



House of Commons
Transport Committee

**Rail 2020: Government
and Office of Rail
Regulation Responses
to the Committee's
Seventh Report of
2012–13**

**Ninth Special Report of Session 2012–
13**

*Ordered by the House of Commons
to be printed 11 March 2013*

HC 1059
Published on 18 March 2013
by authority of the House of Commons
London: The Stationery Office Limited
£0.00

The Transport Committee

The Transport Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Transport and its Associate Public Bodies.

Current membership

Mrs Louise Ellman (*Labour/Co-operative, Liverpool Riverside*) (Chair)
Steve Baker (*Conservative, Wycombe*)
Sarah Champion (*Labour, Rotherham*)
Jim Dobbin (*Labour/Co-operative, Heywood and Middleton*)
Kwasi Kwarteng (*Conservative, Spelthorne*)
Karen Lumley (*Conservative, Redditch*)
Karl McCartney (*Conservative, Lincoln*)
Lucy Powell (*Labour/Co-operative, Manchester Central*)
Mr Adrian Sanders (*Liberal Democrat, Torbay*)
Iain Stewart (*Conservative, Milton Keynes South*)
Graham Stringer (*Labour, Blackley and Broughton*)

The following were also members of the committee during the Parliament.
Angie Bray (*Conservative, Ealing Central and Acton*), Lilian Greenwood (*Labour, Nottingham South*), Mr Tom Harris (*Labour, Glasgow South*), Julie Hilling (*Labour, Bolton West*), Kelvin Hopkins (*Labour, Luton North*), Mr John Leech (*Liberal Democrat, Manchester Withington*) Paul Maynard, (*Conservative, Blackpool North and Cleveleys*), Gavin Shuker (*Labour/Co-operative, Luton South*), Angela Smith (*Labour, Penistone and Stocksbridge*), Julian Sturdy (*Conservative, York Outer*)

Powers

The Committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the internet at <http://www.parliament.uk/transcom>. A list of Reports of the Committee in the present Parliament is at the back of this volume.

The Reports of the Committee, the formal minutes relating to that report, oral evidence taken and some or all written evidence are available in a printed volume. Additional written evidence may be published on the internet only.

Committee staff

The current staff of the Committee are Mark Egan (Clerk), Farrah Bhatti (Second Clerk), Richard Jeremy (Committee Specialist), Adrian Hitchins (Senior Committee Assistant), Eldon Gallagher (Committee Assistant), Nyree Barratt-Hendricks (Committee Support Assistant) and Hannah Pearce (Media Officer).

Contacts

All correspondence should be addressed to the Clerk of the Transport Committee, House of Commons, 7 Millbank, London SW1P 3JA. The telephone number for general enquiries is 020 7219 6263; the Committee's email address is transcom@parliament.uk

Report

On 5 March 2013 we received responses from the Government and the Office of Rail Regulation to the Transport Committee's Seventh Report of 2012–13, Rail 2020¹, which we publish with this Special Report. We are also publishing correspondence with the Association of Train Operating Companies and DB Schenker Rail (UK) Ltd about specific aspects of the report.

Government response to Rail 2020, Seventh Report of Session 2012-13

The Government thanks the Committee for its work, welcomes its Rail 2020 report and notes the recommendations made.

The Government's Command Paper Reforming our Railways: Putting the Customer First, published in March 2012, set out the importance of incentivising the rail industry to be affordable and efficient. This will be essential to end above-inflation rises in fares for passengers and to reduce the burden on taxpayers. The Committee's report notes the success of the railways in recent years and supports the Government's general approach to making the railways financially sustainable in the future. The report notes some key challenges to be overcome if the Government's vision is to be achieved.

The Government's responses to individual recommendations from the Committee's report are set out below, grouped under the Committee's own headings.

Why subsidise rail?

Recommendation 2. We recommend that the DfT publish the assumptions underpinning its analysis of the ratio of taxpayer to farepayer funding on different types of rail service. (Paragraph 25)

The Department agrees with this recommendation. The analysis presenting the source of funding for railway services was conducted as part of work on the costs of railway outputs, commissioned by the independent McNulty Rail Value for Money Study.² Those figures allocated infrastructure operations, maintenance and renewal costs across the three types of rail service, but excluded enhancements.

The Department has subsequently published its own franchise by franchise analysis of where subsidy goes, allocating whole infrastructure costs (including enhancements) to train operators in the same way that Network Rail levies fixed track access charges on train operators.³ The publication sets out the assumptions underpinning this analysis.

The Government believes this is a reasonable estimate. Alternative approaches can be taken to allocation, for example seat kilometres or passenger kilometres. But while these will vary at the level of detail, we do not believe they affect the overall picture of the full costs by sector.

Recommendation 3. We believe that there are justifiable economic, social and environmental reasons for subsidising the railway. However, the Government does the railway a disservice by its inability to articulate more clearly why it subsidises rail and what taxpayers get for their money. We recommend that the Government publish and

² Costs of Railway Outputs - Booz&Co, October 2010 - <http://www.rail-reg.gov.uk/upload/pdf/rvfm-booz-outputs-cost-081010.pdf>

³ DfT Transparency data – rail subsidy per passenger per mile:
<https://www.gov.uk/government/publications/rail-subsidy-per-passenger-mile>

consult on a clear statement of what the rail subsidy is for and where it should be targeted. (Paragraph 28)

The Department partially agrees with this recommendation. The Department agrees that there will always be a strong case for subsidy for passenger and freight train services where this delivers wider economic and social benefit, but which would not be commercially viable without taxpayer support. The same is true for enhancements to infrastructure, and other benefits such as smart ticketing.

