Retail market review

Consultation on the potential impacts of regulation and industry arrangements and practices for ticket selling

September 2014

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Executive summary

Summary

While use of the railways continues to grow, the way passengers buy tickets and the format of these tickets is changing, and is set to change further. Passengers are buying more tickets from retailers that aren't a train company. There is also increased demand, which is beginning to be realised, for smarter and more flexible ticketing. We welcome industry's effort to respond to these changes. For the future, it is essential that the regulation and industry arrangements and practices for ticket selling keep up with this change and, in particular, enable the market to offer passengers value for money, choice and quality that suits their different needs. Our initial consideration of the retail market for ticket selling suggests that the arrangements and practices protect passengers; provide convenience and flexibility to passengers by facilitating the benefits of an integrated, national network; enable retailers to collaborate to improve their service; and provide clarity to new entrants, thus encouraging new parties to sell tickets. However, there may also be some issues with the current approach. The cost of regulation and industry arrangements to facilitate an integrated, national network don't fully reflect those retailers who make use of and benefit from the integrated nature of the network; they may inhibit innovation at the expense of improved services to customers; they may constrain retailers' commercial flexibility in how they sell tickets; and they may create a conflict of interest among retailers. We welcome stakeholders' views to help us assess what's relevant and material. We intend to follow-up with a second consultation in early spring 2015, with potential recommendations to capture the opportunities and address the issues, where necessary.

1. The Office of Rail Regulation's (ORR) Retail Market Review considers how regulation and industry arrangements and practices within the retail market are facilitating choice and, in particular, promoting investment and innovation in the best interest of passengers.

2. ORR is the independent safety and economic regulator for Britain's railways. We ensure the network operates safely, reliably and provides value for customers and taxpayers. We are undertaking the Review as part of our responsibilities to keep markets under review and to take appropriate measures where we identify a detrimental effect on users and funders. This is in line with our strategic objectives of supporting a

better service for customers, securing value for money and promoting an increasingly dynamic and commercially sustainable sector.

Drivers for the Review

3. How passengers buy rail tickets and the format of these tickets is changing. While station ticket offices remain popular, passengers are making greater use of the internet and ticket vending machines to buy their tickets. Passengers are also buying more of their tickets from parties other than the company that operates their trains. They also have greater choice in the format of their ticket, with greater use of smart ticketing (at least in metropolitan areas) and mobile ticketing.

4. We anticipate more change on the horizon, be it in the form of more sophisticated multi-modal comparison tools, more flexible ticketing, quicker and more accurate ticket detection, and/or ancillary products that passengers want. We want to ensure that the ticket selling arrangements are robust to these potential developments and can play their part in delivering change efficiently to the benefit of passengers.

5. For that reason, we are reviewing how retailers sell tickets. We want to ensure they can deliver benefits to passengers, both now and in the future.

Context of the Review

6. The Review is part of a wider landscape of work on passenger matters to provide better outcomes for consumers by promoting competition (where appropriate) and ensuring passengers are sufficiently engaged in the market and empowered by the information available to them to make the right decisions.

7. Rail retailers continue to make improvements to the way tickets are sold. New products, such as the Two Together railcard, are being introduced and further developments to the industry systems and the industry data (including availability of industry data) are being made. In response to concerns from some retailers, train operating companies are beginning a trial to open up the season ticket market to third party retailers to sell season tickets. There is also scope for further developments in this area, particularly with recent commitments by government and industry to convene a high-level and senior forum to consider the longer-term strategy for ticketing in retail. We very much welcome these initiatives and look forward to working with our stakeholders in supporting their development.

8. The Review is intended to build on and complement these developments. It follows from the Department of Transport's Rail Fares and Ticketing Review in 2013, which considered how to allow more passengers to travel and to have a better experience of rail. It is designed to work with the Department's current work on, for example, further simplifying the structure of fares and the introduction of smart ticketing across train companies in the South East. It also intended to work with ORR's other work on passenger matters,

including our work on the information passengers should be provided with when they buy a ticket or when they suffer a disruption to their rail journey.

Scope and approach to the Review

9. The Review is focused on the regulation and industry arrangements and practices for selling tickets. These relate to retailers' commercial incentives in selling tickets, retailers' obligations to facilitate an integrated, national network and industry governance, rules, processes, and systems in selling tickets. We are considering, for example, retailers' costs and benefits in selling tickets, the efficiency of the regulation and current arrangements, the impact of franchising, and the driver and potential barriers to innovation. The Review is not considering individual fares or the price of fares, TOC-specific arrangements or the particular revenues TOCs are allocated. Similarly, it is not seeking to introduce a new set of rules or to opine on minimum standards of innovation.

