Annex B

CITY OF YORK COUNCIL

RESPONSE TO DfT CONSULTATION

Reforming Rail Franchising

INTRODUCTION

City of York Council is a Unitary Authority in North Yorkshire.

Franchised rail links to the City are provided by Directly Operated Railways (East Coast), DB Arriva Cross Country Trains, First Trans-Pennine Express and Northern Rail. In addition, services between Sunderland and London Kings Cross provided by open access operator Grand Central Trains also serve the City. Thus we have experience of all sectors of the rail passenger transport industry.

The responses given in this document reflect the views of the City of York Council. Should any clarification of the views expressed above be required, please contact

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RESPONSES

1. **Franchise Specification**

It is the view of this authority that the existing DfT model for franchising is too restrictive and over specified. We consider that the failure of the franchise for operation by National Express of the East Coast Main Line was directly attributable to the model encouraging unrealistic bids based on unattainable growth predictions. However, under the previous SRA model, the franchise for Northern Rail was let on a ‘no growth’ basis in an apparent bid to reduce the cost of projected subsidy. However, by improving performance and punctuality, franchise winners Serco-Ned Rail grew patronage by 29% in the first three years, figures which it was totally ill equipped to manage.

Therefore, any review that leads to a more practical scenario is to be welcomed.

There can be no doubt that where franchises have been let for longer terms, i.e. Chiltern and c2c, there has been significant investment that has led to continual improvement in service levels and, in the latter case, it would seem that the exposure to full risk has been a significant factor in bringing this about. However, as identified in the consultation document, c2c has a relatively predictable revenue stream that is not replicated across the majority of franchises.

We are of the opinion that adopting a model that exposed franchisees to full risk would lead to substantial increase in costs to the taxpayer.

Conversely, the current ‘cap and collar’ arrangements are considered to provide too substantial a cushion and encourage bidders to over forecast revenue (and thus premia payable to the Government) safe in the knowledge that support will be forthcoming should these figures not be realised.
Because of the vast differences across the varying types of business (i.e. commuter, inter-city, regional), we do not believe that it is possible to successfully adopt a ‘one size fits all’ approach to financial performance targets and protection.

We are of the view that the approach detailed in paragraphs 4.19 and 4.20 of the consultation document, providing for periodic reviews should there be a material change in circumstances that detrimentally affected either the forecasts made by the franchisee at the time of bidding or demand levels, is the most practical option.

As longer franchises would cross control periods, there is also a necessity for franchises to be open to review dependent on the HLOS and SOFA for each period.

An issue that requires further consideration is the basic level of service demanded from each franchise. Whilst we are generally in favour of setting a minimal level of service and allowing franchisees to implement additional services that they consider commercially attractive and viable, safeguards must be put in place to ensure that there is no over duplication of services to one area at the expense of another, less attractive but equally essential one. A case in point would be Doncaster to York, where commuter traffic has grown by 35%. However, the level of service has not developed to match this, in part due to a franchise requirement for a half-hourly London-Leeds service on the East Coast main line. From 2011, the existing hourly service linking Sheffield, Doncaster and York provided by DB Arriva Cross Country is to be reduced, with alternate trains travelling via Leeds. Although East Coast's draft 'Eureka' timetable proposes a two hourly London – York service, this will not replace the lost Cross Country service but simply allow for more trains travelling to Newcastle and Edinburgh to be accelerated by removing Doncaster stops. Open Access operator Grand Central is prevented from calling Sunderland-London trains at Doncaster while for both Northern Rail and First Trans Pennine, the route is outside their franchise area. It is considered essential that such reductions in service are prevented simply because the Leeds route is seen to be more commercially attractive. There is also the danger that allowing free choice over selection of routes will adversely affect pathing of existing passenger and freight services. Government must therefore work to develop a core service specification that meets the needs of passengers without increasing costs to the taxpayer.

We are therefore supportive of the idea that the amount of support available be concomitant with the franchisees willingness to prioritise the service level to all areas within the franchise. To achieve this will require a combination of the OPRAF and SRA models for setting base service level whilst encouraging investment.
We therefore agree that, as a minimum, base specification should set the approximate times of first/last trains, stations to be served, minimum frequency of service to each station and, in association with Network Rail, achievable key journey times.