Funding for both infrastructure and services remains unhypothecated. As such, there are constraints to identifying the specific outcomes and outputs secured by subsidy. The Government procures groups of train services (i.e. franchises) rather than individual services. It therefore pays subsidy or receives a premium for the group as a whole. Even services that pay their way may contain features that the market would not provide if not specified by Government, e.g. the requirement to stop at particular stations, or to run trains at particular times. Nor is it straightforward to separate out the finances of one train service from another when services are mutually dependent. Further, considerable Government infrastructure investment is provided direct to Network Rail.

We nevertheless share the Committee's concern to develop and share an understanding of where public money is targeted, how efficiently it is used and what outcomes it delivers. The Government's Rail Command Paper and the work of the Office of Rail Regulation (ORR) demonstrate both organisations' ongoing commitment to greater transparency over the allocation of rail subsidy. Government is working with TOCs with the aim of publishing figures showing a breakdown of subsidy, including a notional allocation of infrastructure costs, below the whole franchise level, by service group. We are aiming to publish by spring 2013.

Transparency

Recommendation 4. We fully endorse the call in the McNulty report for more transparency in the finances of the rail industry. Comparisons between routes and franchisees of how and where money is spent will help drive efficiency savings by shining a light on complacent management, waste and profiteering. Commercial confidentiality should not be used to block legitimate requirements for information given the amount of public money at stake. (Paragraph 32)

The Department agrees with the recommendation. The Government's March 2012 Rail Command Paper set out strong support for greater transparency of rail finances, in order to help the industry work better together to reduce costs, and also to make the industry more accountable to the wider public.

In July 2012, the Office of Rail Regulation published a consultation on transparency in the rail industry,⁴ highlighting the central role that the ORR has to play in improving transparency of all types of rail information, including financial information. In January 2012, the ORR published for the first time a publication on the whole finances of the rail

4 ORR's approach to transparency – a consultation – July 2012 - <http://www.rail-reg.gov.uk/upload/pdf/transparency-consultation-july-2012.pdf>

industry, including a break down of costs and revenues by Network Rail route/region.⁵ The ORR will shortly publish its 2013 version of this report, which adds a franchise by franchise breakdown of whole industry costs, including a notional allocation of infrastructure costs.

The Department will continue to work with the ORR to make sure that appropriate information about rail finances is put in the public domain.

Regulation

Recommendation 5. We support the notion of a single economic regulator for the rail industry. It makes sense for the ORR to take on this role, but in doing so it must show it has the capacity and credibility to deliver savings across the board. (Paragraph 79)

The Department agrees that there are clear benefits to be gained from moving towards a more unified regulatory structure. The Department and the ORR consulted in December 2011 on the potential for the Government to step back from rail regulation, with the ORR taking more responsibility for areas currently managed by Government through the franchising system.⁶ In the light of the responses received the Department and ORR have concluded that we can improve the way we already work together, and with the rail industry and Passenger Focus, to monitor and report on industry performance.

The Department and ORR will therefore be working more closely to improve the quality and comparability of information provided to passengers and the informed commentary that is available to explain it. This will facilitate a better understanding of performance, costs and value for money on a whole-industry basis. These changes will help target measures to tackle waste and inefficiency and contribute towards the ambition to reduce the cost of running the railway and improve services for passengers.

The Department and ORR have also concluded that there are benefits to be gained from unifying the present regulatory framework in some areas. Currently, responsibility for approving train operators' complaints handling procedures (CHPs) and disabled people's protection policies (DPPPs) lies with the Secretary of State, whereas enforcement lies with the ORR. Giving ORR the power to approve and enforce DPPPs and CHPs will end the current disjointed arrangements. There is also valuable synergy with ORR's existing responsibility for regulating the accessibility of rail vehicles and the technical standards for meeting the needs of people with reduced mobility.

McNulty's analysis

Recommendation 6. The £3.5 billion savings which the McNulty report identifies are undoubtedly challenging, particularly as their achievement would require a large number of companies to work together to make the railway's current structure work more efficiently. We support the general approach recommended by McNulty, but with concerns about some specific issues which we set out in this report. If these savings do

5 GB rail financial information 2010-11 – ORR, January 2012 - http://pacts.org.uk/docs/pdf-bank/gb_rail_industry_financial_information.pdf

6 A greater role for ORR regulating passenger franchisees in England and Wales – DfT and ORR, December 2011 - http://www.rail-reg.gov.uk/upload/pdf/regulator_role_consultation_dec2011.pdf

not materialise, the arguments for more far-reaching structural changes will be compelling. (Paragraph 36)

The Department agrees with this recommendation and welcomes the Committee's support for the approach of a rail strategy geared to making existing structures and responsibilities work effectively, rather than fundamentally altering the current structure of the railways. It is confident that, working together with industry partners, this approach can bring the rail industry to the forefront of efficiency by 2019.

Savings are already being achieved, with Network Rail due to make significant efficiencies by 2014. Further infrastructure savings are earmarked by the ORR for 2019, and will move Network Rail to the forefront of efficiency. The Department also expects to make significant savings from its franchise renewal programme.

