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promoting quality public transport.....

Rail Transformation Programme Consultation
 Great Minster House,
 33 Horseferry Road,
 London
 SW1P 4DR

21st July 2022

Dear Team,

WILIAMS -SHAPPS RAIL PLAN LEGISLATIVE CHANGES

Introduction

1 TravelWatch NorthWest (TWNW) is an independent Community Interest Company representing all public transport users in North West England. We are pleased to give our views as follows to this consultation.

2 We welcomed the launch of the Williams – Shapps Plan in May 2021. Many of the points we made in our original response to the Williams Rail Review appeared to have been incorporated into that plan, including –

- The rail industry to be restructured into a more co-ordinated entity, in particular bringing infrastructure control and operations much closer together, bringing better integration and passenger benefits.
- Fares – simplification, pay as you go, flexible season tickets and continuing regulation.
- More local control and input from local stakeholders including Community Rail Partnerships.
- The commitment to strengthened passenger representation with an increased regional presence.

1. Question 1 - Does the scope of the proposed designation of Great British Railways as an integrated rail body appropriately capture what you would expect for an effective guiding mind for the railways? (paragraph 2.6) Please explain.

1.1 We broadly agree.

2. Question 2 - Are there any other factors Great British Railways should balance and consider as part of its public interest duty? (paragraph 2.9) Please explain.

2.1 There should be a commitment to integration with other modes, both in timetable planning and ticketing. Much more could be done to improve the availability of integrated ticketing for varying modes to allow "complete journey" purchases. For example, there are currently inadequacies with through ticketing between Manchester Metrolink and other public transport modes which have been in existence ever since the system opened in the 1990s and have been exacerbated as the system grows.

Question 3 - Do you support the proposal to include a power in primary legislation to enable Scottish and Welsh Ministers to delegate their contracting authority to Great British Railways, subject to the terms of delegation being mutually acceptable to ministers in the Devolved Administration(s) and the Secretary of State? (paragraph 2.17) Please explain.

3.1 Agree

Question 4 - Do you have any views on the proposal to amend Section 25 of the Railways Act 1993 to enable appointment of a public sector operator by Great British Railways by direct award in specific circumstances? (paragraph 2.18) Please explain.

4.1 Agree

Question 5 - Do you support the proposed amendments to Regulation 1370/2007, which are i) reducing the limitation period for the challenge remedy, ii) introducing a remedy of recovery to accord with the new UK subsidy regime, iii) clarifying who may bring a claim, iv) retaining the ability to make direct awards under Article 5(6), and v) clarifying the PIN notice period? (paragraph 2.20) Please explain

5.1 No comment

Question 6 – Do you support the proposed statutory duty on ORR to facilitate the furtherance of Great British Railways' policies on matters of access and use of the railway, where these have received Secretary of State approval? (paragraph 2.38) Please explain.

6.1 We see ORR as being an unnecessary bureaucratic player in the new organisation. Surely, regulation and access priorities can be determined within the structure and framework of GBR, in an ordered and fair manner. The Secretary of State will have an approval role so continuation of the ORR role is a form of tautology

Question 7 - Noting we will consult separately on the use of the power to amend the existing Access and Management Regulations, are you aware of any immediate essential changes that are needed to these Regulations to enable Great British Railways to deliver its guiding mind function? (paragraph 2.44) Please explain.

7.1 We believe it is essential to bring track and train closer together.

Question 8 - Do you agree with the proposed recasting of ORR's competition duty to better reflect public sector funding? (paragraph 2.49) Please explain.

8.1 Of course consideration to public sector funding should be given. We question the whole role of the Regulator in a largely nationalised railway. There are mixed views about competition on the track and whereas many passengers will welcome cheaper fares albeit with single operator restrictions, it should be recognised that rail as a whole is in competition with the car, airlines on long-distance routes and road coaches on others.

Question 9 - Do you support the proposal to include in legislation, a power for Great British Railways to issue directions to its contracted operators to collaborate with one another in circumstances where doing so could otherwise give rise to concerns under Chapter I of the Competition Act 1998, in particular, where this could lead to defined benefits to taxpayers and/or passengers? (paragraph 2.54)

Question 10 - Would Train Operating Companies be willing to share information and collaborate in the way envisaged without the proposed legislative provisions? What are the risks to them without the proposed legislation? Would the proposed legislative approach help to resolve these risks?

Question 11 - Are there any particular additional safeguards (in addition to the safeguards outlined in paragraphs 2.54 - 2.55) that you consider necessary to support the interests of third parties (including freight, open access and charter operators) or to otherwise protect passengers and/or taxpayers?

9 -11.1 One outcome of GBR must be much closer co-operation amongst operators especially at times of disruption. So Yes GBR should have power to issue directions to its contracted operators to collaborate as stated. Appropriate legislation is necessary as a safeguard.