10. Since launching the Review in February with a Call for Evidence, we have focused on the current framework for selling tickets and sought to understand what its impact is. In doing this, we have engaged extensively with stakeholders. We have talked to a range of parties, including governments, industry and consumer representatives and we hosted a workshop in May 2014. We also commissioned Cambridge Economics Policy Associates to consider how third party retailers work in other sectors and how this compares to rail.

The framework for how tickets are currently sold

11. Retailers of tickets include train operating companies (who sell fares for both their own services and the services of other train operating companies) and third party retailers (who sell fares without running the train services themselves).

12. They are subject to regulations and industry arrangements and practices in how they sell tickets. These relate to:

(a) Incentives to sell tickets: Retailers face incentives to earn more revenue from selling more and higher-valued tickets. While all retailers are incentivised to sell tickets, these differ among retailers;

(b) Obligations to facilitate an integrated, national network: Established at the time of privatisation to protect passengers and to preserve the commercial benefits for the industry, these arrangements require retailers to sell on an impartial basis at certain points of sale. They also require train operating companies to create and sell inter-available and through ticket fares and to adhere to minimum opening hours for their station ticket offices. They also prohibit train operating companies from charging fees for selling tickets;

(c) Industry governance arrangements: Partly to help meet the requirements to facilitate an integrated, national network, the industry has developed certain governance arrangements. These bring together train operating companies to enable them to work together. In turn, they employ support to manage industry processes and systems; and

(a) Industry rules, processes and systems: Developed by the train operating companies, retailers are subject to certain rules around commission for selling others' tickets and accreditation of retailers' ticket system. Third party retailers are also subject to certain rules to enable them to sell tickets. Retailers are also required to follow certain processes and use certain IT systems in searching for and selling tickets.

Our initial and high-level summary of the potential benefits and issues with the regulation and industry arrangements and practices

13. In considering the impacts of the regulations and industry arrangements and practices, we have identified certain potential benefits and issues.

14. The potential benefits include the following:

(a) **They may help protect passengers in buying tickets**. Obligations on retailers to sell impartially help ensure passengers get the necessary information by ensuring train operating companies can't favour their own services over others (see section 4.10). It, and the prohibition on train operating companies from charging a transaction fee for selling tickets, helps provide transparency to passengers over the price of the ticket (see section 4.21). The obligation to maintain minimum opening times for station ticket offices also helps to ensure all passengers get the information they need when buying a ticket (see section 4.19). Furthermore, the rules on retailers to have their ticket issuing systems accredited (see section 5.11) and the specific rules on third party retailers may also protect passengers in ensuring ticket probity (see section 5.15);

(b) **They may provide passengers with the flexibility and convenience of an integrated, national network**. Obligations to sell impartially (see section 4.10) and to create and sell inter-available and through ticket fares (see section 4.16) provide passengers and train operating companies with the convenience and flexibility of an integrated, national network. Industry governance (see section 5.2) and the corresponding rules, processes and systems help support delivery of these benefits (see section 5.20);

(c) **They may enable retailers to collaborate to improve their service to passengers**. The industry governance arrangements, rules and processes enable retailers to work together in selling tickets (see section 5.2), potentially facilitating best practice and enabling the development of network-wide products (see section 5.3, 5.20); and

(d) **They may provide clarity to new entrants, potentially encouraging more parties to sell tickets.** The obligations on how retailers should sell tickets (see section 4.10) and the corresponding industry rules, processes and systems (see section 5.5) provide clarity to new entrants on what's required of them). This may encourage new parties to enter the market and potentially drive improvements to passengers' services.

14. The potential issues include the following:

(a) **They pose a cost, which may be disproportionate**. The obligations to facilitate the benefits of an integrated, national network (see section 4.10) and the corresponding industry rules, processes and systems they give rise to (see section 5.2) create a cost for retailers. These costs may not always be fully reflective of those that enjoy their benefits as different retailers make use of the integrated, national network (such as inter-available and through tickets) to differing extents, while all retailers contribute towards their cost. This may be particularly disproportionate for smaller players;

(b) **They may inhibit innovation at the expense of improved services to customers**. Retailers' incentives to sell tickets (through, for example, the franchising process) may not encourage the industry to work together in innovating (see section 4.2). Equally, the need to follow and use common industry rules, processes and systems may not facilitate retailer-led innovation (see section 5.20);

