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All interested parties

Dear Colleagues

### **Retail market review for selling tickets – call for evidence**

The purpose of this letter is to invite you to participate in a market review of the selling of train tickets, which we are launching today. You are invited to send your initial views by Friday 21 March and to attend a workshop on Thursday 8 May. This letter explains how you can take part, the background to the review, its purpose, proposed scope, and possible outcomes. Your participation will enable us to provide a robust assessment of the market and to develop recommendations for cost-effective options.

#### *Background*

In its October 2013 Rail Fares and Ticketing Review, the Department for Transport (DfT) said it was keen to see more investment and innovation from train operating companies (TOCs), but queried whether some aspects of the current ticketing system stifle innovation, change and, potentially, competition<sup>1</sup>.

This is a potential concern. Innovation and competition can play an important role in promoting passenger choice in the type of ticket they can buy and the way they can buy them. Presuming clear and fair comparisons between suitable tickets and different suppliers can be made, this can give rise to significant benefits to passengers.

As the independent health and safety and economic regulator of the nation's railways, we have a range of functions and responsibilities to keep rail markets under review. These arise both in exercising our powers as concurrent competition authority for services related to railways and as economic regulator<sup>2</sup>.

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<sup>1</sup> DfT's rail fares and ticketing: next steps consultation, October 2013. Available [here](#).

<sup>2</sup> ORR's statutory functions and duties are set out [here](#) and [here](#) respectively. ORR must balance them when exercising its functions. The two key legislative acts are the Railways Act 1993 (as amended) and the Enterprise Act 2002.



Within this context, we are launching a review of the retail market. The purpose of the review is to consider how current regulation and industry arrangements and practices within the retail market are facilitating choice and, in particular, promoting investment and innovation in the best interest of passengers.

### *Drivers of the review*

Our forthcoming Rail Passenger Experience Report shows that whilst buying a ticket from ticket offices remains popular, use of online sales channels and ticket vending machines (TVMs) are increasing, particularly among younger people<sup>3</sup>. Passengers are also making use of more recent changes to the ticketing system, such as print-at-home tickets and ten-minute advance purchase tickets.

In its review of fares and ticketing, the DfT noted that other industries have benefitted by opening up markets and allowing the entry of new retailers and innovative approaches. It said it was keen to see the same thing with selling rail tickets, so that there is a level playing field and market structures that provide appropriate opportunities for all retailers.

Furthermore, we are aware that some parts of the industry and, indeed, potential new entrants consider that the industry arrangements and practices mean they are prevented from competing to sell train tickets in more innovative or competitive ways.

We are undertaking a review of the market for ticket selling to consider these issues in more depth.

### *Proposed scope and approach of the review*

We anticipate that the review will focus on analysing the extent to which the industry arrangements and practices for ticket selling promotes choice and innovation in the market, with a view to identifying potential cost-effective options to address any issues, where necessary and appropriate.

With this in mind, we expect the review to consider the following areas:

- TOCs' costs and benefits of driving demand for rail tickets. We are keen to understand better the impact industry arrangements and practices have on TOCs' incentives to increase passenger revenue and to create new types of fares or products, with a view to understanding better the general functioning of the retail market;

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<sup>3</sup> ORR Rail Passenger Experience Report, forthcoming publication.

- The impact of industry arrangements and practices on the kind of products TOCs must sell and the way in which they can be sold, including the permitted sales channels, the information to be provided at the time of sale and the arrangements for TOCs selling fares on behalf of other TOCs. In particular, we are keen to understand how these arrangements promote more competition and innovation;
- Innovation in the market for ticket products and sales channels. We have seen some evidence of innovation in, for example, TOCs selling e-tickets or integrated tickets (that combines a rail journey with something else (e.g. theatre tickets)). We are keen to understand more about the drivers for innovation, how competition and innovation relate to each other and the role of industry arrangements and practices in facilitating innovation. We consider this to be particularly salient given scope for more smart ticketing and ticketing systems; and
- The structure of and arrangements for the third party market, including the licensing arrangements of third parties (which is done by ATOC, the trade association for TOCs) and the arrangements third parties are subject to in selling tickets. We recognise the importance of ATOC's work in ensuring these third parties meet minimum standards and, going forward, we are keen to ensure that the arrangements can continue to meet passenger needs and, in particular, play its part in promoting more competition, innovation and choice.