Recommendation 7. We recommend that the DfT and ORR keep a close eye on the work of the RDG to ensure that it acts in the best interests of the farepayer and taxpayer, rather than of established rail interests. (Paragraph 38)

The Department agrees with this recommendation. The Government welcomed the establishment of the Rail Delivery Group (RDG). The establishment of an authoritative and effective voice, able to lead for the rail industry, is crucial if the industry is to meet the challenge of reducing the cost of running the railway. The formalisation of the RDG puts the organisation in the best place to take forward whole industry leadership.

The Government's core objectives for the railway are to promote the interests of farepayers and wider society. The Department will continue to monitor and enforce these interests as it engages with the RDG and others in the industry.

The ORR's consultation on the RDG last year⁷ highlighted the importance of compliance with competition laws. The RDG plans to publish a document providing examples of how its business should and should not be conducted, in order to ensure that the principles of competition are upheld.

How to do it

Recommendation 8. Firstly, any changes to staffing, terms and conditions and salaries should be made within the context of a wider programme of changes made throughout the industry and after full consultation with trades unions. Any changes in the numbers and duties of station staff should not be pursued solely to reduce costs but should reflect changes in passenger ticket-buying behaviour and be designed to improve the passenger experience at stations, including safety (Paragraph 41)

The Department agrees that reform in this area should be designed to support a positive passenger experience, but in a cost efficient way. The Rail Command Paper sets out the importance of involving the people on the front line running our railways and serving passengers in coming to decisions on rail reform.

⁷ Consultation on proposals to formalise the Rail Delivery Group – ORR, July 2012 - <http://www.rail-reg.gov.uk/server/show/ConWebDoc.10968>

In the first instance, issues relating to staffing are a matter for the relevant organisations in the rail industry who we would expect to consult trades unions in accordance with their standard practice. However, in bidding for franchises, for instance, there are incentives on prospective train operators to provide high quality customer service (both to attract more passenger revenue and to hit contractual customer satisfaction targets) as well as to improve staff productivity and efficiency.

Ultimately, an efficient rail industry will support growth, meaning more not fewer jobs. However, in order to achieve the savings necessary to relieve the pressure on fares, the rail industry will need to look at how staff working practices can keep pace with technological change and mirror best practice in other industries to become more efficient. The Government will support change that is in the best long term interests of farepayers and taxpayers.

Recommendation 9. In addition, we are very concerned that proposals to reduce staffing at stations and on trains could make the railway less safe, particularly at night, and deter women and vulnerable users from travelling by train. We recommend the Government develop a strategy for improving the security of the rail network, as well as perceptions of how safe the network is. (Paragraph 42)

The Department agrees with the Committee about the importance of passenger security. The Government will shortly be publishing a Door to Door Strategy to support a well-connected, smart and sustainable transport system that works for everyone. Passenger security and passengers' perceptions around security are important issues when considering the door to door journey so the strategy supports making transport and interchange hubs safer environments.

The Department already works on a number of fronts to improve safety and security for rail passengers and staff. The Department runs a Secure Stations Scheme jointly with the British Transport Police. The scheme accredits stations that have introduced a comprehensive package of security measures, such as staff training, help points, CCTV, lighting and information. The scheme requires a passenger survey to monitor passenger perceptions around personal security, as well as requiring evidence that crime rates are low. The scheme encourages rail operators to work with partners to improve the whole journey for passengers.

The National Stations Improvement Programme has made £250 million funding available over 2009-19 for improving station facilities at busy stations in England and Wales. Already, 341 stations have benefited. Schemes include improvements to station buildings such as refurbished waiting rooms and new manned customer information desks. Their design will always seek to incorporate current best practice in terms of personal security and safety. Separately, the Department has also funded new ticket gates at stations, which improves security.

The Department's Access for All programme will deliver an accessible route for disabled passengers to at least 150 stations by 2015 (with a further £100m announced last year to extend it to 2019). Each of these projects includes improved lighting and CCTV and each lift can be remotely operated from the train operator's local control centre when the station is unmanned.

The Parliamentary Under Secretary of State for Transport, Norman Baker, chairs the Public Transport Crime Liaison Group - a dedicated forum for transport organisations, the Police and passenger representatives to share good practice on dealing with crime and anti-social behaviour on public transport. The group is working to raise awareness of transport safety schemes and make reporting crime on public transport easier.

Growing the number of people using the railways is central to our rail strategy, and we expect train operators to make sure passengers feel that their personal security is well managed. Any proposals for reviewing ticket office opening hours, or introducing driver only operation of trains, should continue to have regard to passenger perceptions of safety and security, at the same time seeking to reduce the cost of running the railway to minimise the burden on farepayers and taxpayers.

Recommendation 10. The ORR must ensure that the high standard of rail safety achieved in recent years is not jeopardised by different ways of working between Network Rail and train operators. We recommend that the ORR devote additional resources to monitoring safety in areas where Network Rail and a train operating company have formed an alliance. (Paragraph 45)

The Department supports this recommendation, which is for the ORR.

Recommendation 11. We recommend that in considering proposals for alliances and joint working between Network Rail and train operating companies the ORR pay particular regard to protecting the interests of passengers and firms outside of the alliance. There must be clear procedures for revising alliances' working practices or ending such arrangements if it can be shown that they are disadvantaging passengers or other operators, particularly freight. (Paragraph 46)

The Department agrees with this recommendation. It will continue to work to ensure that train operators and Network Rail are incentivised to work together in a way that supports the achievement of an improved railway for passengers, freight customers and wider society.

