efficiently, effectively and economically as possible, has come to any views on this pretty disastrous situation.

Jo Kaye: The first thing to say is that the impact on the passengers is not something that any member of the rail delivery group wants to see. We want a resolution of the situation as quickly as possible. We also bear in mind, of course, that we are seeking to modernise the railway and that this is a feature of a number of modernisation discussions. There is more we can do to help to support each other as RDG members through this period, and offer what support we can, but it is important that it gets resolved for the good of the passenger as soon as possible.

Q266 **Graham Stringer:** We can all agree with that, but is there anything that you see that could have been done better?

Jo Kaye: It is hard to see what could have been done better in the particular nature of the dispute that exists today. We have seen it become a very difficult situation very quickly. As an industry, it is not immediately apparent what more we could do to help resolve that, other than to keep coming back to the facts about the situation with regard to driver only operation and what we, the industry, can continue to do to manage the platform-train interface that our union colleagues talked so clearly about earlier this afternoon. That is really where the industry can play a better role. In aligning our incentives in that area, we can work together to keep the railway the safest place it can be. That is where we should keep our focus.

Q267 **Chair:** Operators are not exposed to Network Rail's costs, which has been a concern for some time. What can be done about it? The route-level efficiency benefit sharing scheme has been introduced, but there are only three operators signed up to that programme.

Jo Kaye: Yes. That goes back to one of the points I made earlier, which is the large difference between the risk and the capital required in an organisation such as ours for the heavy assets that we operate, and the somewhat more thinly capitalised train operating companies. We touched on one of the options earlier, which is alliancing. In a deep alliance, we have agreed a baseline of financial arrangements on both the operator side and the Network Rail side, and agreed a share of risk and reward about that.

As I said, a deep alliance is not necessarily the complete option for all parts of the network, because there are lots of parts of the network where there is not just one customer and it is much more complicated. Alliancing is an opportunity to share risk and reward between the parties in a way that otherwise would not be the case.

Q268 **Chair:** Do you think that is effective, or is it just a potential way of doing things?

Jo Kaye: Where we have it in place it is effective, because it very clearly aligns the incentives of the parties.

Q269 **Chair:** In how many places is that working?

Jo Kaye: We have a deep alliance in Scotland at the moment, where we have that risk and reward. That is the most material example. In other places, we have much more project-based alliances, where the two organisations agree to work together on a particular project, or a particular theme, and bespoke arrangements for risk and reward are talked about there.

Q270 **Chair:** Where would you say this is working effectively outside Scotland?

Jo Kaye: On some of the project-based activities, because people can focus on what it takes to make something a success. Those would be the things that would come to mind most.

Q271 **Chair:** Mr Quince asked you some questions about schedule 8 payments. Is it of concern to you that there is a perception that the train operating companies could actually benefit from delays?

Jo Kaye: Clearly it is a concern for all of us as passengers and taxpayers that that perception is out there.

Q272 **Chair:** Is it true?

Jo Kaye: I could not comment on whether or not that is true. We do not see the transparency of data in the same way that schedule 8 data—

Q273 **Chair:** Who would see that data? Who would be able to determine that?

Jo Kaye: Train operators know how much they pay out under delay repay. That is not data Network Rail is party to, so we could not comment.

Q274 **Chair:** Who would know? Who would have the information—the train operating companies themselves?

Jo Kaye: The train operators, yes.

Q275 **Chair:** The train operating companies are the only people who would know if they had actually profited by delays. Is that true and accurate?

Jo Kaye: That would be clear to them. The money flows both in and out of their own organisation.

Q276 **Chair:** Would they be the only people who would know if they were benefiting?

Jo Kaye: Again, I am not sighted on the contractual arrangements in detail between each train operator and the Department for Transport, for example, as part of the franchise. There may be some visibility that I am not party to.

Q277 **Chair:** You would not know that, but it is possible that the train operating companies themselves are the only people who would know if they are benefiting financially by delays.

Jo Kaye: I suspect that that could be possible, but I am not sighted on the detail to be able to say one way or the other whether that is actually true. It would be purely a possibility.

Will Quince: That information is all in the public domain.

Chair: Thank you very much.