We will not consider the overall level of fares as this is a matter for DfT. Similarly, the review is not seeking to develop minimum standards of retailing.

We welcome stakeholders' feedback on the proposed scope of the review and whether there are other areas that warrant consideration.

Reflecting the current scope of the review, we intend to adopt a two-staged approach:

- **Stage One: February – July 2014:** This stage seeks to identify the relevant issues associated with the functioning of the retail market, and the extent to which they are significant. This stage will involve stakeholder engagement, desk research and market analysis (through, for example, data on ticket sales); and
- **Stage Two: August – late 2014:** This stage focuses on the potential options to address the issues. It will involve further stakeholder engagement and market analysis. We will seek views on the options through a formal consultation.

*Potential outcomes of the review*



The outcome of the review will be heavily-guided by stakeholders' views and evidence on how well the retail market is functioning for passengers. In the absence of this input, it is difficult to be definite but, as a minimum, the following outcomes may be possible:

- The review may determine that there are no concerns with how the market is functioning and that the arrangements for ticket retailing are fit for purpose, and likely to remain so for some time. Alternatively, we may find that the issues are so limited that they do not merit further action;
- The review may decide that some changes to how tickets are sold are required. This could amount to making minor changes to remove redundant legacy rules. Alternatively, it could suggest changes that seek to influence the behaviour of market players or, more significantly, that change the structure of parts of the market to better facilitate investment and innovation. We recognise that where proposals may require legislative change or modifications in the licence or franchise agreement, they may be a matter for DfT and/or the TOCs;
- The review may decide that further investigation in the form of a market study (potentially leading to a market investigation reference) is required, if we consider that existing regulatory mechanisms are unlikely to remedy the issues identified<sup>4</sup>; or
- The review may decide that at the end of our timetabled period the scope needs to be widened, and that more time is required to consider the issues.

#### *Engaging with the retail review*

We intend to engage with stakeholders throughout the lifetime of this project in order to inform our understanding of the issues and the possible ways to address them.

A key activity of the retail review – particularly for Stage One – is engaging with stakeholders to help us understand the issues and their materiality. With this in mind, we intend to host a workshop with all interested parties to get input to our initial set of analysis:

Date	Thursday 8 May 2014
Time	09.30 – 12.30, with registration and tea/coffee from 9.00
Location	ORR offices, One Kemble Street, WC2B 4AN

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<sup>4</sup>By virtue of section 67 of the Railways Act 1993 (as amended) and section 131 of the EA02.



Where necessary, participation may be limited to one representative from each organisation. Please register your interest by Friday 28 February 2014 by emailing [ORRretailreview@orr.gsi.gov.uk](mailto:ORRretailreview@orr.gsi.gov.uk). We will confirm your place at the workshop and provide the agenda in due course.

If you would like to talk to us on a one-to-one basis, please contact [ORRretailreview@orr.gsi.gov.uk](mailto:ORRretailreview@orr.gsi.gov.uk).

At this stage, we welcome feedback on the following questions in particular:

- 1) What additional drivers (if any) of the review should be considered?
- 2) What is your view on the proposed scope of the review? What, if any, additional areas should be considered? What areas, if any, should not be considered?
- 3) What features of the GB retail market for tickets work well? What features of the retail market for tickets work less well for passengers and industry?
- 4) Are there examples of particularly innovative retailing approaches from rail markets elsewhere or other sectors that could be relevant to the GB rail market?
- 5) What are your views on the proposed timetable and approach to the review?

Please email [ORRretailreview@orr.gsi.gov.uk](mailto:ORRretailreview@orr.gsi.gov.uk) to respond to these questions, preferably by Friday 21 March.

Unless marked confidential, we will publish all responses on our website. If you would like your response and/or the fact that your organisation has responded to be kept confidential, please clearly mark this on the document.

Yours faithfully,

Siobhán Carty.