The ORR has regulatory and statutory powers to protect other operators outside an alliance against undue discrimination.

Recommendation 12. We recommend that the Rail Delivery Group, working with Passenger Focus, develop and publish a clear strategy for improving retail facilities on stations and trains. This would be welcomed by passengers and could generate extra revenue to contribute to achievement of the McNulty targets. (Paragraph 49)

This recommendation is a matter for the Rail Delivery Group and Passenger Focus to consider. The Department supports any improvements to retail facilities that benefit passengers and contribute towards a financially sustainable railway.

Recommendation 13. We recommend that the ORR take a cautious approach to approving the sale or redevelopment of former railway land, given that with the growth of the industry that land may be needed again for rail in future, while responding promptly and positively to proposals for disposing of genuinely surplus land. (Paragraph 50)

The Department supports this recommendation, which is for the ORR.

What now for franchising?

Recommendations 14-19

The Department has announced that it will make available further information about its future rail franchising programme in spring 2013.

The Department will consider the Committee's recommendations relating to franchising (i.e. recommendations 14 to 19) as part of this process.

Recommendation 20. We agree that there is scope to devolve control over some rail franchises to local or regional bodies and we support the Government in looking at how to achieve this. (Paragraph 65)

Recommendation 21. If the services within the current Northern franchise are devolved we recommend that the Government consider whether there are elements which could be individually franchised (similar to the situation with Merseyrail) and look to involve all of the emerging local transport boards in the north in the governance of the franchise. Alternatively, the DfT must retain reserve powers to vary the specification of the franchise to ensure that the interests of the whole region are protected. (Paragraph 65)

The Department agrees with recommendation 20 and welcomes the Committee's support for both the principle of rail devolution and further work into detailed proposals. In November 2012, the Department published a summary of responses for the consultation on rail decentralisation, together with next steps.

The Department recognises that recommendation 21 reflects concerns which will need to be resolved in any new arrangements. We are continuing to engage with the 'Rail in the North' consortium (Transport for Greater Manchester, and West and South Yorkshire Passenger Transport Executives) as they develop a proposal for taking responsibility for Northern and Trans Pennine Express services. We have encouraged them to develop a proposal for governance which involves all other local transport bodies and commands their support. In parallel we also continue to meet with groups of local authorities to listen to and address any concerns they may have. We would also encourage 'Rail in the North' to consider developing a proposition which would enable, at some future date, elements of the resulting franchise to be hived off into a smaller franchise or combined with others.

Fares and Ticketing

Recommendation 22. We welcome the decision not to proceed with RPI+3% increases but are concerned about where that leaves the Government's fares policy, especially at a time when it is attempting to reduce the cost of rail to the taxpayer. We recommend that the DfT set out a long-term policy on regulated fares. (Paragraph 71)

The Department agrees with this recommendation. The Government's Rail Command Paper clearly states its ambition to put an end to above inflation rises in regulated fares,

once savings are found and the wider economic situation permits. The recent commitment to move away from RPI+3% increases is a positive step in that direction.

The fares and ticketing review, currently underway, is examining a number of questions in relation to regulated fares. The review aims to conclude in May 2013.

Recommendation 23. We recommend that the Government rule out forms of demand management which would lead to even higher fares for commuters on peak time trains. (Paragraph 72)

The Department will consider this recommendation as part of its fares and ticketing review. The Government's aim is to reduce the cost of running the railway to relieve the burden on farepayers and taxpayers. Providing additional capacity during the peaks generally does not cover its costs, because it tends to be only lightly used at other times of the day.

Given that, the fares and ticketing review is looking at the scope to use fares levels to spread demand more evenly across the day, which could defer the need for expensive new capacity. However, the review is not about squeezing more money out of commuters. It is about the structure of fares – what one group of passengers is asked to pay compared with another – and any changes stemming from it would need to be balanced and fair.

The review is also considering other measures to spread demand, such as encouraging train operators to publish information about the level of crowding on different train services. The review aims to conclude in May 2013.

Recommendation 24. The Rail Delivery Group has an opportunity to step up to the plate and show its effectiveness by spearheading the swift implementation of innovative ticketing technology throughout the rail system - certainly by 2020, preferably by 2015. We call on the RDG to respond to this recommendation by explaining its plans in this area and providing a clear timescale for implementation. (Paragraph 73)

The Department supports this recommendation. In order to unlock the potential of smart ticketing, Government is:

wholly funding Transport for London's project to deliver new smart readers that are compatible with the national ITSO specification. This will enable new ITSO smart ticketing products to be used across the London Oyster area;

continuing to specify smart ticketing requirements (compliant with the national ITSO specification) as rail franchises are renewed; and

providing £45m funding for the South East Flexible Ticketing (SEFT) programme to accelerate the roll out of ITSO infrastructure and to allow train operators to offer smart ticketing products in advance of franchise renewal.

We understand that the Rail Delivery Group is now considering how to respond to the Committee's challenge.

Office of Rail Regulation response to Rail 2020, Seventh Report of Session 2012-13

Introduction

We thank the Committee for its report and the opportunity to be part of the inquiry.

We welcome the report which addresses critical questions about the scope and role of public investment in the railway, and how well the industry is delivering value for this investment. The Committee recognises that the industry will need to do more to demonstrate it is providing value for money to sustain public and funder confidence.

