



FINAL

Consultation Response

Consultation on the ORR's Approach to Transparency

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1. Introduction

- 1.1. **pteg** represents the six Passenger Transport Executives (PTEs) in England which between them serve more than eleven million people in Tyne and Wear ('Nexus'), West Yorkshire ('Metro'), South Yorkshire, Greater Manchester (TfGM), Merseyside ('Merseytravel') and the West Midlands ('Centro'). Leicester City Council, Nottingham City Council, Transport for London (TfL) and Strathclyde Partnership for Transport (SPT) are associate members of **pteg**, though this response does not represent their views. The PTEs plan, procure, provide and promote public transport in some of Britain's largest city regions, with the aim of providing integrated public transport networks accessible to all.
- 1.2. **pteg** welcomes the chance to input into the ORR's transparency consultation. Our response focuses on three key areas where we feel greater transparency is required and is designed to illustrate why there is a need for transparency within the industry.

2. Background

- 2.1. PTEs are already the main strategic transport planning bodies outside London, with a duty to provide integrated transport networks accessible to all. PTEs are accountable to their Integrated Transport Authorities, the members of which are drawn from their constituent districts which in turn have a much broader remit, including economic and social development.
- 2.2. PTEs are responsible for planning and tendering subsidised bus services, as well as light rail networks where these exist. We are required to provide impartial multi-modal transport information; we have led the introduction and development of multi-modal and multi-operator ticketing products; and we are currently spear-heading the push for inter-operable smartcard tickets. In their areas, PTEs are responsible for the Local Transport Plan and as part of this process are more generally responsible for prioritising capital and revenue spending across local transport networks. This can require assessing complex trade-offs, with a reliance on sophisticated analysis tools and access to detailed multi-modal data.
- 2.3. Despite our strategic planning role, our responsibility over local and regional rail services¹ has remained limited, with most decisions still being taken in London. And because of the commercial nature of the rail industry, this means we have little or no visibility of relevant demand, revenue and cost data. We believe the consequences are a weaker client for local and regional rail networks, and less well informed decision making, both of which could lead to poorer value for money for users and taxpayers.
- 2.4. PTEs are seeking a greater role in the delivery of local and regional rail services in the West Midlands and the North of England, and discussions are currently underway between the PTEs and the DfT on this issue.
- 2.5. The government has indicated its support for the principle of devolution, in line with the conclusions of the McNulty study. However, we feel there is a significant risk, given our experience to date, that PTEs will continue to be seen by the industry at large, at best as a minor player, and at worst as an inconvenience. We therefore believe there is a critical role for the ORR to play in ensuring greater transparency and more appropriate disaggregation of industry data, particularly to maximise the opportunities from devolution.

¹ With the exception of Merseyside

3. ORR objectives, vision and current approach

- 3.1. **pteg** is broadly supportive of the ORR's objectives, vision and current approach as stated in the consultation document. We believe that greater transparency around industry data could lead to:
- greater accountability to public and private stakeholders
 - better informed decision making and, hence, better value for money
 - more satisfied passengers
 - greater innovation, especially by third party product developers
- 3.2. However, we feel that to be of genuine value, in particular in a more devolved context, the ORR's approach needs to go significantly further.
- 3.3. Below we single out three priority areas where we feel much more needs to be done:
- Network Rail's cost structure
 - Calculation of track access charges
 - Demand and revenue data
- 3.4. We have concentrated our response on what we feel to be key information barriers given our experience to date. Within these areas we have illustrated that there is demand for data at a more disaggregated level; for greater transparency; and that there are often considerable benefits in releasing data, accepting that there is often a cost to doing so. However, as our role expands we may identify other issues and would therefore welcome an on-going dialogue with the ORR about transparency, including attending the proposed seminar (4.24).

4. Network Rail's cost structure – holding Network Rail to account and improving decision making

- 4.1. The proposal by Network Rail to split the management of its operations into devolved business units appears to have been met with the approval of the ORR as part of the PR13 process. There is no doubt that there are obvious attractions in breaking up Network Rail's regulatory accounts as this could introduce a measure of internal competition for resources within the organisation and allow a degree of benchmarking. But as we have pointed out in our response to the Incentives consultation, current proposals would be of limited value to PTEs in holding Network Rail to account and would therefore take little advantage of the opportunities offered by devolution.
- 4.2. It needs to be understood that railway infrastructure is a highly heterogeneous and spatially differentiated product. Line speed, weight restrictions, maintenance requirements, soil conditions, supporting structures, station characteristics, number of tracks, signalling type can all vary between different sections of track. For example, the East and West Coast mainlines are effectively high speed routes which bear little comparison to nearby branch lines, to core regional routes or to each other. Merely requiring Network Rail to produce separate accounts for each of its ten routes is unlikely to lead to the step change in transparency required to allow client bodies to play a much greater role in driving efficiencies, i.e. through identification of the costs and benefits (to train operators as well as to Network Rail) of alternative solutions to local issues.

