

15th April 2016

Professor Stephen Glaister
Chair, Office of Rail and Road
One Kemble Street
London, WC2B 4AN

Dear Stephen,

EAST COAST MAIN LINE ACCESS APPLICATIONS

We would not normally write to you direct on a matter such as this, but in this case we believe the issues are of such significance – not only for us but for the rail industry as a whole – that we need to be absolutely sure that you and your Board are fully sighted on our grave concerns and the reasons for them.

We are sure you appreciate that the current Open Access applications on the East Coast Main Line set new precedent. Unlike previous entry by Hull Trains and Grand Central which developed the rail market by giving direct London services to important centres which lacked them, these applications target markets which already enjoy the best rail services they have ever seen, and do little to develop new markets. In targeting existing markets the services would abstract revenue from franchises on an unprecedented scale, on top of the lower but still substantial sums which have already been captured by OA operators on this route. These OA proposals contrast with our own proposal which is a carefully developed holistic package, cutting journey times to key destinations, improving connectivity and introducing direct London services to Middlesbrough and Huddersfield and significantly improving the direct rail services to London from Lincoln, Harrogate and Bradford.

The revenue from these newly-targeted markets is the mainstay of the ECML franchise. In preparing bids for the franchise a key issue for us, and no doubt for others, was to anticipate and take account of the risk of further OA competition. This we did on the basis of ORR's practice to date in approving OA services which generate new business by developing new markets. Had we anticipated and allowed for OA successfully targeting core markets this would have significantly influenced our bid approach. A decision to approve the current OA applications would therefore present an entirely new threat not only to the financial stability of the current East Coast franchise but to the market for long distance franchises as a whole.

Despite this we recognise that ORR would be right to approve the applications if it were convinced that this was the correct course of action in line with its statutory duties. But the evidence we have seen, and which has been extensively discussed with your office and the OA applicants, falls far short of being convincing.

We agree with ORR's consultants that assessing the impact of the proposed new services is extremely difficult and stretches existing forecasting methodologies to their limit. This seems to be why your consultants have adopted methodologies which are new and different from those which have been applied to assess previous applications – and which in places appear contrary to the industry best practice guidance provided by the Passenger Demand Forecasting Handbook.

Over many months we have pointed to numerous flaws in the analysis carried out by ORR's consultants. Some of these have been acknowledged and the analysis corrected. This has itself led to very significant changes in some of the key projections, demonstrating that the results are sensitive to input assumptions and choice of methodology – these things really matter. Other flaws remain in the analysis, but we have not seen persuasive justification for adhering to the consultants' approach. An alternative approach, employed in work for the DfT and assessing the same set of options, produces very different results which could well point towards different decisions by your Board - yet no serious attempt has been made to understand or reconcile these differences.

To compound the modelling uncertainties there are at least two other areas where the Board must appreciate the material risks around its assessment.

The FirstGroup application proposes lower fares on the Edinburgh-London route. Without such lower fares the application would certainly fail the 'Not Primarily Abstractive' test. But there can be no guarantee that these fares would materialise; we are unaware of any means by which ORR could enforce them. Once granted access rights the operator would be free (and expected) to adopt a profit-maximising fares strategy, regardless of its effect on abstraction or generation.

Furthermore ORR's analysis seems to make the central assumption that operating additional trains on the ECML would have no impact on performance, despite all evidence to the contrary. While we agree that it is impossible to make accurate projections of this impact, it cannot be right to ignore it.

It seems abundantly clear that the uncertainties in modelling, in fares inputs and in performance mean that all projections used in assessing these applications must be treated with great caution, and the range and likelihood of different outcomes in practice must be considered before taking decisions which could have far-reaching consequences.

We welcome the CMA report Competition in Passenger Rail Services and the objective of developing a charging and access regime in which greater competition can bring benefits to passengers while providing franchised operations with a reasonable degree of assurance about the future of their businesses and avoiding an unacceptable impact on the Secretary of State's franchising budget. If we can contribute to that initiative we should be happy to do so, but the current applications come before your Board in the context of the existing regime. In this context they present a new level of threat to the stability of any long-distance franchised operation with none of the offsetting mechanisms which could be incorporated into a future regime to make it fit for the purpose of increasing competition. When also taking into account the huge uncertainty about projections of the impact of the proposed Open Access services, we are convinced that for ORR to approve them now would be both unsafe and unnecessary.

We therefore ask you that this letter be included with the relevant papers provided to your Board. We are copying it to Joanna Whittington, John Larkinson and Bernadette Kelly at DfT.

Yours sincerely



Martin Griffiths
Chief Executive, Stagecoach Group


P.P.

Patrick McCall
Chairman, Virgin Trains