This debate is timely, with the continued economic constraints on the public purse, the Government's commitment to deficit reduction and the current debate about procurement of train services. This year we will conclude the current periodic review of Network Rail (PR13) which will set out what the company must deliver over the five years from 1 April 2014 (control period 5) and the amount of money it will be expected to do this for. In addition to providing clarity around the efficiencies Network Rail will be expected to achieve in the next control period our conclusions will establish an incentives framework which will enable the whole sector to make a contribution towards achieving the efficiency challenge set out in Sir Roy McNulty's Rail Value for Money Study (the McNulty report).

Greater transparency has the potential to drive change in the industry by substantially improving funders' and taxpayers' understanding of what public subsidy is buying, as well as making the railways more responsive to the needs and expectations of passengers through improved information and greater accountability. We are committed to working with industry to make substantial steps forward in transparency.

In addition, independent regulation has an important role to play in reforming the rail industry, creating better outcomes for customers and taxpayers. We believe movement, over time, towards unified economic regulation will benefit the industry by providing clarity, aligning incentives and reducing the need for regulatory interventions. Unified regulation is consistent with the Government's stated aspiration of being less involved in the detail of running the railway by moving ORR to the heart of whole industry efficiency and performance, as well as bringing together those areas of rail regulation which impact most directly upon the passenger experience.

It will be fundamental to work with industry and Government to further develop what changes in this area might look like and embed them effectively. Key to this is our own standing and capability. We fully acknowledge the challenge from the Committee that it is for us to demonstrate that we have the capacity and capability to ensure savings are delivered across the board, while never compromising on safety.

We are fully committed to promoting an increasingly dynamic and commercial sector where business can thrive, innovating and serving their customers. This includes ensuring that any changes in our activities do not increase the burden of regulation in the sector. We have a clear vision of an industry where there is less regulation, not more, and will continue to support developments which enable there to be greater industry leadership. Our role will

include encouraging innovation and efficient long-term investment across the railways through the appropriate development of effective markets and regulatory interventions.

Our responses to the Committee's conclusions and recommendations are set out below.

Subsidy in the railway

The Committee sets out its views on the scope and purpose of public subsidy of the railway, and a challenge for greater clarity around the role of the subsidy and visibility of what taxpayers get for their money (**Recommendation 3**).

Government has continuously shown its support for the sector and recognised the strong case for subsidy to secure services which deliver wider social, environmental and economic benefits, but which would not be commercially viable without taxpayer support.⁸

While the purpose and amount of public subsidy is a matter for Government we are doing work to ensure that it has the information it needs to support its decision making in this area and to complement work it has already published about the cost of the railways.⁹ For instance, in January 2012 we published our first annual report on railway finances in Great Britain.¹⁰ This report covers all franchised operators and provides detailed information about costs and income including the source of railway funding (fares versus public subsidy) as well as the level of subsidy by route.

We will soon be publishing our second annual report on railway finances, including all franchised passenger operators. In this year's report we are able to disaggregate financial information even further and the report will be providing details about the scope of public subsidy and passenger support for the railway by nation, by route and by train operating company.

In November 2012 we published detailed analysis of the cost and revenues for the 19 franchised TOCs in Great Britain for the first time.¹¹ This report provided analysis of how costs and revenues have changed over time and across franchises, and represents an important first step in providing a clearer picture of the variations in costs across operators. As this work develops we expect the greater transparency this will bring to have real benefits in helping the industry to identify and understand the underlying causes for differences in costs, thereby bringing longer term benefits in efficiency.

This information will help all funders better understand where passenger fares and taxpayer support is going and whether the industry is providing value for money. It also has the potential to help Government more specifically target subsidy, allowing it to buy the services and capacity which the markets might not otherwise deliver.

8 See Government Command Paper, reference above.

9 See Government's Cost of Railway Outputs at <http://www.rail-reg.gov.uk/upload/pdf/rvfm-booz-outputs-cost-081010.pdf>; and information on rail subsidy per passenger mile at <https://www.gov.uk/government/publications/rail-subsidy-per-passenger-mile>

10 See our GB Rail industry financial information 2010-11 report at <http://www.rail-reg.gov.uk/server/show/ConWebDoc.10814>.

11 The Costs and Revenues of Franchised Passenger Train Operators in the UK at <http://www.rail-reg.gov.uk/server/show/ConWebDoc.11052>.

Transparency

The Committee fully endorsed the need for more transparency in the rail industry to enable greater visibility of how and where money is spent to drive efficiency and give assurance. The Committee also states that, considering the scale of public investment in the railways, commercial confidentiality should not be used to block legitimate requirements for information. (**Recommendation 4**).

We support the Committee's recommendation for more transparency in the rail sector. We remain committed to transparency as a means to ensure that public services are more accountable and more responsive to customers. We believe that transparency provides consumers and funders with the information they need to make choices and to efficiently challenge industry providers. In addition transparency can stimulate businesses to improve their performance and to innovate.

We are increasing transparency in the sector by

- publishing whole industry costs to shed light, in particular, on the purpose and role of public subsidy;
- publishing comparative data on TOC costs to better understand cost drivers, to support better decisions and to promote future efficiencies;
- publishing Network Rail data at a level of granularity which allows comparisons to be made between operating levels and to support devolved decision making;
- publishing comparative data of industry service delivery (for example performance and complaints handling) to expose differences, to promote reputational incentives and to empower passengers with the knowledge they need to make choices and to challenge; and
- promoting third party access to real time train information and other industry data to ensure that passengers can benefit from new products and services that enhance their experience of using the railways.