(c) **They may constrain retailers' commercial flexibility in how they sell tickets**. The prohibition on train operating companies charging a fee may constrain their commercial flexibility to reflect relative costs of sales in the price of a fare (see section 4.21). Centrally-determined commission rates may constrain commercial flexibility in the way train operating companies reward third party selling (see section 5.6). The industry processes and systems may also constrain retailers in how they sell tickets, for example in introducing a new product (see section 5.20); and

(d) **They may create a conflict of interest among retailers**. The industry governance arrangements are made-up of train operating companies, rather than all retailers (see section 5.2). They determine many of the rules, processes and systems (such as commission rates). This may create a conflict of interest given train operating companies set the rules for third party retailers and, at the same time, compete with them to sell tickets.

15. We welcome stakeholders' views on our considerations.

The principles against which we will assess the materiality and relevance of the impacts

16. In assessing the materiality and relevance of these impacts, we want to understand the role that regulation and industry arrangements and practices play in promoting well-functioning markets and/or in protecting the interests of consumers, both now and in the future, given the potential for future changes. In particular, we expect to consider the arrangements against the following principles:

(b) From a retailer's point of view, we want to understand the extent to which regulation and industry arrangements and practices enable all retailers to **access the market** for selling tickets or, in other words, to enter, expand and exit the market without onerous conditions. We also want to understand the extent to which retailers are **empowered to compete** on fair, objective and non-discriminatory terms in responding to passengers' needs; and

(c) From a passenger's point of view, we want to understand the extent to which regulation and industry arrangements and practices enable passengers to receive good **quality services**, such as prompt and reliable services. We also want to understand the extent to which passengers can make clear **choices** that are easy to exercise and suit their differing needs.

Next steps

17. We intend to consult again in early spring 2015. In doing so, we will set out our views on the impact of the regulation and industry arrangements and practices. We also intend to set out our emerging thinking on the options to capture the benefits and/or address the issues. At this stage, and noting the difficulties in anticipating the final outcome of the Review, we envisage that they could form a set of recommendations around, for example, incentives to innovate, governance and third party retailing arrangements.

18. Furthermore, we intend to continue working alongside government and industry in their efforts to improve passengers' experiences. This reflects the fact that, in order to effect change, all stakeholders need to play a part.

Responding to this consultation

19. We welcome stakeholders' views on this consultation, in particular the questions listed in Annex A. Please submit your response, in electronic format, to the ORR Retail Review inbox (ORRretailreview@orr.gsi.gov.uk) by **Friday 31 October 2014**. Alternatively, if it is not possible to email, please send in hard-copy to:

Siobhán Carty, Competition and Consumer Policy team
Office of Rail Regulation
One Kemble Street
London
WC2B 4AN

20. If you wish all or part of your response to remain confidential, please indicate this clearly.

21. We also welcome the opportunity to discuss the themes raised in the consultation face-to-face. If you would find that helpful, please contact us through the ORR Retail Review inbox (ORRretailreview@orr.gsi.gov.uk).

1. Introduction

Summary

This Chapter explains what the purpose, drivers and scope of the project are, including in light of responses to our February Call for Evidence.

Purpose of the document

1.1 ORR has a range of functions and responsibilities to keep railway markets under review and to take appropriate measures where we consider that they are not working to the benefit of users or funders[1]. We are conducting a review of the arrangements for ticket selling in response to concerns that some parts of the industry may be prevented from competing to sell train tickets in more innovative or competitive ways and in the context of significant changes to the way passengers buy their tickets (as discussed in Chapter 2).

1.2 The purpose of the Review, therefore, is to consider how current regulation and industry arrangements and practices for ticket selling are facilitating choice and promoting investment and innovation in the best interest of passengers. We are undertaking the Review in the context of our strategic objectives of supporting a better service for customers, securing value for money and promoting an increasingly dynamic and commercially sustainable sector.

1.3 The purpose of this consultation is to seek stakeholders' views, preferably supported by evidence, on the materiality and relevance of certain features of the retail market for ticket selling, as described within this document. We also welcome views on our understanding of how ticket selling works (and whether we have made any significant omissions). A full list of questions we would like views on is in Annex A. This

[1]Our statutory responsibilities to monitor markets arise from sector specific legislation, including the Railways Act 1993, the Railways Infrastructure (Access and Management) Regulations 2005, and from responsibilities which we hold concurrently with the Commission and Markets Authority (CMA) and other regulators under the Enterprise Act 2002. It is worth noting that the Review is not being undertaken under our powers to investigate alleged infringements of competition law, set out under the Competition Act 1998.

document follows-on from our initial Call for Evidence in February that introduced the project and explained its scope and approach[2].

