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Ref: ORR\PR13

Date: 4th December 2011

Dear Joe,

PR13 – The potential for increased on-rail competition – October 2011

Many thanks for the opportunity to respond to the recent consultation document on the Periodic Review 2013 – The potential for increased on-rail competition – October 2011.

Currently, there are a number of different workstreams going on that involve the industry in response to the Value for Money Study (VfM) e.g. review of Network Rail's efficient expenditures, Network Rail's devolution etc. The ORR's review of the potential for increased on-rail competition, as part of the PR13, needs to take into consideration these ongoing workstreams which also focus on reducing costs and improve efficiency. Also, the ORR's decisions and the approach on on-rail competition must be considered in the context of the Franchise Reform led by the DfT, as the government has recently been looking at changes to its franchising policy.

East Midlands Trains supports the views expressed within the Stagecoach Group and ATOC responses.

East Midlands Trains have the following comments based on the consultation document and the recent workshop that EMT attended at the ORR's office on 18th November 2011:

- It was suggested that greater on-rail competition could bring benefits for passengers through lower fares and higher growth in passenger numbers. This could only be fulfilled in the longer term providing that infrastructure capacity is available. Capacity would be the key for driving this successfully. However, our railways are getting full and this is certainly the case for the main line intercity routes e.g. East Coast Main Line.

We must be mindful of the operational practicality if any decisions are made to relax the rules for Open Access Operators to enter into the market where infrastructure capacity is very limited. It is critical that sufficient capacity is made available and that any additional services onto the network can be delivered from an operational point of view.

- Over some route areas, there is direct competition between rival train operating companies competing against each other to attract passengers. Some of these rail flows amongst operators have been challenged with faster journey times, higher frequency and service quality which have brought huge benefits to passengers. Also, train operating companies are facing competition from other modes of transport, such as road or air. However, the consultation eliminates this particular aspect of competition that exists in the industry. Instead of adding more constraints into the current market where competition is high, it could be more beneficial to evaluate the efficiency of on-rail competition between franchised operators and with other modes of transport.

- We have seen a significant increase in rail freight traffic in recent years especially in intermodal traffic, and the need of rail freight customers to use a national network is acknowledged and supported by the VfM report. However, the consultation has not taken freight operators into account. Network capacity has been an issue for an increasing demand of more freight traffic flows. Increasing the open access entry would reduce the network capacity and would have an influence on freight traffic which is also part of the existing competition on rail.

- There are other means to promote and increase the level of rail competition in order to lower costs and bring more benefits to passengers and taxpayers. Franchise Reform is one area that the DfT can revise and improve efficiency.

- The cost-benefit analysis by MVA has highlighted the issue of crowding as a result of lower fares and higher passenger volume. This particular finding has not been examined in detail in the consultation. However, overcrowding imposes a problem on rail efficiency and a challenge on value for money. Demand for increasing seat capacity for rail travel has risen and overcrowding is widespread at peak times into major cities. Open access operators provide services purely on a commercial basis and are likely to ‘cherry pick’ the profitable services at peak times along the intercity routes. Therefore, the situation of overcrowding may worsen with the potential increase in open access to the railways.

I hope this input is useful. If you would like to discuss this in further detail, please feel free to contact me.

Yours sincerely,

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