

Written evidence submitted by Passenger Transport Networks (RRB0004)

This submission responds to particular questions raised in the Call for Evidence.

- * Would the draft Bill provide the necessary legislative foundations for an integrated rail body with franchising powers, as envisioned in the Plan for Rail ?
- * Will the integrated rail body (IRB) achieve the Government's aim of a 'guiding mind', providing: (i) better accountability, (ii) more reliable services, (iii) greater efficiency, and (iv) coordinated growth ?
- * What will be the effect of the requirement on the IRB to prepare an annual report setting out what it has done to increase private sector involvement in railway services ?
- * Are there further elements of the Government's aims for the IRB that should be given a statutory footing ?
- * Does the draft Bill make effective provision for the role of the Office of Rail and Road ?
- * What lessons should be learned from previous legislative changes to the institutional architecture of the rail sector ?

The Committee stresses that its Inquiry relates to the scope of the draft Bill, and not to issues relating to rail reform more generally. However this submission does deal with certain issues that are not mentioned in the documentation but which I consider should be and without which meaningful reform cannot proceed.

Documents are referenced as follows:

The Williams-Shapps Plan for Rail – WSPR

Draft Rail Reform Bill – DRRB

Explanatory Notes to the draft Bill – EN

Impact Assessment – IA

Government Response to Consultation – GRC

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1 The decision to revise the 1993 Act

1.1 The draft Rail Reform Bill embodies the Government decision to perpetuate the privatised regime. The Bill therefore sets out changes to the Railways Act 1993 and associated legislation.

1.2 That Act has subsequently been extensively amended and understanding the new changes across 292 pages of dense text is not easy. No doubt the drafting lawyers have been scrupulous in identifying relevant matters, but it seems likely that further amendments could be required (the Impact Assessment admits that 'unintended consequences' could occur [IA,p.20]). The process will also discourage public participation since real outcomes remain unclear.

1.3 The Bill will establish an Integrated Rail Body [IRB]. This is not Great British Railways as envisaged by the Williams-Shapps review, which is not mentioned in the draft Bill. In the first instance the Government will designate Network Rail [NR] as the IRB. This carries two risks.

1.4 First, in the absence of any overarching vision for our railway the IRB is likely to be dominated initially by the engineering functions and mindsets of NR. It will take time to build up the resources required for comprehensive planning of operations, especially since processes will need adjustment to support the new franchising system. This could be exacerbated if private operators become impatient with slow progress.

1.5 Second, it is difficult to interpret provisions in the Bill when there is a vacuum regarding what Government expects the IRB to do. There is no clear policy on simplifying fares, there is no description of how services are to be brought together, and the commitment to maximising the role of the private sector is not accompanied by any discussion of how it could work in the procedure for letting contracts or of the disadvantages of Open Access [OA] (see §4).

1.6 More broadly the proposed arrangements leave intact some inherent structural incompatibilities. The Office of Rail and Road [ORR] is to be retained. It will continue to closely monitor the work of the IRB, to determine its budget and track-access charges and to control the access regime. This may inhibit the freedom of IRB to plan strategically.

1.7 In particular [EN, ¶13-19] the Bill perpetuates ORR's duty to 'promote competition in rail services, for the benefit of users' while in future considering the cost to public funds and respecting IRB policy on capacity allocation, timetabling, performance monitoring and operational rules. This could become a potent source of conflict and prompts the question whether the IRB should be plenipotentiary and ORR should lose its second-guessing role.

2 The Reform Bill and the Williams-Shapps Plan for Rail

2.1 The Government's plan for the railways in Britain was published in May 2021. Since then there has been little public discussion while the Great British Railways Transition Team has worked away mostly in the background (at considerable expense). A formal response to consultation on legislation has only just been released. And the 'Whole Industry Strategic Plan' [WISP] on which hopes rested is not mentioned in the draft Bill or accompanying documents.

2.2 Principal themes of the Plan were

- * ending fragmentation, silos and adversarial relationships and eliminating the maze of agreements between hundreds of different parties;
- * a new brand and identity for the whole system, built upon the double arrow [WSPR,p.7];
- * an organisation with the power to be a 'guiding mind' that would serve society, deliver a public good and generate social, economic and environmental benefits [~,p.18] – in sum, working in the national interest;
- * recognition that our (*note the possessive adjective*) railways provide connections that are fundamental to good placemaking and that rail links can be a catalyst for regeneration and development [~,p.44];
- * Great British Railways [GBR] would design a joined-up network, ensuring coherence in infrastructure and operational funding decisions and preventing the emergence of unworkable timetables [~,pp.32,57];
- * an overhaul of track access to make the best use of the network and to ensure that trains are better planned with each other and with other transport services [~,pp.49,10];
- * a high-quality service at the right price to attract passengers to avoid a society dependent on the car and to establish rail as the best option for long-distance travel [~,pp.59,89]; and
- * an end to uncertainty about whether one is travelling with the right train company [~,p.70].

