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Joe Quill
Office of Rail Regulation
1 Kemble Street
LONDON WC2B 4AN

30th November 2011

Dear Mr Quill

The potential for increased on-rail competition

I attach the response from Newark Business Club to the consultation document issued by the Office of Rail Regulation in October 2011.

We are especially concerned that your proposals do not include full details of the revenue currently being abstracted from franchised operators on the East Coast Main Line or the effect on Network Rail's income stream resulting from open access operators paying the lower variable track access charge. We consider that this information is fundamental to any decisions the ORR may wish to make in the future. It is also of sufficient importance to taxpayers that it should surely be in the public domain.

We note that the ORR plans further consultation on the issues and specifically request that you hold a workshop for stakeholders please.

Yours sincerely,

JAMES FOUNTAIN
Chairman, Newark Business Club

The potential for increased on-rail competition – Response from Newark Business Club

INTRODUCTION

Newark Business Club currently has 1093 members and is widely acknowledged as the voice of business throughout the region. We welcome the opportunity to comment on the Office of Rail Regulation's consultation paper. By the nature of our membership we welcome competition provided real benefits for customers and taxpayers are identified.

The statement that open access operator passenger services account for less than 1% of all timetabled train kilometres is misleading. On the East Coast Main Line (ECML) it is around 17% with little experience elsewhere; so our comments refer primarily to the ECML.

We totally agree with your statement that in order to deliver value for money, GB's railways need to provide what their customers and society want at a price that they are willing to pay.

The ECML is one of the most important strategic railways in Europe and your paper suggests that there is a lack of clarity on what the Government is trying to deliver from this major asset. We consider that before any further major decisions are taken the Government must clearly state the objectives they are seeking to deliver from the route. We suggest that they should be to:

* Achieve the optimum balance between the train service operated for passengers and the level of premium payments generated
* Provide a level of service that encourages passengers to use rail
* Set Track Access Charges at a level that balances the need for operators to generate premium payments and drives down the direct grant paid by government to Network Rail.

In January 2010, Passenger Focus identified that the top three requirements for passengers on the ECML are:

* Punctuality and reliability of the train
* Value for money for price of ticket
* Being able to get a seat on the train

In addition, the fifth priority is the frequency of trains for the journey.

We note your statement that the ORR has a duty to promote competition on the railway. However, we would point out that you also have a statutory duty to:

* Promote improvements in railway service performance including journey times that are as short as possible

* Promote measures designed to facilitate the making by passengers of journeys which involve use of the services of more than one passenger service operator.

RECENT HISTORY ON THE ECML

In our view, the history of the ECML over the last six years suggests that:

Collective decisions by both the Department for Transport and the Office of Rail Regulation have materially reduced the value of the InterCity East Coast franchise to the taxpayer. We consider it wrong that a franchisee can reach a commercial agreement with one government department (the DfT) only for another body (the ORR) to refuse, or delay, the track access rights for them to deliver their business plan.

The management of the ICEC franchise by three different teams has resulted in a loss of focus:

* Overall performance is at an unacceptably low level. We suggest that the main reason for this is that the average age of the rolling stock fleet is over 25 years old and much of the infrastructure is even older. In any event, it is simply not possible to operate 125mph trains reliably unless they are given a measure of priority

* Considering the strategic importance of the route, there has been very limited investment in the infrastructure over the last 20-years. For example, the two-track section at Welwyn handles up to 14 trains per hour (tph) with 3tph calling intermediately, is already a planning and performance constraint and will potentially become even more of an issue when 4tph on the route are diverted via Thameslink. Contrast it with Swindon where investment was authorised to provide an additional platform on the basis that two bi-directionally-signalled platforms are inadequate to reliably handle 5tph!

* Enlightened schemes like GNER's proposal to build a parkway station at Micklefield have simply disappeared off the radar. Ideally situated close to junctions off two motorways and two A roads, supported by an hourly service to/from London this station would have arguably done a great deal more to develop the economy of West Yorkshire than Grand Central's slow and irregular service from Bradford. It would certainly have been a better way of encouraging a modal shift from road to rail.

The May 2011 timetable for the ECML:

We consider that the current policy of treating all services on a route as equal is poor business practice. A key requirement towards generating premium payments on the ECML is for the most profitable services to be given priority. What is the logic in treating services operated by the ICEC franchise that contribute 3.6p per passenger-kilometre to the Government in the same way as those of Trans Pennine Express that require a subsidy from the Government of 5p per passenger-kilometre?