1.4 We expect this consultation to be of particular interest to retailers of train tickets, passenger groups and consumer representatives. It may also be of interest to retailers in comparable industries, such as aviation, and in other rail markets outside of Great Britain.

Why we are reviewing the regulations and industry arrangements and practices for ticket selling

1.5 The Review draws on the Department of Transport (DfT's) Rail Fares and Ticketing Review that considered how to allow more passengers to travel and to have a better experience of rail[3]. In considering ticket retailing, the DfT said it was "*concerned that some aspects of the current system could be stifling innovation, change and potentially also competition*"[4]. In comparing rail to other industries, it said it wanted a healthy and level playing field for all retailers and a market structure that provides appropriate opportunities to launch and sell innovative products. In particular, it said, it was keen to see new retailers and more innovative approaches to ticket retailing.

1.6 We set out our reasons for undertaking a review of ticket selling arrangements in the February Call for Evidence letter:

(a) Ticket-buying habits are changing, and are likely to continue changing;

(b) There are concerns, for example from the DfT and some parts of industry, that the arrangements and industry practices for ticket buying and selling is stifling innovation and competition; and

(c) Some parts of the industry, notably smaller parties and potential new entrants, consider that the current *status quo* prevents or inhibits their ability to compete.

1.7 Annex B provides a summary of the non-confidential responses to the February Call for Evidence. While respondents broadly agreed with why we are reviewing the market arrangements, some also suggest the need to consider passenger preferences and the need for more simple arrangements as drivers for the review[5]. We agree these two additional points should be included as drivers for the project[6].

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[2] ORR, 2014, *Retail Market Review Call for Evidence letter*. See here. The non-confidential responses to the February Call for Evidence are also available at this link.

[3] DfT, 2013, *Rail Fares and Ticketing: Next Steps*. See here.

[4] DfT, 2013, *Rail Fares and Ticketing: Next Steps*. Page 49, paragraph 3.85.

[5] Campaign for Better Transport, Centro, First Group, Loco2, and Railfuture responses to the February Call for Evidence.

Scope of the Review

1.8 In light of why we are undertaking the Review, the scope of the Review (as set out in the February Call for Evidence) covers a number of areas:

(a) Train Operating Companies' (TOCs') costs and benefits of driving demand for rail tickets, including the impact industry arrangements and practices have on TOCs' incentives to increase passenger revenue and to create new types of fares or products;

(b) The impact of industry arrangements and practices on the kind of products TOCs must sell and the way in which they can be sold. In particular, we are keen to understand how these arrangements promote more competition and innovation, including through new entry in the market and opportunities for new entrants to innovate and develop a unique selling point (USP) within the current framework;

(c) The state of innovation in the market for ticket products and sales channels. We are keen to understand more about the drivers for innovation and how competition and innovation relate to each other; and

(d) The structure of and the arrangements for third party retailers, including the licensing arrangements they are subject to in selling tickets.

1.9 While respondents to the February Call for Evidence generally agreed with the scope, a number of stakeholders made further suggestions which we have incorporated into the Review. These include:

(a) How franchise arrangements and terms can enable and limit innovation. We are considering the impact of franchising on retailing as part of our work looking at the incentives and arrangements retailers are subject to (and set out our initial views herein);

(b) The efficiency of current regulation, including how the arrangements could be further simplified. We are considering this as part of understanding the current arrangements and how they could be improved, where necessary;

(c) The availability of industry data, including fares data. This is within scope of the review; and

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[6] The Transport Salaried Staffs' Association (TSSA) do not agree with the need for the review amid concerns it may increase complexity in the industry. Furthermore, two respondents to the February Call for Evidence suggest the need to consider the need for overall efficiencies in the market as a driver for the review. We recognise these concerns, and by including the need for simple arrangements as one of the drivers of the review, we believe we have addressed the TSSA's concern. In terms of efficiency, our main focus is on passenger benefits; however we would expect any such benefits to be delivered efficiently.

(d) Information provided at the point of sale. While we will consider this as part of the retailers' role in selling tickets, what information should be provided to passengers, under the current rules, is the subject of our Retail Information Code of Practice consultation, which will be published shortly[7].

1.10 The Review is not considering individual fares or the price of fares; TOC-specific arrangements or the particular revenues TOCs are allocated. Similarly, it is not seeking to introduce a new set of rules or to opine on minimum standards of innovation.