2.3 This vision has almost completely disappeared. Governments are entitled to ignore proposals and to change their minds. However

- * implementation was committed in Williams-Shapps ['Our Promise'. ~,p.10];
- * the assertion that GBR can deliver 'the perceived benefits of nationalisation without losing the efficiency and innovation advantages [of] the private sector' [GRC,p.19] is ostentatiously ideological and unsupported by evidence, while the fact that private-sector management has not been an unalloyed success is ignored;
- * the Impact Assessment admits that the extent of modal shift is unclear [IA,p.22]; and

* the indications are that most citizens would prefer a quite different approach¹.

2.4 Although the Bill does create a 'single point of accountability' and require the IRB to act in the public interest this appears subservient to the potentially divisive instruction to increase the involvement of the private sector and report annually on progress. Moreover, the prohibition on public sector operators competing for contracts will remain in place [IA,p.21], along with constraints on collaboration between operators.

2.5 Similarly, abandonment of the Williams-Shapps proposal that GBR should be the sole supplier of data about travel options and prices [WSPR,¶64-65] in favour of multiple outlets runs counter to the frequently-expressed concept of simplification. It also raises questions about revenue leaching out of the national system to private parties.

3 Ideology and timetable planning

3.1 Railways are necessarily complex organisations. Because of the speed and weight of trains, limited opportunities for overtaking, numerous points of conflict and the imperative of safe spacing it is essential to plan in detail and to deploy sophisticated technology to control movements in real time. The attempt to involve multiple players by establishing an elaborate scheme of access controlled through legal procedures has plainly (and predictably) failed. The new dispensation must recognise this.

3.2 These basics must be recognised if the IRB is not to perpetuate problems:

- * optimal use of the network requires a single national timetable;
- * that must be supported by evidence of the relative benefits of different train services;
- * the planning agency must have the power to decide between options;
- * decisions must not be compromised by a stipulation to maximise private operation; and
- * the process must not be subservient to a regulatory body with its own agenda.

3.3 Planning must also be based on established principles of what the public interest requires:

- * for the railway (and public transport) to benefit the community the whole country must be served to a consistently high quality, with a good balance between frequency, ticket flexibility and price;
- * connections between services must minimise waiting times at interchanges; and

* timetables and ticket schemes should ideally maximise convenience by offering 'turn-up-and-go' services [another missing issue: see WSPR,p.58].

3.4 Transport policy is about more than the 'better functioning of relevant markets' [IA,p.3]. It is about how to underpin provision for everything from daily needs to national economies and cohesion. Skill in marketing trips by train is of value if it captures a journey from air or car, but only of secondary significance if it captures from another operator.

3.5 This has implications for the relationship between the IRB and bidders for franchises. One option would be for IRB to plan in detail as envisioned in Williams-Shapps and outlined above [¶3.1-3.3] and then to let highly-specified contracts for delivery [WSPR,p.54] (as happens with retail chains managed by concessionaires with little variation in customer-facing presentation).

3.6 The alternative option (as current proposals imply) is that contracted companies will have freedom in designing trains, defining timetables, setting prices and devising marketing strategies, possibly on some routes in competition with other contractors and OA companies. That way lies gross inefficiency and the end of hopes for a traveller-friendly system. Little evidence exists that it could work or be beneficial and popular.

3.7 The Government should promote a wider debate about the options. Companies can of course contribute to the planning process, along with all other stakeholders, but the specification of passenger service contracts must be tight in the interests of the system.

3.8 There are further implications if private companies have primacy. First, they should not set their own fares or offer company-exclusive tickets. The 'simpler' railway predicates removal of such features. Second, the arrangements for covering the costs of the infrastructure will need review since the rationale for the discount for Open Access trains will be increasingly difficult to justify.

3.9 Third, unless reduced fares offset the loss of revenue by increasing sales there is a risk of shortfalls in the income that the infrastructure manager requires. And finally, involvement of the private sector means funds leaving the public purse in dividends: it is not obvious that that is desirable, given that the railway needs continuing support for its social and environmental functions.

3.10 The next section illustrates the malign consequences of the post-1993 system on timetabling that must be removed if the railway is to deliver tangible national benefits.

4 Designing the timetable

4.1 The published timetable is the catalogue of the offer of possible journeys made by any organisation running communal transport. Its status has been diminished by the preoccupation with bargain tickets and it deserves to be restored.

4.2 Implementation of the 1993 Act required an access right for every train movement specified in detailed legal documents. ORR manages the system in conjunction with Network Rail as the body responsible for planning the Working Timetable [WTT].

4.3 Each operator under contract to the Department for Transport [DfT] applies for rights and then bids to NR for paths while blind to other bids. It is then NR's task to meld these into a workable timetable. However NR has no remit to initiate planning for an optimal timetable for the network², and since 1993 numerous incompatibilities have arisen between the positions of DfT, ORR and NR.

4.4 This fragmented process causes

- * frequent changes of timings and the absence on most routes of easily-understood patterns such as standard timings throughout the day;
- * paths being bunched together, hence the convenience of frequency is diminished in favour of nominal competition; and
- * connections between services no longer being considered, resulting in extended journey times particularly where the rule for minimum interchange time is marginally broken, thus imposing a long wait that must deter potential travellers.

