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Dear Ms Carty

Response to the Office of Rail Regulation's 'Rail Retail Market Review' consultation

FirstGroup is pleased to respond to the Office of Rail Regulation's 'Rail Retail Market Review consultation. FirstGroup is one of the UK's largest rail operators and carried 330 million passengers in 2013/14. We are the only operator to run every sort of railway – long distance, regional, commuter and sleeper operations. We run the train operating companies (TOCs): First Great Western; First ScotRail; First TransPennine Express; and First Hull Trains.

FirstGroup's TOCs are all members of the Association of Train Operating Companies (ATOC) and as well as compiling this response, we are also part of the ATOC working group providing an industry response on behalf of ATOC members. We fully support the ATOC response. Rather than answer each question, we have responded to the key questions in the consultation document.

We welcome ORR's engagement with FirstGroup. We are prepared to continue this discussion as the ORR moves to publish its next paper in March 2015. We are happy for this submission to be made public.

(1) Is our description of the retail market for tickets and passenger buying behaviour correct? If not, are there any relevant trends / issues we are missing?

The ORR description of key trends is accurate although it has understated the exceptional growth in the size of the market and the amount of change within it since privatisation.

The ORR's focus is confined to the past ten years. Extending the analysis further back, the trends are clearer still. Passenger volumes have reached the previous peace-time peak in the 1920s. The market is growing at an annualised rate of 4%. Since 1995, passenger volumes have increased by 88%, roughly twice the rate in France and Germany.

This growth is set against an average journey price (in 2013/14 prices) that has remained broadly constant since privatisation, slightly above £5. Ticket types have also changed with advance tickets now representing 17.7% (2012-13) compared to 7.3% (2003-04).

Ticket sales channels have changed significantly. At privatisation, ticket offices accounted for over 80% of transactions. This has fallen to below 30%. Ticket vending machines (TVMs) now represent 20% of sales compared to around 10% (2006/07). Third party retailers now have a 16% market share compared to 10% (2003-4) whereas TOCs now account for a smaller proportion of ticket sales – around 73% compared to around 87% (2003/04).

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High passenger growth, change in sales channels and greater competition support our view that the retail market is functioning well and does not require major change. We would encourage the ORR to enable the high growth and increasing competition to continue to customers' benefit.

(2) Have we appropriately captured the most significant changes to ticket retailing in the last 10 or so years? Do you consider that the pace and level of developments and changes have been appropriate in meeting passengers' changing needs?

We agree with ATOC's view that it is necessary to split out changes across rail products, ticket fulfilment and ticket retailing. Each area has different drivers and paces of change.

(3) Are there insights on passenger behaviour, market share and sales channels from other sectors that are worth considering?

We would encourage the ORR to read the ATOC-commissioned LEK Consulting reports. These benchmark specific aspects of the GB rail market with other rail markets and comparator sectors. We would also welcome the ORR continuing its engagement with the industry, and ensuring comprehensive stakeholder coverage.

(7) With respect to split ticketing, what are your views? Are passengers appropriately safeguarded against the risks attached to split ticketing? To what extent do industry processes and systems enable split ticketing to be developed by industry and used by passengers?

Customers can perceive ticket prices as confusing and complex. The existence of the split ticketing issue complicates this further. Split ticketing happens because fares are not specific to individual train companies. Regulatory obligations on TOCs to offer through and inter-available fares mean fares priced for shorter distance, often slower, lower quality services are available on longer distance, higher quality services.

We agree with ATOC's view that split ticketing can cause complexity for customers, create customer care issues for TOCs, drive additional cost and ultimately reduce revenue given it is set below market rates. We would anticipate that customers will become increasingly aware of split ticketing.

While split ticketing is permissible under the National Rail Conditions of Carriage, customers have to be provided with all the relevant information to make informed choices and ensure journeys comply with the terms and conditions associated with their tickets. This is difficult to do via all channels such as TVMs or ticket offices. The Review should address the underlying causes of split ticketing, an issue for both TOCs and the Government.

(8) What are your views on the requirement on TOCs to create and retailers to sell inter-available and through tickets and to offer a timetabled, walk-up service? What are your views on the benefits passengers and TOCs derive from these tickets and the timetabled walk-up service? What challenges does this obligation give rise to, if any? Where there are issues, what could be done to address them?

We recognise that on some routes, there is a mix of lead and secondary operators. As part of this, we appreciate that sometimes a lead operator on a specific route cannot offer discounted walk-up fares while its competitors can. On balance, we believe that the current situation works from a national perspective.

(9) *With respect to having minimum obligations on TOCs to have their station ticket offices open, what are your views on the impact of these obligations on how the market can develop in line with passengers' needs?*

The ticket retail market has changed. At privatisation, ticket offices accounted for over 80% of sales. This has fallen to below 30%. ATOC details how station ticket office costs account for around 50% of all industry retailing costs. ATOC reports that if the cost of station ticket office retailing was brought into line with the industry average of 6%, £65m of annual savings would be possible. This equates to around 0.75% of the average ticket price.