As a result of current policy, the May 2011 timetable for the ECML:

* Fails to deliver almost all of the improvements advised by the DfT to the Stock Market on 14th August 2007 (see Table 1). We see this as especially serious as Financial Institutions are likely to treat further statements with extreme caution

* Clearly does not optimise the capacity on the route

* The extended journey times do not optimise the rolling stock, and probably crews, of the ICEC franchise. Indeed the consultation paper does not seem to have factored in the cost benefits of improved utilisation of rolling stock (see Table 2). A key feature of the timetable development has been that it has tried to meet the aspirations of all 13-operators that use the route and has not prioritised services that generate most revenue

* Leaves Lincoln, a city of major importance to the economy of the region, with a train service to/from London (and Nottingham) that is woeful. The timetable offers one southbound through train that takes 128-minutes, no less than 15-minutes slower than the 06.53 and 07.59 services in the December 2010 timetable that both required a change of train at Newark. Northbound the DfT only specified two Lincoln connections at Newark off trains between the 11.30 and 18.30 departures from King's Cross both involve waits of 40-minutes or more.

Given the similarities between the cities of Chester and Lincoln together with the proven success of the hourly through service from London to Chester it is disappointing that both the DfT and ORR appear to have simply abandoned Lincoln. The ORR has certainly failed to discharge its duty to promote journey times that are as short as possible and measures designed to facilitate the making by passengers of journeys which involve use of the services of more than one passenger service operator.

In spite of the lack of priority given to both the planning and operation of their services by the industry overall, the management of the ICEC franchise have succeeded in making it perform reasonably well. The McNulty report drew attention to the importance of increasing passenger-kilometres per train-kilometre. ICEC delivers the highest figure of the long-distance operators in the country as well as significantly more than other franchised operators who use the ECML (see Table 2). In addition they generate a higher level of premium payments than other long-distance operators do and all but FCC of the other franchisees who use the ECML.

THE CONSULTATION PAPER

General Issues

We are very surprised that the ORR suggests further on-rail competition in isolation from that provided by other modes of transport. Surely the major objective should be to make rail support the economy by being more competitive with road and air?

The proposals do not address the fundamental issue of how to optimise the value of the East Coast Main Line (ECML) for both passengers and taxpayers.

The paper fails to recognise that a well-constructed integrated timetable increases journey opportunities. The growth in business at Newark Northgate has been driven primarily by the 2tph-service to/from London that has resulted in that passenger flow being the 6th highest on the ECML.

Given the wide variation of financial performance of various franchises it is highly unlikely that a "one size fits all solution" is the best way of driving down costs on the railway.

The East Coast experience

The ORR has had around five years experience of open access operation on the ECML and should surely have clearly identified the financial impact on the cost to Government rather than just state that open access operators have reduced the cost to Government overall.

Open access operators clearly abstract revenue from the ICEC franchise at York, Doncaster and Grantham. This inevitably reduces the premium payments that the franchised operator generates for the Government and is therefore effectively a direct subsidy. We would be surprised if that abstraction is less than £10m a year.

There is also no indication in the consultation paper of the impact of open access operators on heavily subsidised franchises like Northern. For example, how much revenue have Hull Trains abstracted between Doncaster and Hull?

We also question the business logic of allowing open access operators to pay the lower variable track access charge to run on the ECML. How much extra revenue would Network Rail receive if those operators paid the higher fixed charge paid by franchised operators? We suggest that it would be several millions of pounds per annum and that this sum would enable the Government to reduce the direct grant to Network Rail.

We are unclear why the ORR has not identified the full financial impact that open access operators have had on the finances of both franchised operators and Network Rail. There is a clear impact on the taxpayer and the information needs to become public knowledge.

The cost argument

Although redacted, the MVA report identifies that "Only Wrexham and Shropshire achieves costs per train kilometre substantially less than those of the existing franchise operator, but this is with trains only half as long". Against that statement it is difficult to understand how you conclude that greater on-rail competition would provide greater downward pressure on costs. It is unacceptable that you appear to have made this major conclusion on the basis of *evidence* that is in fact nothing better than a series of modelled assumptions.

Indeed it is almost inevitable that your proposal to increase the number of paths on the ECML allocated to open access operators will further increase their costs. If they are allocated two paths per hour they cannot escape the need for peak-hour provision and this would surely preclude the use of short trains to Leeds. Equally they would have to take their share of the provision of the more lightly loaded early morning and late evening services. The straight transfer of paths from one business to another would certainly bring the TUPE regulations into force as well as all of the problems with harmonising wage rates.

If the ORR consider that more services operated by open access operators is really the best way of reducing costs in the industry, they should be giving incentives to target franchises that require high levels of subsidy rather than destabilising ones that are already generating funds for Government.

Without at least a Notional Timetable together with rolling stock and crew diagrams how can costs can be effectively assessed? The ill-considered proposal by National Express to operate alternative services from London to Lincoln and York illustrates this. The different journey times simply guaranteed poor rolling stock and crew utilisation.