1.11 Note that, for now, the Review is focused on the arrangements governing national rail products and not those between the TOCs and Transport for London (TfL) relating to, for example, TOC sales of Oyster products.

Approach to the Review

1.12 We launched the Review in February 2014. Reflecting the scope of the review, we have adopted a three-staged approach:

(a) Stage One: February – September 2014: This stage sought to understand the ticket selling arrangements and to identify the relevant benefits and issues associated with the functioning of the retail market. This stage involved stakeholder engagement, desk research and market analysis (through, for example, data on ticket sales). This consultation document marks the conclusion of the first stage of the Review;

(b) Stage Two: October – early spring 2015: This stage will focus on understanding the materiality and relevance of the potential opportunities and challenges and on identifying some high-level options or principles to capture the benefits and /or address the issues. Responses to this consultation will feed into this stage of the Review. It will involve further stakeholder engagement and market analysis. We will seek views on our understanding of the opportunities and challenges and on the options through a formal consultation; and

(c) Stage Three: early spring 2015 – late summer 2015: This stage will focus on conclusions from the Review, on recommendations and implementation (where applicable).

1.13 As part of Stage One, there have been a number of key activities / milestones:

(a) The February Call for Evidence, which sought stakeholders' views on our initial thinking on the scope and approach of the review. We received 21 non-confidential responses;

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[7] Further details on our work in this area, including our consultation, "*Towards a Code of Practice on Retail Information*" will be available here shortly. This work is concerned with best-practice improvements for passengers in respect of the information they are provided with when choosing and buying their rail tickets.

(b) An industry workshop on 8 May 2014 where we heard from certain industry representatives in more detail and where we gathered further views from stakeholders[8];

(c) Bilateral engagement with over 20 stakeholders;

(d) External input from Cambridge Economics Policy Associates (CEPA) in the form of a comparative analysis of the third party retail markets outside rail[9]; and

(e) Our own analysis around the incentives, rules, processes and systems in place for selling tickets.

Structure of the document

1.14 This document contains the following chapters:

(a) Chapter 2 – **Rail ticket buying and selling practices:** To understand better the behaviour of the passenger, this Chapter looks at who buys what tickets, and why. It also considers who sells tickets (and how (e.g. sales channels)) and some recent changes in ticket selling;

(b) Chapter 3 – The **regulation and industry arrangements and practices for selling tickets:** To ensure there is a common understanding of how the arrangements for ticket selling works, this Chapter describes retailers' incentives in ticket selling, the obligations on retailers to facilitate an integrated, national network and the industry governance, rules, processes, and systems in selling tickets;

(c) Chapter 4 – The **impact of retailers' incentives and obligations to facilitate an integrated, national network in ticket selling:** This Chapter considers the impacts associated with the commercial frameworks under which retailers sell tickets. It also considers the impact of obligations on TOCs and third party retailers in how they should sell tickets such as, for example, the obligation to sell impartially and the obligation to adhere to minimum opening hours for station ticket offices;

(d) Chapter 5 – The **impact of industry governance, rules, processes, and systems**: This Chapter considers the impact of having governance, rules, processes, and IT systems. These include, for example, rules around having accredited ticket machines and a particular formats for tickets; and

(e) Chapter 6 – **Emerging thinking and next steps:** This Chapter provides a high-level summary of our initial considerations on the potential impacts associated with the ticket selling regulations and industry arrangements and practices. It explains how we intend to assess the materiality and relevance of these impacts, setting out some market principles around what behaviours we might expect to see in the

[8] The slides and a note of the 8 May workshop are available here.

[9] Specifically, CEPA considered the arrangements for agent-selling in five comparable sectors (aviation, energy, financial investments, mobile telephony, and price comparison websites). There are obvious differences between rail and other sectors (including the ones considered here). Any comparisons and distinctions made will take account of the wider context and the specifics of rail. See here for link to the CEPA report.

market. It also explains how we expect to analyse possible options to capture the benefits and address the issues, where necessary, and in doing so, provides an outline of our work with CEPA in considering other sectors.

1.15 The document also contains a number of annexes. Annex A contains a full list of questions we welcome stakeholders' views on; Annex B contains a summary of the non-confidential responses to the February Call for Evidence; Annex C discusses trends in ticket selling in the last ten or so years; Annex D contains further information on the cost of retailing through different sales channels; Annex E contains further information on commission rates for third party retailers; Annex F contains further information on licensing of third party retailers; Annex F contains further information on industry data; Annex H explains how revenue allocation among TOCs and third retailers works; and Annex I contains a glossary of key terms used in this document and those associated with ticket selling arrangements.

