



campaigning  
by the  
Railway Development  
Society Limited

## Passenger Group

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9<sup>th</sup> August 2013

Dear Philip,

### **Periodic Review 2013 - On-rail competition: Consultation on options for change in open access**

Railfuture is pleased to submit this consolidated national response, which has been prepared jointly by the Passenger Group with contributions from our regional and national branches.

Railfuture is a national voluntary organisation structured in England as twelve regional branches and two national branches for Scotland and Wales. We are Britain's leading independent rail lobby organization with a large number of affiliated Rail User Groups. Being funded entirely from membership subscriptions and donations, Railfuture enjoys non-partisan status and has no connections with political parties or organisations, trade unions or commercial interests. Railfuture is pro-rail but not anti-car or aviation.

### **Overall comments:**

The consultation is technical in nature and refers to detailed calculations of Variable and Fixed Track access charges. There is however little of direct interest to passengers and the emphasis is more in line with protecting the revenues of franchise operators (through revenue abstraction). This does indicate the frustrating complexity of the fare settlement system and works against true competition, if that is the true objective, and a truly integrated rail network with a fuller integration of ticketing. Where a need for a regular journey is identified, and the paths are available, additional benefits are likely to be available to passengers through better integration and connectivity with other services. However where this is not possible we accept the need for Open Access Operators (OAO) to provide identified needs at a limited cost to the tax payer (although there has been an implicit subsidy through the lack of Fixed Track Access charges so extra costs are borne by Network Rail and other operators). Perhaps a Franchise operator could make use of this provision for the introduction of new services and operate as a pseudo-OAO for a limited period.

**Q1- Do you agree that we have identified the key barriers to open access competition? Do you consider that the steps we are taking will help to address these barriers or that there are other actions we should be taking? Do you agree that, given the plans for other work outlined above, the remaining barriers imposed by the NPA test are important?**

We agree with the barriers identified, although there is a consequent barrier on existing franchises in planning improvements to their services.

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[www.railwatch.org.uk](http://www.railwatch.org.uk)

**Q2 - What implications do you think that industry developments such as ERTMS, electrification and changes in EU law could have for our approach to on-rail competition? Are there other developments that could have an impact on our approach?**

Technical changes and modernisation of the network should be designed to increase capacity. However there is still pent up demand for further services from franchise operators.

**Q3. What are your views on Option 1? If we were to retain the current NPA test and structure of charges for open access what effect do you think changes to the economics of the railway and to capacity would have on the scope for and levels of open access competition? Do any factors other than those listed above favour (or not favour) Option 1?**

The status quo has been effective in allowing OAOs on the East Coast (Grand Central and Hull Trains), but capacity constraints have limited this elsewhere (except for the relatively short lived Wrexham & Shropshire). This has however forced stopping patterns for services that are of limited benefit to general passengers.

**Q4. What are your views on Option 2? Should the mark-up be calculated on the basis of 100% of excess abstraction? Do any factors other than those listed above favour (or not favour) Option 2? What do you think of the feasibility of building a commercial case based on policy as described here? What changes/guarantees/mitigations would be needed to make this work?**

Reducing the NPA may improve connectivity for passengers, but if this is just transferred to a mark-up to the fixed track access then it may not improve the OPA's business model unless there is a true reflection of the number of passengers they carry – which carries the danger of further abstraction.

**Q5. What are your views on Option 3? What do you think of the feasibility of building a commercial case based on policy as described here? Are there any key practical or other issues that we have missed?**

This option does bring the charges more into line with those of the franchise operator, but would limit OAOs innovation.

**Q6 Do you agree that the process described would be appropriate under Options 2 and 3? If not, what changes would you make and why?**

Long term arrangements need to be tapered to allow the introduction of additional services, and then after a service has 'established' perhaps the costs could be increased (Year 3/4/5 onwards).

**Q7. Do you agree with the approach to estimating mark-ups, particularly the use of generation and abstraction forecasts to decide whether mark-ups should be applied and, in the case of Option 2, the size of the mark-up? Should OAOs be able to appeal the mark-up in the light of subsequent data?**

There appears to be no practical alternatives currently although smartcard technology may allow this to improve in future years. The process should be audited on request after a complete year, but with some cost to the appellant to prevent abuse (to be refunded if the appeal is successful)

**Q8. Do you agree that no mechanism should be introduced to address Network Rail's additional revenue through mark-ups? If not, what mechanism should be used?**

The flexibility to manage the additional mark-ups would require the introduction of improved OAO support in the Network Rail Track Access Billing System (TABS), with a significant initial cost, but this does limit the amount of manual work required to calculate and invoice the charges and is likely to provide additional flexibility in the future.

**Q9 Do you consider that, under any of the options considered in this document, the profile of mark-up payments should be tailored so as to address concerns over the ability of open access operators to pay in the early years of new services?**

Yes, support should be provided in the early years to enable innovation where possible.

**Q10 Does the review of mark-ups at periodic reviews cause problems for OAOs' planning of their operations?**

Railfuture has no view on this.

Yours sincerely,

A handwritten signature in black ink that reads "C Fribbins".

Chris Fribbins  
Railfuture  
Head of Passenger Group