Making disaggregated financial information available to funders will enable them to make more informed decisions, drive improved efficiencies and enhance accountability. In addition work we are doing in areas such as ticket complexity and passenger information during disruption is also ensuring better, clearer information is available to allow passenger to make the best choices in relation to their journey. This information also helps give assurance that public subsidy is achieving value for money and can help build confidence in the sector.

Last year we consulted on transparency in the rail sector¹² identifying potential opportunities for greater transparency both in the industry and in our own work. In that consultation we acknowledged the risks and concerns around issues such as commercial sensitivities and data integrity, however expressed our strong view that these concerns are far outweighed by the benefits of greater transparency in the sector. This is a conversation we have since continued and we will be publishing our policy statement on transparency later in the year.

We firmly believe that greater transparency can be a powerful transformational lever to make the rail industry more self-sustaining and less dependent on regulatory intervention and we will continue our collaborative discussions with industry and other stakeholders to identify where improvements can be made. Greater transparency can also drive innovation and improve the passenger experience by ensuring they have the information they need to make the best decisions for them, further improving public trust. Transparency will remain an important part of our regulatory toolbox and we will continue to work with the industry to achieve our transparency aims.

Regulation

The Committee expressed its support for the principle of a single economic regulator for the rail industry. It said that it would make sense for ORR to take on this role, but in doing so we must show we have the capacity and credibility to deliver savings across the board (**Recommendation 5**).

We support the principle of a single economic regulator in the rail sector as this will help deliver benefits through a unified approach, helping to achieve whole sector incentives and provide clarity to the sector. Independent regulation is an established means of aligning the commercial incentives of companies with the delivery of public policy objectives. We do believe that movement towards independent regulation should be implemented over time through dialogue between Government and industry to ensure there is a shared understanding of what independent economic regulations will deliver

We endorse the view set out in the McNulty report that the current boundary between what is covered by independent regulation and by Government regulation through franchises, should be reconsidered, particularly in areas where train operators and Network Rail need to work together to deliver what customers want.

A wider role for independent economic regulation would be consistent with another McNulty conclusion that Government needs to focus more on the strategy for what it wants from the railway, not on the detail of how the railway is delivered. This is also consistent with the approach set out in the Command Paper in which Government states its ambition over time to progressively move ORR to the heart of whole industry efficiency and performance, taking Government out of day-to-day industry business.

A single regulator able to draw on the full range of its tools (including those provided under consumer and competition law) would allow use of the most appropriate tool for the job, depending on what the issue is. Over time, better alignment across the industry and a

¹² See ORR's approach to transparency – a consultation at <http://www.rail-reg.gov.uk/upload/pdf/transparency-consultation-july-2012.pdf>.

wider role for independent regulation should also enable the overall extent of regulation in the rail industry to be reduced, while still providing assurance to users and funders about delivery and efficiency. To move this forward ORR and DfT have agreed, after consultation with industry, that responsibility for policy on complaints handling and disabled persons protection policies should pass to us, and that we should take a wider role in advising DfT on industry performance.

We endorse the conclusions of the Brown Review of the Rail Franchising Programme¹³ (Brown Review) that a wider role for a regulator should not go as far as the regulator setting and enforcing franchise contracts. However, another recommendation of the Brown Review is that there should be more local specification and management of franchises. This means certain common standards and network benefits across the railway as a whole will need to be ensured, something best addressed by an independent regulator.

We have also taken steps to strengthen our own capability and will continue to do so to ensure that we have the right competencies, expertise and capacity fully to discharge any responsibilities we may be asked to take on. Thus far we have concentrated on our current work, particularly the regulation of Network Rail where we have strengthened our engineering and operations teams, and introduced more commercial experience. In addition we already have capability in the consumer space including being an enforcer of consumer law and as a competition authority. This provides us with knowledge and skills that we have used to advise DfT on, for example, issues around ticket retailing. We have also carried out our own passenger research on the impact on the passenger of ticket complexity and are currently researching passenger awareness of refunds and compensation work. We are ready to strengthen our capability further as we take on a wider role.

McNulty's analysis and RDG

The Committee endorsed the general approach set out in the McNulty report but noted concerns about some specific elements. The Committee recommended that DfT and ORR keep a close eye on the work of the Rail Delivery Group (RDG) to ensure that it acts in the best interests of the farepayer and taxpayer, rather than of established rail interests (**Recommendation 7**).

We support the formation of the RDG which was established in response to the McNulty report's view that many of the barriers to improving efficiency across the railway could be addressed by a high-level cross-industry leadership body charged with driving forward change. To facilitate formation of the RDG we implemented a new licence condition obliging Network Rail, and passenger and freight operators that use the mainline network, to actively support and participate in the work of the group. We have made clear that, to be effective, RDG will need to engage with wider industry stakeholders (including funders, suppliers, and employees).

We believe that in order to deliver change across the railway, and therefore meet McNulty's aspirations, the industry should take responsibility for developing policies and strategies to improve its effectiveness and efficiency. It is for this reason that, along with industry

¹³ See The Brown Review of the Rail Franchising Programme at <https://www.gov.uk/government/publications/the-brown-review-of-the-rail-franchising-programme>

funders, we are not members of the group and have no direct interaction in the workings or decision making of RDG. Our role is limited to keeping the overall arrangements under review, approving changes to the RDG articles of association, ensuring licence holder compliance with them and considering changes proposed by RDG to the existing industry change implementation processes (including the Network Code and track access contracts). We do however engage with the work of the RDG along with other stakeholders and are active members of the asset management/project management working group.