Questions for Chapter 1

There are no questions associated with this Chapter.

2. Rail ticket buying and selling practices

Summary

This Chapter describes how rail tickets are bought and sold in Great Britain. While the most commonly purchased tickets are Off-peak tickets, there has been significant growth in the sale of Advance fares. TOCs issue the most tickets, though the market share of non-TOC retailers is increasing. While station ticket offices remain the most frequently-used channel for ticket sales, the use of the internet and ticket vending machines (TVMs) continue to increase. There are also changes in the way tickets are delivered to passengers and in the range of products sold.

Introduction

2.1 This Chapter describes how rail tickets are bought and sold in Great Britain. It looks at who buys what train tickets and how they do this and who sells tickets and how they do this. In this context, it also considers changes to how tickets are bought and sold in the last 10 years. The purpose of this Chapter is to provide context for the subsequent discussion on the regulation and industry arrangements and practices for ticket selling (Chapter 3) and the potential impacts associated with these arrangements (Chapter 4 and 5).

Ticket buying trends in rail

2.2 This section briefly describes who travels by train and what tickets they buy. It draws on existing research both from ORR[10] and elsewhere[11]. How tickets are bought (i.e. the sales channels) is discussed in the next section on ticket selling behaviour.

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[10] ORR, 2014, *Rail Passenger Experience Report.* See here.

[11] For example, Passenger Focus, 2013, *National Rail Passenger Survey (NRPS)*; ATOC industry revenue; and RAC, 2012, *On the Move*. See here. The industry data derives from the Latest Earning Network Nationally Over-Night (LENNON) system. Retailers use this system to record their sales. See Chapter 3 for further information.

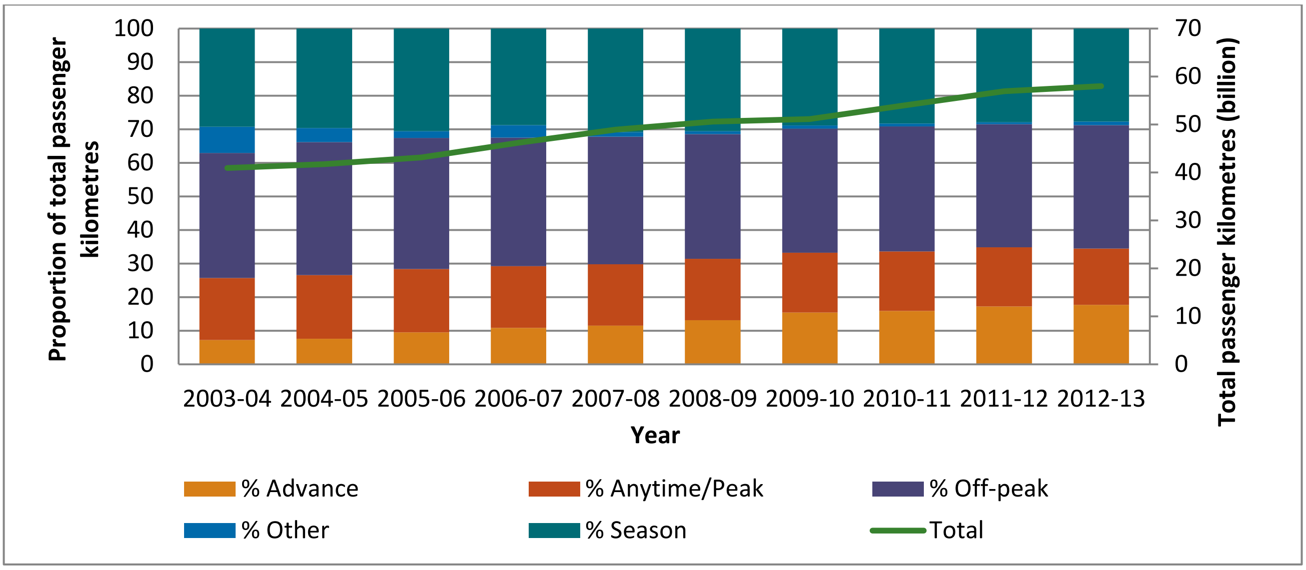
Who travels by train and what tickets do they buy?