No attempt has been made to quantify the journeys *not* made by rail and the lost revenue.

4.5 These weaknesses are exacerbated by Journey Planners that only present a take-it-or-leave-it answer to a simple question. This marketing failure is reinforced by the disappearance of printed timetables and maps, so that most people have no idea of just how convenient the network is – for all its faults. And there are few efforts to coordinate rail and bus timings

4.6 Open Access complicates the situation. When a putative operator applies for rights ORR consults with NR, but in the absence of a definitive timetable plan various assumptions are made about the available capacity. Some such assumptions have proved unwise, particularly where the Regulator's obligation to promote competition has compromised sound judgments.

4.7 A particularly egregious example is the situation on the East Coast Main Line [ECML]. In 2016 ORR granted rights to an OA company for new services on an already congested route – without the benefit of reliable estimates of capacity and including a capacity-enlargement scheme that was subsequently cancelled.

4.8 For a recast of a route timetable NR creates a project team. The ECML team has been working for nearly eight years. Now NR has concluded that no solution

meets the multiple aspirations for paths. Implementation in December 2024 is at risk, leaving the 2011 timetable in force, exploitation of remodelled infrastructure in limbo and many regional aspirations unmet

4.9 It is astonishing that despite this impasse “the government believes that competition and the role of the private sector has been greatly beneficial to passengers, and the Plan for Rail outlines opportunities ... to ensure best use of the network and to grow new markets for rail. Open access operators ... open up new markets, reduce ticket prices and drive innovation by competing with existing franchised operators” [GRC,p.54].

4.10 Crucial downsides need to be recognised:

- * OA is given excessive attention in the reform proposals: it currently accounts for only 1.0% of train-kilometres and 0.6% of passenger journeys [IA,pp.65,66];
- * the assertion of OA rights generates inflexibility in timetable planning;
- * it is misleading to refer to OA as filling gaps in timetables: they are usually there for good reason (for example to assist reliability);
- * it is unlikely that ‘gaps’ will not require other, possibly spreading changes elsewhere;
- * small fleets of trains are inefficient;
- * in order to limit revenue-abstraction from franchisees OA companies are impelled to select calling patterns that make little sense in the wider timetable context;
- * it is daft that ORR decisions transfer revenue from a state-supported franchisee to a private company (what does ‘not disproportionately impacting taxpayers’ mean? [GRC,p.43]);
- * operator-specific tickets reduce the convenience of frequent services and lead to negative, customer-unfriendly announcements about ticket validity;
- * pathing to accommodate OA trains prompts undesirable tweaking of the WTT and duplications that waste capacity (more OA trains may nullify the aspiration to remove ‘operational and financial inefficiency’ [IA,p.9]);
- * differential fares magnify the perception that buying travel is too complicated; and
- * selective evidence from interested parties has not been balanced by independent scrutiny.

5 Capacity for freight

5.1 Expanding the volume of freight carried by rail is obviously desirable on the environmental grounds of reducing the use of fossil fuel and of alleviating congestion. This is not however straightforward. If the released capacity is taken up

by extra mileage by private cars some benefit is immediately lost. And if ambitious growth targets for new paths lead to ill-considered loss of passenger paths that too will be counter-productive.

5.2 Access to the railway cannot be made similar to the ease of access to roads. If paths are used only on selected days or as required then that represents wasted capacity since the paths usually cannot be used for any other purpose. This then requires schemes for sharing paths between shippers, for offering standard paths for auction and for the IRB to have powers to reject the business.

5.3 These issues merit urgent research [see WSPR,p.78] to aid understanding of the trade-offs, for example between a well-loaded freight train and a passenger train with few customers but which runs to secure confidence-building regularity. Hence this is another issue regarding which potential policies should have accompanied the legal technicalities of the Reform Bill.

6 Alternative models

6.1 In 2021 Williams-Shapps judged that ‘The railways lack a guiding focus on customers, coherent leadership and strategic direction’ [WSPR, p.7]. The draft reform bill does not address that critique. And it is a mark of British insularity that alternative models for managing railways have not been evaluated.

6.2 At the other extreme from the Government’s approach lies Switzerland. There a large set of operators (in predominantly communal ownership) collaborate in delivering a national and coordinated timetable plan, including bus links. It is based on high standards of connectivity and convenience. Governance involves Federal authorities, Cantons and Communes. The plans set agendas for infrastructure enhancements, and their financing is put to popular decision in referenda. Over time this has created palpable confidence in public transport and high modal shares. [See *Rail*, 6 March 2024, pp.46-49].

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Endnotes

¹ For example, in August 2002 a survey for We Own It found three times more respondents preferred public ownership than those preferring private ownership
[<https://www.survation.com/new-poll-public-strongly-backing-public-ownership-of-energy-and-key-utilities/>].

² Part D of the Network Code describes procedures for timetable planning (in 51 pages). There are twelve Decision Criteria, but NR has discretion regarding their application and some are plainly not being applied.