Question 12 - How should we ensure that Great British Railways is able to fulfil its accountability for the customer offer while also giving independent retailers confidence they will be treated fairly? (paragraph 2.61) Please explain.

12.1 The railways have made effective use of ticket/ travel agents for many years on the basis that those agents agree to sell rail products at an agreed rate of commission. This section seems to be postulating hypothetical problems when none exist.

Question 13 - Does the proposed governance framework give Great British Railways the ability to act as a guiding mind for the railways,

while also ensuring appropriate accountability? (paragraphs 3.13) Please explain.

13.1 Agree

Question 14 - Do you agree with the proposal for Great British Railways' new duties to be captured in the licence and that primary legislation should require the licence to include specific duties in relation to accessibility, freight and the environment? (paragraph 3.16) Please explain.

14.1 We agree with the statutory duties as defined. We remain unconvinced of the necessity of a separate Regulator role given the overseeing role of the Secretary of State and Department of Transport.

Question 15 – Do you support the proposal to amend ORR's powers to exclude the ability to impose a financial penalty on Great British Railways for licence breach? (paragraph 3.26) Please explain.

15.1 This is a move in the right direction and illustrates the questionable role of a Regulator as referred to above.

Question 16 - Please provide any feedback on the proposed business planning arrangements for Great British Railways.

16.1 We do advocate an independent rail safety monitoring and investigatory body. The rest of ORR's functions are superfluous, as they can be incorporated in the DfT/ GBR relationship, in our view.

Question 17 - Will the proposed approach to independent scrutiny and challenge provide sufficient transparency and assurance that Great British Railways can be held to account? (paragraphs 3.45 – 3.47) Please explain.

17.1 To echo previous comments, looking at this from a practical view the new structure appears to be more bureaucratic than the one being replaced! GBR's role will be sandwiched in between DfT and ORR and it is unlikely that the former's "guiding hand" will be materially reduced. If the railways are to become more efficient and passenger friendly there has to be streamlining at a high level. All of ORR activities with the exception of safety could be carried out at the GBR/DfT interface with perfectly adequate checks and balances. Passengers can be well protected by an independent Ombudsman and Passenger Body (Transport Focus - see below).

Question 18 - Do you support the proposal to give ORR a statutory power to levy a fee on Great British Railways to cover the costs of ORR's functions which are currently funded through the network licence? (paragraph 3.48) Please explain.

18.1 – No for reasons as explained above.

Question 19 - Will the proposed changes enable Transport Focus to effectively undertake the role of independent passenger champion in the new rail industry structure? (paragraph 4.8) Please explain.

19.1 We agree with this amendment. Good work in monitoring rail passengers experiences is currently carried out by Transport Focus and this should continue without undue restriction. Their work underlines the importance of good effective users' champions, independent of the GBR body - crucial for passengers and their expectations. There will be a continuing need for such an independent organisation that has direct access to customers, which is transparent and where information can be passed freely to parts of the industry which rely on gleaned information to ensure consistent standards.

19.2 Responding to the Whole Industry Strategic Plan consultation in February this year we gave the following comments – “Some years ago the regional statutory bodies representing passengers were abolished to the detriment, we believe, of local rail users.....We advocate the restoration of similar bodies to the former Rail Passenger Committees, in line with a greater emphasis on an increasing role for local stakeholders. In this part of the world, such a body would fit well with the devolved authority of Transport for the North. These consumer organisations must be totally independent and TWNNW would be well placed to fill this role, perhaps extending its horizons across the North of England.” We continue to stand by that view.

Question 20 - How can we ensure that accessibility is integral to Great British Railways' decision making and leads to cultural change in the rail industry? Please explain.

20.1 We agree in principle. However, we repeat the concerns as expressed similarly in 17.1 above about the complexity and bureaucracy implicit in the relationships between the Secretary of State, ORR and GBR to say nothing of Transport Focus.

Question 21 - Do you support the proposal to expand DPTAC's remit to become a statutory advisor to Great British Railways, as well as to the Secretary of State, on matters relating to disability and transport? (paragraph 4.15) Please explain.

21.1 We agree with this.

Question 22 - In addition to providing Great British Railways with powers to make “permitted information disclosures”, are there any other revisions to the Railways Act 1993 or barriers to promotion of open data that you consider need to be addressed? Please explain.

22.1 In the absence of familiarity with the detailed provisions of the Railways Act 1993, common to the whole range of passenger expectations sits the overriding need for comprehensive and accessible information on train times,

fares and other facilities. In this context current trends towards repressing printed material, including timetable leaflets are questionable.

Question 23 - Do you support the proposal to include a power in primary legislation to enable the ratification of the Luxembourg Rail Protocol? Please explain.

23.1 We support this proposal.

Questions 24 & 25 – not considered.

Thank you for the opportunity to respond

Yours faithfully

John A Moorhouse

John Moorhouse
Company Secretary