2.3 Rail use has grown significantly and steadily in the last 10 years[12], with 1.59 billion passenger journeys made in 2013/14[13]. Rail travel represents a relatively small portion of all trips made in Great Britain[14], with eight per cent of all commuting or business trips and three per cent of all leisure trips taken by rail, though there are certain markets (such as commuting, particularly into Central London) where it is dominant. In London, rail use is almost twice as high as in the rest of GB, while car use is about half the GB average[15].

2.4 As illustrated in Figure 1, the most commonly purchased tickets are Off-peak tickets (which have restrictions on the time or day of travel) and Season tickets (which are valid without restriction on time or day of travel for between seven days, a month and a year). Other types of tickets include Advance tickets (which are valid only on the date and train service(s) shown on the ticket(s), and only with the TOC specified); Anytime (where there are no restrictions on time or day of travel, and can be used on any train); and other types of tickets such as Oyster Pay As You Go and Rover and Ranger tickets which allow for unlimited travel within a specified geographical area.

2.5 While the proportion of all tickets sold that are Anytime, Off-peak and Season tickets has remained relatively constant over the last 10 years, there has been significant growth in the sale of Advance tickets, from 7.3% in 2003/04 to 17.7% in 2012-13 per cent; see Figure 1.

Figure 1: Passenger kilometres by ticket type (total passenger kilometres)



Source: LENNON

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[12] There has been a 95% increase in passenger journey over the past 20 years, since 1992-93.

[13] ORR data portal, 2014.

[14] DfT, 2012, *National Travel Survey*.

[15] RAC, 2012, *On the Move.*

2.6 The make-up of rail passengers generally reflects the make-up of the workforce in terms of the age of those making the most rail trips per year. Rail travel is used for commuting, business and leisure purposes[16]. The purpose of a passenger's journey reflects the ticket type passengers are likely to purchase, with over 50% of commuters using a season ticket and nearly 40% of business travellers using Anytime tickets.

2.7 The purpose of a passenger's journey and the ticket type used varies considerably across Great Britain. For example, rail travel in London and the South East is dominated by travel for commuting purposes and, therefore, season ticket travel, whereas travel for leisure purposes is the most common reason for travelling in the North East, and the most commonly bought ticket type is Anytime[17]. Sales channels and purchase timing also highlight differences between different types of passengers. Commuters tend to rely on season tickets, which are usually bought at the station ticket office[18] and many London passengers rely on Oyster season or Pay As You Go.

Ticket selling behaviour in rail

2.8 This section describes who sells tickets, and how they do this. It also looks at sales channels, which together with the discussion above about the type of tickets passengers buy, draws together an overall picture of buying and selling habits. This section draws on existing research, principally industry sales data.

Types of retailers

2.9 Retailers of rail tickets in Great Britain fall into one of two broad categories, TOCs and third party retailers. TOCs sell tickets for their own services ('TOC-own sales') and also for each other's services ('inter-TOC sales'). This arrangement is one of the features of an integrated, national rail network that is discussed in Chapter 3.

2.10 Retailers who sell tickets on behalf of TOCs without running the train services themselves are known as third party retailers[19]. This category covers different types of companies:

(a) Internet (and telephone) only third parties: These companies sell tickets online (or via the telephone) only. These retailers are not usually able all types of tickets, notably season tickets. The largest internet third party retailer is The Trainline;

[16] Passenger Focus, 2013, *NRPS*.

[17] Passenger Focus, 2013, *NRPS*.

[18] Note that in some instances this may be because of the requirement to present a photocard when purchasing a season ticket.

[19] Note that for the purposes of this review, TfL is not classed as a third party retailer. These arrangements are governed by separate agreements.

(b) Travel Management Companies (TMCs): These companies sell rail fares to businesses (i.e. they operate in the B2B market). Their clients are often companies for which they arrange all or most of the client's travel, deliver corporate travel management policies and consolidate billing. Their services may include interfaces for clients to book their own travel and to manage their travel policies. They are usually remunerated through transaction or other fees. The top ten TMCs by revenue account for almost 75% of the market. The three largest TMCs are The Trainline Direct Corporate, Hogg Robinson Group (HRG) and Redfern Travel; and

(c) Travel Agents: These companies offer a wide range of travel services, of which rail is likely to be a small portion, typically for leisure purposes. Travel Agents may sell train tickets through their offices or websites, sometimes as part of wider travel packages and including services such as flights or hotels. Sales through Travel Agents have decreased significantly in recent years, and they now account for a small proportion of third party retailers' activity.

2.11 Some companies may operate across these different categories. For example, The Trainline is an internet retailer selling to domestic passengers directly, but it also operates in the corporate travel management market.