ORR has an established role in ensuring that the interests of farepayers and taxpayers are protected. Mechanisms are in place to ensure the commercial interests of railway operators do not overshadow the interests of these groups, including the contractual arrangements various RDG members have with Governments and other funders through their franchise agreements and the regulatory functions of ORR.

In addition RDG's role, as set out in its articles, is helping to deliver a safe, efficient, high quality rail service for users and taxpayers. It has no powers to impose changes on railway stakeholders or to the industry's contractual framework. RDG will also continue to meet regularly with the DfT, other devolved administrations and ORR to discuss policy and funding issues, and has given a commitment to meet with local funders to discuss mutual matters of interest. In all regards it needs to ensure that it does not act in such a way that it prevents, restricts or distorts competition. The group will be producing a separate document setting out how it will remain compliant with competition law.

We are content that there are sufficient safeguards in place to ensure that the interests of taxpayers and customers are protected.

How to do it

Safety

The Committee expressed concerns about staffing levels at stations and the potential impact on safety (**Recommendations 8 & 9**).

Protecting the safety and security of passengers, staff and the public are clearly fundamental concerns for the industry. Accordingly, we would expect station operators to consider the safety and security implications of staffing levels at stations, conduct the appropriate risk assessments and take action where needed.

New ways of working

The Committee stated that ORR must ensure that new ways of working between Network Rail and train operators does not jeopardise the high standard of safety which has been achieved in recent years (**Recommendation 10**).

We recognise that this priority is paramount and support the Committee's recommendation. We are fully committed to ensuring that new ways of working between Network Rail and train operators do not negatively impact safety standards. In the one case where Network Rail has established a deep alliance (with South West Trains) we have appointed a dedicated inspector to oversee the complete alliance to ensure that safety is not compromised. In any instance where Network Rail and train operators are considering

different working arrangements we expect early engagement with us so that we can ensure that high safety standards continue to be met.

The Committee also stated the importance of ensuring that alliances and joint working between Network Rail and train operators do not disadvantage minority parties (**Recommendation 11**).

We are very supportive of alliances as a means of enabling Network Rail and train operators to work together to improve the efficiency of the railway and the quality it delivers to users. We actively engage with parties considering new ways of working where it is relevant for us to do so without stifling industry creativity in exploring benefits of new approaches. To help provide certainty on our expectation and approach to alliances we issued a policy statement in March 2012.¹⁴

We are also committed to ensuring that alliances or joint working do not lead to discrimination against minority users, both passenger and freight. We will be vigilant in ensuring that industry mechanisms which provide protection to minority parties are not compromised. For instance Network Rail's network licence prohibits the company from unduly discriminating between industry parties. We also have powers under the Access and Management regulation and competition law should which help ensure that the market is working effectively.

Land disposal

The Committee recommended that ORR take a cautious approach to approving disposal of railway land, while also being supportive of proposals to dispose of genuinely surplus land (**Recommendation 13**).

We agree with the Committee's recommendation and already consider these issues carefully when presented with an application from Network Rail for the disposal of railway property. Our objective is to protect land that may be required for future development of the railway network and to prevent the disposal of that land against the public interest. However we also support the potential efficiency gains which can be achieved in Network Rail disposing of land which is genuinely surplus. Network Rail is required to consult stakeholders prior to making a submission to us so that potential concerns are identified.

To minimise the impact of the regulatory process surrounding land disposal we keep our procedures for assessing requests for land disposals under review and seek to make improvements where possible. For instance, some minor revisions to the regulatory arrangements for land disposal will take effect from 1 April this year. These changes, which we have implemented after industry consultation, will make the process more efficient whilst ensure protections against inappropriate disposal remain.

What now for franchising?

The Committee made a number of observations and recommendations about franchising, particularly any changes to the procurement and management system which might be

¹⁴ See ORR's policy statement on alliances at <http://www.rail-reg.gov.uk/upload/pdf/alliancing-policy-statement-march-2012.pdf>.

appropriate after the collapse of the West Coast Main Line franchise competition last year (**Recommendations 14 through 21**).

We contributed to the Brown Review of the Rail Franchising Programme. We also continue to discuss with Government the potential for changes in the franchising process to deliver efficiencies in the sector. In particular, the following changes would enable train operators to do more to help achieve the efficiencies identified in the McNulty report:

- franchise specifications that are sufficiently flexible to allow and encourage train operators to make innovations that result in efficiency savings during the lifetime of a franchise, not only when it is let;
- a franchise change mechanism to allow for changes to franchises to deal with beneficial changes to specifications during the term of a franchise;
- a system which enables train operators to retain the benefits of saving achieved through route-level efficiency benefit sharing and alliancing arrangements during the next control period; and
- train operators have an interest in the cost of the infrastructure that they use so that they are incentivised to help improve its efficiency. This means train operators should be exposed to changes in track access charges at the time of a periodic review.

Fares and Ticketing

The Committee made a number of recommendations about fares and ticketing, particularly on a long term strategy on regulated fares and increased innovation (**Recommendations 22 through 24**).

Government is actively considering its policy on fares and ticketing and we are contributing to its current review. As regulator and consumer authority we are keen to ensure the environment exists to support a market which is economically sustainable and delivering for passengers, with a fares and ticketing system which is consistent with a 21st century railway. We will play our part in achieving this by creating a regulatory environment where innovation can thrive and in which whole sector incentives are aligned.