Since privatisation, customer expectations have increased, with customers wanting a more rounded service from TOCs. Operators have an opportunity to move staff away from behind glass, selling tickets, to provide a more rounded customer service.

The regulatory background, however, prevents the industry from reflecting this channel shift, adjusting its cost base while meeting customer expectations. Schedule 17 of the TSA restricts the ability to change station ticket office opening hours, meaning customers face higher prices than they should. It also leads to a weaker business case investment for new consumer services and facilities. This makes for an interesting comparison with Transport for London who has recently decided to move away from comprehensive ticket office provision.

With Schedule 17, the industry faces lower incentives to invest in retailing, especially in innovative technology. Reform of Schedule 17 could enable greater flexibly to changing market demands and trends. An example would be further deployment of barcode ticketing. Currently, First TransPennine Express is collaborating with East Coast, Northern and CrossCountry in trialling this technology on the East Coast Main Line. Reform of Schedule 17 could see ticket office savings fund further such investment.

We would encourage the ORR to examine this issue further.

(11) *What are your views on the current form of industry governance? Are there specific examples where the governance has enabled or limited retail innovation? Where necessary how could industry governance be improved?*

(12) *What are your views on the current form of industry rules? What benefits do they give rise to, and how? Are there any specific aspects of industry rules that limit or dampen innovation in retail? How could they be addressed?*

We have combined our answers for questions 11 and 12.

We would agree with ATOC's view that industry governance is complex but it does mainly work. Knowledgeable retailers providing accurate and clear information to passengers are essential to protect the industry's reputation.

While it has been suggested that rules for third party retailers could be regarded as anti-competitive, the consequences of getting retailing wrong are often felt directly by the transport provider and not by the third party retailer. At a time when the industry continues to simplify the rail offering, and make rail more accessible, it is imperative that retailing standards are maintained.

In terms of innovation and bringing new products to market, however, the rules can be inhibitive. An example is the mobile TIS market where Atos Avantix has been the dominant product for some time. The costs of developing a product to the point of full accreditation are prohibitive to suppliers when the potential prize in the rail industry is relatively limited. We would welcome the opportunity for new products and innovation to be trialled without the need for full industry accreditation.

(13) *With respect to the third party retailers' arrangements, to what extent does the nature of their relationship with TOCs to enable them to benefit passengers, including bringing about competition and innovation? How are the arrangements between the wholesale provider and the third party retails in other sectors relevant to rail? What is the impact of third party retailers in rail not having access to a wholesale market / wholesale price? Do the industry governance, rules, processes, and systems pose additional impacts for third party retails that we have not captured?*

The retail market is highly competitive with the market share of third party retailers steadily increasing. ATOC's research has highlighted that industry revenue is higher as a result of third party retailing.

Overall, Passenger Focus's National Rail Passenger Survey (NRPS) also shows high levels of customer satisfaction with ticketing purchasing at 83.3% across the two most recent NRPS waves. ATOC's mystery shopping shows that around 95% of transactions were found to be accurate.

In terms of third party retailers having access to the wholesale market, we believe that these organisations have wholesale access to all products apart from season tickets and niche products.

(14) *What are your views on the current form of industry processes and systems? What benefits do they give rise to, and how? Are there any specific aspects of industry processes that limit or dampen innovation in retail? Do these processes have other impacts, either causing problems or leading to benefits?*

There are undoubtedly benefits from having common IT systems and centrally-owned data feeds and these should be retained. As ATOC points out, one of the benefits of central procurement is that investment can be written off over the life of the asset and the relatively short term of franchises does not impact on investment decisions. Additionally, investment is not left to one TOC and is shared across the industry.

(16) *What are your view on our proposed approach to assessing the materiality and relevance of impacts? Please particularly consider the extent to which the incentives, obligations, governance, rules, processes and systems in place facilitate or inhibit i) passengers being active, empowered and engaged in the market, causing suppliers and retailers to reduce costs and raise quality; ii) retailers can compete to deliver services that meet consumers' needs and expectations.*

The rail market is fast growing, provides a choice of retail options, with accurate and relevant information about available rail products for customers. We believe that customers increasingly have the ability to choose the right retailing and fulfillment channels for their needs. Competition between retailers, both between individual TOCs and with the wider market participants has stimulated choice and improved price and service for customers.

There is a case for change in Schedule 17 of the TSA, for instance, to enable operators to provide a better customer experience; also, governance that delivers innovation across the network and facilitates investment in the wider industry. Finally, accreditation requirements should be reduced during product testing to encourage market innovation.

(17) What are your views on proposed approach to Stage Two of the Review?

The ORR has informed us that it plans to publish its recommendations in March 2015. We would welcome the opportunity to continue our constructive engagement with the ORR as its thinking develops. We would also encourage the ORR to consult a wide range of industry stakeholders to ensure it receives complete representation of the industry's views. We have suggested to the ORR that it evaluates its proposals financially and presents a series of options for the industry and interested stakeholders.

We are happy to engage with the Review in whatever way is sensible and appropriate. Please feel free to get in touch if you wish to discuss any of the comments outlined in this consultation response.

Yours sincerely

Hugh Clancy
Commercial Director, Rail