Because of the differing nature of operations, it is difficult to suggest an ideal franchise length. Clearly it is easier to predict trends on commute railways than on those that are reliant on occasional traffic and therefore more exposed to variations in the economy as a whole. However, we agree that because of the intricacies of the rail industry and the long lead times necessary for any planned improvements in service levels or rolling stock to be introduced, the existing short franchises are a disincentive to investment. Conversely, with control periods of five years, too long a franchise could lead to franchisees being subjected to excessive risks.

Our feeling is that, as a rule, franchises of fifteen years length are the most practical.
In the past decade we have witnessed the outcome of over zealous bidding and optimistic predictions with both GNER and National Express, both episodes leading to a reduction in confidence as to the sustainability of rail and bringing the franchise system into disrepute.

We consider that the supplying of an initial ‘affordability’ figure for premium or subsidy will go some way to preventing a repeat of these occurrences, albeit with a degree of flexibility built in to allow for the vagaries of the economy over the medium to long term.

2. Franchise Procurement

It is acknowledged that railways are complex and that there are too many issues that must be addressed when awarding franchises to allow for much simplification of the process. It is essential that sufficient consideration is given to all areas before awarding a franchise. Failure to do so risks leading to increased cost to the taxpayer and lower quality of service.

We welcome the proposed increased focus on quality and support the process described in paragraphs 5.4 and 5.6 of the consultation document. We also consider the Financial Model to be preferable to the NNL/NNG system when it become necessary to alter terms of the contract, as the clarity this provides, in our opinion, outweighs the complexities involved.

3. Contract Design and Management

As outlined in response (1) above, it is necessary to ensure a commitment to provide a suitable level of service to all areas of the franchise, even where this may require the use of resource that the franchisee believes could obtain greater return elsewhere. Franchisees should be encouraged to work toward increasing the revenue stream from these, less commercially attractive, routes by innovation and investment. It is recognised that certain improvements are dependent on infrastructure upgrades, for example the electrification of part of the GWML. However, other, less costly, measures can be implemented without Government investment to improve the quality of service and achieve growth.

It is our opinion that, in addition to setting a minimum service level as described above, bidders should be required to commit to set levels of investment appropriate to the franchise being let. The amount and degree of investment could be agreed either by direct negotiation during the bidding process, set against predictions of income generation and reduction in subsidy/increase in premium, or by an independent body similar to the former SRA. Factors that would need to be taken into account are the growth (or contraction) of the wider economy and the availability of finance. There should however be a commitment to achieve a minimum level of growth during the life of the franchise and to achieve a set reduction in carbon emissions.

Many improvements can be obtained relatively easily. We fully support the Government's desire to eliminate overcrowding although we have reservations that this can be achieved by increasing frequencies. Much of the network is already near to or at capacity; thus finding paths for additional services can only be achieved by eliminating another service (or reducing the number of paths set aside for freight movements, a move that we would not support). This problem was recognised in the provisos attached to services proposed over and above those required by the SLC's in the SRA model. We consider that the only way the issue of overcrowding can be tackled is by providing longer trains on busy routes and/or at peak times. Arriva Cross-Country have long been a particular concern due to their concentration of four car class 220 Voyagers, although we are hopeful that the recent acquisition of Arriva by Deutsche Bahn will lead to the issue being addressed as a matter of course. However, the issue of overcrowding at certain times on services of First Trans-Pennine, Northern Rail and East Coast is also a cause for concern. We therefore feel that franchisees should commit to providing a minimum number of seats per journey, albeit with provisions for minimum pitch and spacing. For the franchises serving York, we believe the ideal would be for the number of seats available to match that currently provided (using existing seating layouts) by trains consisting of nine-ten coaches on East Coast, six-seven coaches on Cross Country, four-eight coaches on Trans Pennine and a minimum of two coaches on Northern. Modern multiple units lend themselves to uncoupling diagrams, thereby allowing operators to align the number of seats available to known demand at any given time. In addition, this would provide the additional sets required to introduce new and innovative commercial services at minimal cost, thus improving the likelihood of their continuation.