- 4.3. In order to appreciate the impact of local decisions on Network Rail's cost structure (and TOC operating costs) and to be able to scrutinise Network Rail's performance at a local level, a much more bold approach is required. In an ideal world all available information on actual and modelled costs, down to track section and individual schemes, should be equally available to Network Rail management, clients and funders. This would allow:
- A better understanding of Network Rail's cost drivers and how clients, TOCs and funders can help tackle these;
 - A better understanding of the cost implications of different levels of service provision, thereby creating a better environment for informed decision making;
 - The opportunity to benchmark Network Rail's unit costs against typical market values;
 - The ability to challenge Network Rail where appropriate, for example, where we believe their accounting conventions could be under/over-stating specific items or where we feel unit costs or design requirements are not at their optimal level;
 - Greater confidence to be placed in Network Rail's performance, ultimately leading to a more productive working relationship between Network Rail and other stakeholders, allowing all stakeholders to put their energy into genuine efficiency gains.
 - A more thorough assessment of Network Rail's performance against budget on individual projects, possibly leading to a more collaborative approach to project delivery.
- Engineering possessions is one example of a recurrent area of conflict. If it were clearer to clients how possessions restrictions affect infrastructure costs (and we were convinced that those costs are close to their efficient levels) then clients would have the means and a greater incentive to accommodate this sort of intervention. Current proposals for alliancing and route efficiency benefit sharing schemes seem to be largely based on this premise. We would argue, however, that rather than the piecemeal approach proposed, which allows Network Rail to cherry pick where they choose to adopt a more proactive stance, greater transparency over cost data would allow this to be the rule rather than the exception.
- 4.4. Asking for the data would stimulate improvements within Network Rail itself (as it can no longer hide behind undisclosed data). We also need to get to a position where if data isn't easily available then we should ask why this is the case, as we would expect in a multi-billion pound business, there should be a high degree of management accountability. There are also some serious economies of scale in developing information systems for the railways that Network Rail is in a position to realise.
- 4.5. We recognise that there is a considerable way to go from where we are now to the position we have outlined above. However we do believe this is both possible and necessary. The ORR's role should be in driving the changes required and in managing the potential cost-benefit trade-offs that arise. We would urge that the decisions over trade-offs should reflect the need for greater accountability and transparency, and should resist potential inertia and resistance to change.

5. Track access charges: inertia, complexity, spurious accuracy?

- 5.1. **pteg** has had long standing concerns over the methodology for calculating many track access charges and the extent to which these represent an accurate reflection of underlying costs incurred. However, it's proven difficult to determine conclusively whether our concerns are well founded as there is very limited information in the public domain on how many of

these charges are arrived at. We feel this is an important issue, especially in a devolved context, as track access charges give clear price signals to Network Rail, clients and funders. We therefore call on the ORR to open up the calculation of track access charges (including its many implicit assumptions) for greater public scrutiny. Below, we summarise a number of specific areas where we feel greater transparency is required.

