

15 February 2012

Gordon Herbert
Office of Rail Regulation
1 Kemble Street
London WC2B 4AN

Dear Gordon,

A greater role for ORR in regulating passenger franchisees in England & Wales

This letter sets out TfL's response to the consultation. TfL is content for the response to be published.

TfL supports the principle of transferring responsibility for some aspects of franchise regulation relating to passengers' interests from DfT to ORR. It is intended that the new less prescriptive franchises will allow TOCs more flexibility in meeting passenger needs and will rely on outputs requirements in franchises. It is therefore essential that passengers' interests are protected through effective regulation.

For London's inner suburban services, where fares are low and many journeys are non discretionary, there is little commercial incentive for operators to deliver good quality passenger services. It is therefore particularly important to have effective monitoring and enforcement, preferably backed by a prescriptive specification. Reputational incentives would not be effective in incentivising service quality so a compliance obligation would be required.

TfL supports the principal of transferring responsibility for complaints and DPPP, both of which are covered by the passenger licence, from the Secretary of State to ORR for DfT's franchises. This would bring responsibility for these areas within the remit of a single regulator.

TfL understands that the proposals will only apply to new franchises that are let by DfT. The consultation notes that ORR and DfT will talk separately to funders of other franchises and concessions. TfL lets the London Overground concession and will be responsible for the Crossrail concession. It is not clear whether any transfer of responsibilities in respect of complaints and DPPP is proposed for TfL concessions. As the case for transfer of functions is driven partly by the move to less prescriptive franchises, this argument would not apply for TfL concessions where inputs will continue to be closely specified.

The case for the longer term proposals to transfer responsibility relating to performance and service quality to ORR is less clear. However, performance and customer satisfaction results on the West Anglia franchise show that the current mechanism does not always protect passengers' interests so more effective regulation is to be welcomed. The Mayor's Rail Vision sets out proposals for inner suburban services in London to be devolved to the Mayor. A local focus would result in better performance and service quality.

Although monitoring outcomes such as CSS scores is essential, TfL also believes that it is important to monitor key inputs and outputs through quality monitoring and mystery shopping especially where inputs do not form part of the franchise specification. It can also take time for a reduction in service quality to be manifested in CSS scores, reducing the regulator's speed of response to service quality issues.

Current SQMS regimes are sometimes insufficiently broad ranging to provide useful management information. For the Southern franchise, TfL introduced its own mystery shopper surveys to monitor delivery of its increments.

TfL's investment in London Overground together with effective monitoring and enforcement regimes has contributed to LOROL's exceptionally high operating performance and customer satisfaction levels. TfL wishes to retain control of its own performance and service quality regimes for its concessions.

Yours sincerely

Carol Smales

**Forecasting and Business Analysis Manager
TfL Rail and Underground**