We are aware that there are important issues relating to inter-franchise travel that must be addressed travel before smartcards can provide an alternative to existing card based ticketing arrangements. However we believe that franchisees should commit to extending the availability of internet/print at home and mobile phone ticketing. In addition, season tickets should be available for purchase online and, on long distance services, should offer the option of a free seat reservation. Although we are keen to retain an element of 'walk-up' availability on inter-city and cross country trains, we accept that, in the longer term there are benefits to moving toward a requirement for pre-booking on such routes. In the shorter term, holders of inter-city and cross country franchises should commit to keeping ten per cent of seats per journey available for 'walk-up' passengers.

We accept that longer, and thus heavier trains, would impact slightly on journey times but believe that the effects of this can be assuaged by replacing the present system whereby a train reaching its final terminus is considered to be 'on time' if it arrives no more five or ten (inter-city) minutes late. This has led to schedules incorporating excessive recovery allowances between the penultimate calling point and the terminal, features that are unpopular with passengers and unnecessarily take up paths. We believe that new franchisees should commit to achieving a situation whereby trains do not arrive any more than three (local) or five (long distance) minutes late at EVERY scheduled calling point, a move which in addition to ensuring more precise point to point timings would, once achieved, improve the PPM of the franchise.

We note the popularity of 'quiet' coaches on longer distance services but are concerned that these are not effectively policed. We therefore feel that franchisees should commit to providing and enforcing these zones, possibly by treating designated coaches to prevent the penetration of wireless signals and imposition of fines on those who openly flout the restrictions.

We are also in favour of the proposal to add to franchises the responsibility for station maintenance and improvement, although this may prove difficult with category A-C stations. We would not wish to see stations served by a number of franchises become effectively divided into units with each franchise responsible for the platforms they use. Not only would this lead to the greater fragmentation of the railway, with one set of platforms providing a different level of customer facility to others but it would also risk causing operational difficulties by reducing flexibility or adding unnecessary cost (e.g. would First Trans-Pennine have to pay access and usage charges to Northern if they were unable to use their own platforms at York for any reason?). That said, we do believe that franchisees should commit to a minimum level of facility at each station, this level determined by annual usage so that a station with a throughput of 500,000 passengers per annum would require a lower level of facility that one with a throughput of 1 million, with improvements necessary to match growth. There should also be a minimum level of facility for every station, encompassing real time information, passenger shelter, ticket machines, lighting, interchange with other modes and accessibility.

There are certain areas where improvements can only be obtained through infrastructure upgrade and we believe that Government should be prepared to support investment in such where these are necessary to achieve desired improvements and can be shown to meet the DfT cost/benefit requirements. Locally, we would welcome the in-filling of the missing link in the electrified network between Neville Hill and Colton Junction as this would enable improvements in stock utilisation, journey opportunities and operational flexibility. We would also welcome greater levels of consultation between franchise holders and local authorities to enable development of services and facilities in accordance with Local Transport Plans, for example we have long held an aspiration for the re-opening of Haxby Station.

Whilst it is essential that some form of sanction be available to ensure operators deliver their commitments, financial penalties alone run the risk of putting the operator into a position where they are no longer able to function as franchisee. Such a situation could then negate the sanction as the Government is forced to absorb the costs of re-tendering the franchise and, possibly, having to take on board the operation in the short term, as is the case with the ECML.

We feel that for any sanction to be effective, it should not put at risk the ability of the franchisee to continue in business. Whilst financial penalties can be set for failure to meet a degree of commitment, it is considered that a shortening of the franchise term with the cost of re-franchising met by the parental guarantee or performance bond is more effective.

We consider it problematic to answer definitively which of either parental guarantee or performance bond is preferable. Much would depend on the financial situation of the owning company and/or the bond market at the time. It is without doubt that the cost of either would likely be passed on in the form of higher bid price; however the necessity for such a safeguard to be in place is unquestionable.