With growth options for long-distance trains based on 6-8tph from King's Cross we consider that a series of Notional Timetables together with the resources needed to operate it must be developed for each option. These options need to include fixed all-day frequencies and variable peak and off-peak services. Only when this has been done will it be possible to identify the most cost-effective option.

We question whether the ORR has fully evaluated the impact of extended journey times on rolling stock and crew use. Whilst Table 3 is purely illustrative it does show how, for example, simply reducing the King's Cross – Edinburgh journey time by 10 minutes potentially requires one less train set to operate a two train per hour service. We suggest that a programme of infrastructure improvements is necessary on the ECML with the specific objective of improving journey times.

Given that the ICEC franchise achieves the highest level of passenger-kilometres per train-kilometre using 540-seat trains we are surprised that the ORR consider using shorter trains on the ECML would reduce costs. Potentially using trains with less capacity risks reducing the level of passenger-kilometres per train-kilometre on the route.

Certainly using 280-seat trains instead of 540-seat ones fails to make the most use of the route's infrastructure as it fails to optimise the seats per train path. We also consider it close to irresponsible to advocate overcrowding for long journeys between Leeds and London so that ANY operator can use short trains.

It is also clear that increasing demand potentially leads to the need to provide more seats. In almost every instance it is far more cost-effective to provide more seats per train than run additional ones.

The practicability of your suggestions:

- On a major route like the ECML there is a need for a timetable that optimises journey opportunities. It is difficult to see how a system of capacity auctions is compatible with that requirement

- The ECML 2016 Capacity Review has identified that the stopping pattern between Peterborough and Doncaster needs to be altered to optimise the number of train paths. If the infrastructure on the route, rather than demand, is already the critical factor in determining where trains stop, how is it envisaged that open access operators can chose which stations they serve?

* How realistic is the assumption made by MVA that "the least profitable franchised services would be removed from franchises first"? In the case of the ICEC franchise that would almost certainly mean eliminating through trains to north of Edinburgh. This would enable better use of rolling stock and increased revenue within the franchise but would not result in the increased availability of paths south of Edinburgh. Other options for eliminating unprofitable services might be to reduce peak-hour provision and the number of trains operating in the early morning and late evening; either would be fiercely resisted by stakeholders.

We consider that far greater consideration of the cost of providing off-route through trains to/from London is necessary because:

* Unless the majority of journeys are generated on the off-route part of the journey the passenger-kilometres per train-kilometre will inevitably decrease

* Around 8% of the mileage operated by the ICEC franchise is off-route. We doubt that the revenue generated gets anywhere near that %

* The ECML 2016 Capacity Review identified that the seven stations north of York not provided with a through service to/from London by the ICEC franchise would generate 198,000 journeys per annum if the London/Sunderland service is increased to seven trains per day. That is around 9% less than the non-London journeys generated at Newark Northgate alone

* The journey time from York to Sunderland is currently 90 minutes and is mainly on low-speed railway. Using high cost 125mph trains in this way is an expensive way of providing a service

* The ECML RUS identifies that the historic growth in journeys between Hull and London increased from 120,000 in 1998/99 to 210,000 in 2004/05, a 75% increase that was driven by the introduction of four additional through trains a day. Contrast that with the growth at Newark Northgate where London journeys over the same period increased from 250,000 to 430,000, double the number of increased journeys from Hull with NO major change in the train service

* Off-route journeys from the ECML currently require the use of diesel traction thereby increasing costs.

The ticketing system on the ECML is far too complicated to be easily understood by passengers. There are already nine passenger operators on the route and any additional companies providing services can only make things worse. Whilst passengers want value for money fares they also want a fare structure that is transparent.

We challenge the suggestion that open access operators are likely to be more responsive to the needs of passengers. In our experience, the franchise operators that we deal with, currently East Coast and East Midlands Trains have been very responsive to issues we have put to them.

THE WAY FORWARD

In our introduction we identified the need for the Government to clarify the strategic objectives for the ECML and suggested what they should be.

We suggest that these objectives are most likely to be met by:

* An integrated timetable that optimises journey opportunities for passengers, resource requirements and infrastructure capacity

* Giving higher priority to services that generate the most revenue and passengers. If this means a 3tph service from London to Newcastle and one less cross-country service north of York it potentially results in no loss of revenue and reduced costs for cross-country

* More attention to the impact of journey times on resource utilisation

* A more robust assessment of the balance between the value and cost of off-route services

* Setting Track Access Charges for passenger operators on the basis of a 540-seat train. With the objective of ensuring that seats per train path are optimised, operators should be required to pay a *higher* cost for trains offering fewer seats

* To encourage the use of electric trains, from 2018 operators of trains running over 100-miles on the ECML should pay a premium to operate a diesel train

* With Network Rail moving to a divisional structure, we suggest that their direct grant from Government should be broken down in a way that reflects that change.