In the coming business year we will be undertaking a study of the retail market which will look at the extent to which the current market for ticket retail is operating efficiently and effectively in delivering best outcomes for passengers. We will work with DfT and Transport Scotland in due course to consider the implication of our findings.

In addition, as we have discussed with DfT, there is potential to take the Secretary of State out of the detail of ticket office closures. Under the current system each closure must be

approved by the Secretary of State. An alternative would be for the Secretary of State to develop policy in this area and for ORR to ensure compliance. This would give operators greater freedom to innovate to serve customers and would support Government's ambition to remove itself from the detailed running of the railway.

Letter from Steve Howes, Rail Settlement Plan Managing Director, Association of Train Operating Companies, to Mrs Louise Ellman MP, Chair of the Transport Committee

You may remember I appeared before the committee for the Rail 2020 inquiry on 10 July 2012. Reading through the final report of the inquiry just published, I would like to raise an issue which, while accurately recorded in the committee's transcripts, has not, in my view, been reflected properly in the final report.

The final report says:

"Steve Howes of ATOC conceded that implementation of smartcards had been slow but effectively blamed the Government for requiring the railway to use ITSO technology rather than the Oyster system." Paragraph 73, page 24 'Rail 2020'

This is not an accurate representation of the evidence I gave in response to Paul Maynard's questions. I don't accept that I 'blamed' the Government for any delay, nor do I accept that I suggested that Oyster was a viable alternative for the railway.

The transcript shows that I provided a factual explanation that the Department for Transport has promoted ITSO as its preferred technology for smartcard ticketing for several years. I went on to explain that whilst four or five years ago ITS() was an immature technology in terms of application on the railway, as a result of work by ATOC and the TOCs it is now fit for purpose and ready to move to widespread roll-out. At no time did I suggest that the use of Oyster would have produced an earlier widespread roll-out of smart ticketing on the railway, nor indeed that it is in any way suitable for use on the railway.

I understand that condensing a significant amount of evidence into the final report requires some simplification, but in order to prevent misunderstandings in the future and any distortion of this complex, technical issue, I would like to request that the record be changed to reflect my concerns.

Letter from Mrs Louise Ellman MP, Chair of the Transport Committee, to Steve Howes, Rail Settlement Plan Managing Director, Association of Train Operating Companies

Thank you for your letter of 21 January concerning the oral evidence you gave to the Transport Committee on 10 July and how it was interpreted in the Committee's Rail 2020 report.

In my view, the sentence to which you have objected broadly reflects the evidence recorded in the transcript at Qq 277-281. However, I accept that the way in which your comments came across to us may not have accurately reflected your views on the subject. It is not possible to change our report now it has been published, even if we wished to do so. However, I am prepared to publish your letter alongside the Government reply to our report so that your comments are on the record. We expect to receive the Government reply in the Spring.

I hope that you are content with this arrangement. Thank you for contributing to our inquiry.

Letter from Nigel Jones, Head of Planning & Strategy, DB Schenker, to the Clerk of the Transport Committee

Thank you for sending me a copy of the Committee's Final Report which I have now had the opportunity of reading.

Overall DB Schenker Rail (UK) Ltd (DB Schenker) is pleased and supports the report and in particular the Committee's views that rail freight should be encouraged to grow. There are, however, two items I feel I have to comment on - being the Report's references in paragraph 50 to the maintenance depot at Allerton and land disposals.

DB Schenker owned the freehold interest in Allerton until December 2009. The Report suggests that the depot was almost lost to the industry through a desire to see it developed for alternative uses. That is simply not the case. We did hold discussions with one residential developer in 2008/9 about a sale of part of the site (some 3.5 acres of land at the western end of the site that totals 14 acres) but those discussions were not followed up.

However simultaneously we were holding direct talks with regional franchisee Northern Rail about its interest in using the balance of the site — all the operational area — for maintenance of passenger rolling stock. In the event, we sold the whole site to Network Rail but I remain of the view that a proportion could be sold without any detriment at all to current or future rail operations.

We use the same criteria when looking at other disposals. The McNulty Review identified that up to £290m could be generated from the sale of surplus rail land. This is in the context that much of the freight estate reflects the historic patterns of use and the demographics of heavy industry. Changes to the UK economy and its industrial base over the past fifty years means that we have many hundreds of acres of land in the Midlands and northern Britain that could be released with no conceivable impact at all to present or future rail operations. In addition we have a good number of sites that could be released in part.

I am sure the Committee would be reassured that we have resisted approaches from developers (and, recently, even the London Legacy Development Corporation) to dispose of land that we consider important for our core activity and future development. We are, of course, keen to develop new freight facilities in locations that lack capacity; the recent announcement by the Secretary of State for Communities and Local Government that he is minded to support our scheme at Radlett is most welcome. We hope he will take a similar view at Colnbrook.

DB Schenker does acknowledge that the Report's recommendation that ORR should act cautiously in approving land disposals is fair. However too much caution is dangerous: developers already despair at what they see as sloth and indecision within the rail industry and its processes. The delays they encounter allow other greenfield sites to be seen as viable alternatives for (for example) new housing projects, an outcome entirely contrary to stated government policy. The present stalemate benefits nobody; there has to be a balance.

I should be happy to discuss any of these views with the Committee if they would find this helpful.