4. Revenue Risk

The existing ‘cap and collar’ arrangement allowing for the Government to fund up to 80% of the franchise payment of the operator is missing revenue targets has proven to be a millstone for Government whilst providing a valuable cushion for operators. It seems certain that the existence of the protection has led to bidders making impracticable revenue growth forecasts simply to win the franchise, although this was somewhat encouraged by the DfT's approach to awarding franchises based on such predictions. However, there are arguments against leaving risk entirely with the operator, not least the danger that the operator may be unable to continue trading should the anticipated return not materialise. It may even be that with a longer franchise, the risk of failure is greatly increased.

It is our opinion that Central Government must retain a level of GDP risk in order to obtain the most cost effective bids. The costs of operating in the railway environment are so dependant on outside factors, particularly the overall economy that few would, or indeed could, commit to a major level of investment without some guarantee of stability of income. We believe that the provision for periodic reviews to ensure that there is an independent mechanism for resetting of payments to or from the franchisee is essential for obtaining best value from initial bids. However, we do not believe these reviews should be preset but rather activated by the reaching of an agreed set of changes in financial circumstances.

5. Franchise Investment

There is a problem with any franchise operation in that the franchisee is disincentivised from committing to large scale investment due to the short-termism of the franchise. Obviously for any company to be willing to commit funds to investment, they need some guarantee that they will see a financial return. There can be no doubt that because of the long lead times in the rail industry, the existing franchising system effectively removes such guarantees and makes it extremely difficult to encourage investment. However, the ongoing Evergreen project of Chiltern Railways proves that this problem can be overcome with franchises awarded for a longer term.

There is always a risk that, as the franchise nears its end, the incentive to continue investing reduces substantially. Because rolling stock is normally purchased by the ROSCO's and then leased to franchisees, the likelihood of any operator committing to introduce new vehicles in the latter half of a franchise term is much reduced; the higher asset values apportioned to the leasing charges simply do not allow for a business case to be made. The 'residual value' model is difficult to apply in these cases as a new franchisee may wish to lease alternative stock or even own their own. This in turn requires the ROSCO to apportion more of the initial cost to the early years of the lease, further lessening the incentive for the franchisee. However, we are keen to ensure that rolling stock is designed with maximum route availability as this allows for easy cascade to other routes in later years. If franchisees were encouraged to commit to purchase stock specifically for one franchise, this raises the risk that the specification would be route specific, resulting in excessive cost to the taxpayer if it were then simply sold back to the Government at the end of the term.

We therefore believe that investment in rolling stock issues be addressed at the bidding stage with a view to procuring vehicles at the start of the franchise in order that the operator obtains maximum value during from the investment.

For all other areas, we consider that the ‘residual value’ model is the most appropriate method of ensuring long term investment although there need to be a mechanism that provide for inflationary increases in costs and value that may occur during the life of the franchise to ensure that the franchisee does not suffer financially for agreeing to commit to the level of investment required. It may be that this would require the creation of an independent body to adjudge residual values.

6. **Cost Control and Efficiency**

As the intent of offering longer franchises is to encourage investment and improve the passenger experience, there must be an acceptance that the cost of maintaining the operation will rise. However, companies should be able to account for this in their predictions when formulating their bids. It would also be expected that efficiencies would be made over the term of the franchise as with any other business. However, railways are more susceptible to economic fluctuation that many other industries, as evidenced by the problems with the ECML franchise.

Whilst ‘cap and collar’ was designed to protect franchisees against the effects of economic fluctuation, we believe that this alone can be a double edged sword and, in certain cases, lead to operators taking the view that applying normal business rules for improving efficiency are of low priority as any shortfall in predicted revenue will be made up later in the franchise term. We note, however, that even the existing cap and collar arrangements would not have saved National Express from being unable to meet the terms of the franchise agreement.

We therefore feel that there should be some form of reward based mechanism incorporated into the franchise to provide an added incentive for operators to meet pre-set targets for controlling costs or improving cost efficiency. These targets would aligned with the commitments offered in the bidding process, possibly by an independent body overseeing the process. We believe that the potential to gain a franchise extension should these targets be met or exceeded would provide the most satisfactory means of rewarding cost control and efficiency whilst ensuring that subsidy/premium levels are unaffected.

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