To ensure that revenue and cost forecasts are accurate there is a need to produce a Notional Timetable for the route together with a resource requirement for *both* the 7tph and 8tph growth options.

CONCLUSIONS

The ECML is one of the most important strategic railways in Europe and the Government needs to clarify the objectives for this major asset

It makes no business sense to consider on-rail competition in isolation from other competing modes of transport

The ORR needs to clarify the financial impact of open access operators on the premium payments generated by the ICEC franchise, subsidised franchises like Northern and the income to Network Rail from track access charges. We would be surprised if this did not fall in the range between £30m-£50m per year

Without at least a Notional Timetable together with an assessment of the necessary operational resources it is not possible to make even a reasonable assessment of costs. We see this as a fundamental flaw in the ORR's proposals

The MVA report identifies that costs for open access operators per train kilometre are not substantially less than those of the existing franchise operator so why does the ORR consider that they would provide greater downward pressure on costs?

If given additional paths the costs for open access operators per train kilometre will inevitably increase

We have serious reservations as to whether the proposal to increase the level of services operated by open access companies will reduce the overall cost of the railway to the taxpayer or are even workable

Given the wide variation of financial performance of various franchises it is highly unlikely that a "one size fits all solution" is the best way of driving down costs on the railway

Whilst we welcome competition in principle we consider that the benefits need to be clearly established. We see no purpose of competition for the sake of competition, as the ORR appears to be suggesting. At best, we see the proposals as high-risk for both rail users and taxpayers

We note that the ORR is prepared to accept responses that are confidential. Whilst we accept that commercial confidentiality is necessary in some cases suggest that it is perfectly feasible to comment on your proposals without prejudicing that confidentiality. The issues are of such importance to both rail users and the taxpayer that we believe that there should be total transparency with the decision making process. Confidential responses should not be given credibility.

Newark Business Club
30th November 2011

Table 1.

Comparison of Department for Transport's statement to the Stock Market on 14th August 2007 of proposed improvements on the ECML with delivery

Department state Contract to Deliver	Delivered
Improvements from December 2010	May 2011 – 6 months late
Up to 40 extra carriages	One 9-vehicle diesel high-speed train
A new two-hourly London – York service	Delivered
A new two-hourly London – Lincoln service	One through train a day. A significant worsening of the connections to/from Lincoln at Newark Northgate
Faster journeys: London – Leeds in 2-hours	Just one southbound train takes two-hours – it is the only one that delivers a journey time of less than 2 hours 10 minutes against four in December 2010. Northbound, the fastest journey is 2 hours 14 minutes, 6 minutes slower than in December 2010
Faster journeys: London – York in 1hour 45 minutes	Fastest journey time from London to York is 1 hour 49 minutes, 5 minutes slower than in December 2010
Faster journeys: London – Edinburgh in around 4hours 20 minutes	One southbound train takes 4 hours (two in each direction in May 1991). The fastest northbound journey takes 4 hours 19 minutes, six minutes slower than in December 2010. In addition, the 11.00, 15.00, 17.00 and 18.00 departures from Kings Cross all offer slower journey times than in December 2010
NXEC is committed to achieving 90.1% PPM by December 2010	ORR figures for Q1 of Year 3 of CP4 show PPM for East Coast as 83%
Reduction of fuel consumption per passenger kilometre per passenger mile by 28% over the franchise term	More than one in three LDHS to/from Kings Cross is operated by diesel traction on an electrified railway

Table 2.

<u>Comparison of Passenger-kilometre per train-kilometre and subsidy, ICEC franchise against other long-distance operators and users of the ECML</u>

Operator	Passenger-kilometre per train-kilometre	2010-11 Subsidy per passenger-kilometre (pence)
East Coast	235	-3.6
Virgin West Coast	150	-2.9
First Great Western	124	-1.9
First Capital Connect	140	-4.2
Cross-Country	97	1.4
Trans Pennine Express	78	5.0

Table 3.

<u>Notional assessment of rolling stock requirements to selected destinations on the ECML against varying journey times</u>

From King's Cross to	Assumed Journey Time	Assumed Turn Round Time (Both Ends)	Frequency (Trains per hour)	Assessed No. of Train Sets (per day)
Lincoln	1hr 40m	20m	1	4
Leeds	2hr 00m	20m	2	9
Leeds	2hr 10m	20m	2	11
Hull	2hr 30m	20m	1	6
Hull	2hr 45m	20m	1	7
Newcastle	2hr 50m	30m	2	15
Newcastle	3hr 10m	30m	2	16
Edinburgh	4hr 00m	30m	2	19
Edinburgh	4hr 15m	30m	2	20
Edinburgh	4hr 25m	30m	2	21

NOTE: This table is for illustrative purposes only. We acknowledge that there are other factors in the timetable process