- 5.2. First of all, it seems difficult to understand why fixed access charges for passenger services, which are assumed to be largely invariant with volume, speed and type of traffic, can represent ten times more income to Network Rail than variable access charges². In a future scenario where all the existing DfT grant could conceivably be routed through access charges this disparity could increase even further. This effectively gives a powerful incentive for Network Rail to lump as much of its costs as possible under a general 'fixed cost' heading as this deflects any scrutiny of its cost structure.
- 5.3. Secondly, it also seems remarkable that the ORR has spent a disproportionate amount of effort producing ever more detailed estimates of variable track charges (which are allowed to vary by type of rolling stock) but then assumes fixed access charges vary purely in proportion to train-kms. This would imply that a 10-car intercity train incurs the same fixed infrastructure cost as a 2-car stopping train. In reality, one would expect the intercity train to require a much higher quality of track in the first place not to mention higher renewal costs. If inter-city services no longer ran on a section of track then fixed costs could be expected to reduce significantly as the section of track could be downgraded. However, without access to detailed data and a clear account of the methodology employed in working out fixed charges it's difficult to even start a debate on this issue. Greater openness would be an important first step towards a more informed and meaningful debate about the true avoidable costs of rail services, which we feel is essential in making more informed decisions about how to allocate resources across the network.
- 5.4. Thirdly, a further good example are station long term charges, where we have learnt that costs are allocated between TOCs on the basis of carriage departures, regardless of the duration of dwell time. This is a serious omission from the calculation of track and station charges. Trains stand for recovery time or dwell time at the places where there is most demand for scarce infrastructure, yet incur no costs for doing so. This would mean that a 10-car inter-city train spending 30 minutes at a terminal station between departures would contribute proportionately the same towards station costs as a 2-car train making use of a short platform for 2 minutes. We feel this is counterintuitive. However, the approach to the allocation of station costs is not in the public domain and has not been raised at the Network Rail's on-going consultation on station LTCs. We have only discovered this through detailed enquiries with Network Rail. We believe it would be possible to have a much more informed debate about the cost of the railways if this type of information was made publicly available as a matter of course.

6. Demand and revenue data

- 6.1. The lack of access to rail demand and revenue data is a major hindrance for PTEs to have a more effective role in rail planning and it undermines their ability to perform their strategic transport planning role. The fragmented nature of the industry means that data ownership is

² ORR Incentives consultation, table 6.1, p.74

spread across TOCs, who often treat this information as a commercial asset. While this information may well have some commercial value, this is likely to stem from the asymmetry of information that it grants operators relative to other industry stakeholders, and this is unlikely to be in the best interest of passengers and the public purse.

- 6.2. Another downside of the lack of transparency around industry data is the extent to which the quality of data can be checked and improved. It has become clear in a number of instances that there are major weaknesses in standard industry demand data in PTE areas, largely to do with the prevalence of local multi-modal tickets and the nature of ticketing and revenue protection. The lack of transparency and openness has often meant that people have to re-invent the wheel time and again as part of different studies in order to overcome this problem. This is not cost effective and raises the possibility of sub-optimal decisions that are made simply because PTEs do not have access to appropriate data.
- 6.3. A related issue is that lack of data access has made it difficult for PTEs to improve our understanding of the drivers of rail demand in our areas. As part of on-going work in preparation for devolution the five Northern PTEs are currently developing a demand and revenue model for the North of England in partnership with the Department for Transport. The motivation for this work has largely stemmed from the following:
 - Standard industry forecasting tools have led to a marked under-estimation of recent passenger growth across regional rail networks. We would argue that this has effectively led to windfall gains by some TOCs, which is not in the tax-payers or the passengers' interest, but also led to chronic under-investment in regional networks.
 - The desire to have a better appreciation of the type and magnitude of the risks involved in a future devolved context. This will hopefully allow for a more appropriate risk sharing approach between all parties and, therefore, more efficient decisions leading to a better value railway.
 - The need to estimate the impact of proposed changes to the network, to arrive at the optimal specification of proposed enhancements.
- 6.4. Despite this work being done in partnership with the DfT, the complicated data access rules that govern the required data sets have already led to a delay in the work. There is a concern that data access restrictions will undermine the quality and so applicability of the final output. We cannot see how this is beneficial. To be more specific about the challenges we face, there are eight TOCs and two open access operator running services within the Northern PTE areas. Based on recent discussions with the DfT, we will need to obtain permission from each of them to get full access to relevant data. We're not clear what will happen if one TOC chooses to decline. In our view, this decision should fall to an impartial body with a strategic view of the rail network and cannot see how the present system can be allowed to continue.
- 6.5. We would call on the ORR to:
 - Challenge the confidential nature of most industry data sets. In particular, we would argue that access to demand data at any level of disaggregation should be completely unrestricted for public sector rail sponsors / providers³.

³ With respect to the bus industry the courts took the view in the mid 1980s that passenger numbers were 'public domain' because anyone with a valid ticket could travel on a bus and observe what was happening – providing they did not interfere with the operation of the vehicle or with passengers. It is reasonable to assume railways would be treated the same way.

- Bring the ownership of rail industry data back under a single body, ideally one without vested interests in limiting data access (such as TOCs or Network Rail). The regulator would be a particularly good candidate subject to a clear mandate to openness and transparency, and clarity over legitimate commercial confidentiality.