Retailers' market share

2.12 As set out in Table 1 below, TOCs issue the most tickets for the most journeys and collect the most ticket revenue. Season ticket sales impact these results given that they involve only one issue but represent multiple journeys, making them high value tickets. Third party retailers appear to enjoy a particularly strong position in retailing higher-value long-distance fares, as demonstrated by the fact that their total share of revenue was around 2.5 times their share of ticket issued in 2013/14[20]. Not surprisingly, TfL revenue appears to be made up of many short and cheap journeys.

Table 1: Sales by retailer, proportion of total ticket issues, journeys and revenue, 2013/14

<table>
<tr><th>Retailer</th><th>% revenue</th><th>% of issues</th><th>% journeys</th></tr>
<tr><td>TOC-own sales</td><td>47.9</td><td rowspan="2">60.2[21]</td><td>52.0</td></tr>
<tr><td>Inter-TOC sales</td><td>25.2</td><td>12.8</td></tr>
</table>

[20] In other words, third party retailers issued 5.8% of all tickets in 2013/14, but their revenue account for 15.8% of total revenue.

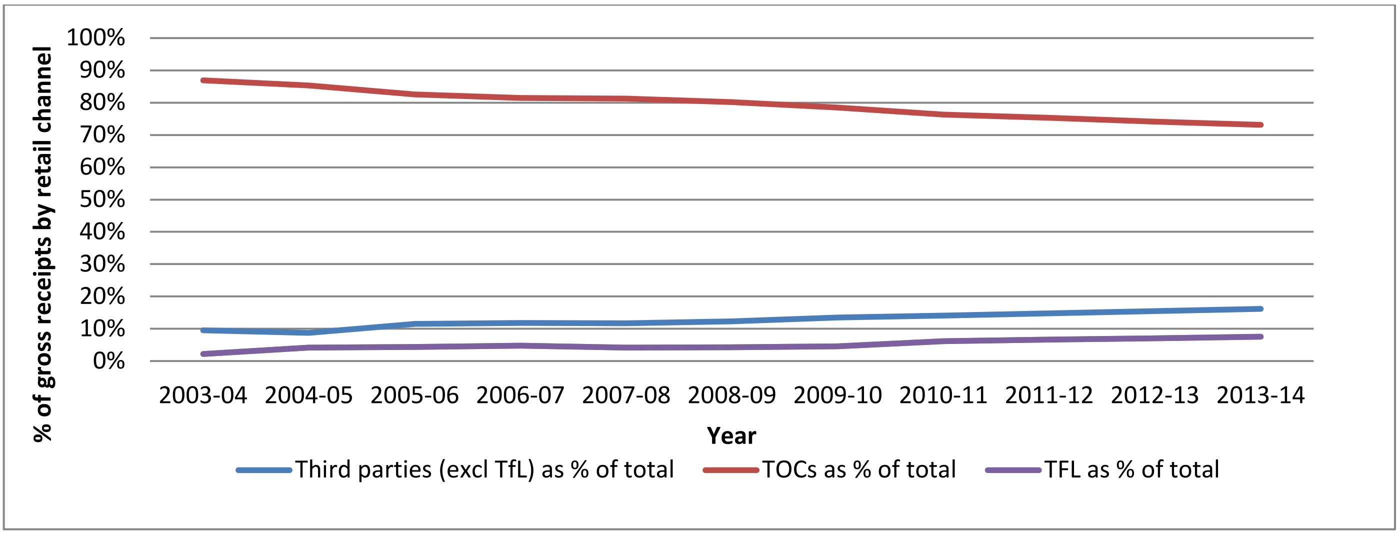
[21] Note that this value is presented as total TOC issues as a percentage of total sales as LENNON does not hold issues data by carrying TOC.

Total Third Party sales	15.8	5.8	3.5
TfL sales	7.6	32.0	26.1
Other sales[22]	3.5	2.0	5.6
Total sales	100	100	100

Source: LENNON

2.13 As illustrated in Figure 2, retailers' market shares have changed over time. With respect to the value of all TOC sales, their share of receipts has decreased from around 87% in 2003/04 to approximately 73 per cent in 2013/14. A comparable increase in the share of receipts of third party retailers (and TfL) can be seen over the period.

Figure 2: Gross receipts by retailer type



Source: LENNON

Retailers' sales channels

2.14 Train tickets are sold through a number of different sales channels. These include station ticket offices; station TVMs; online sales; and telephone sales.

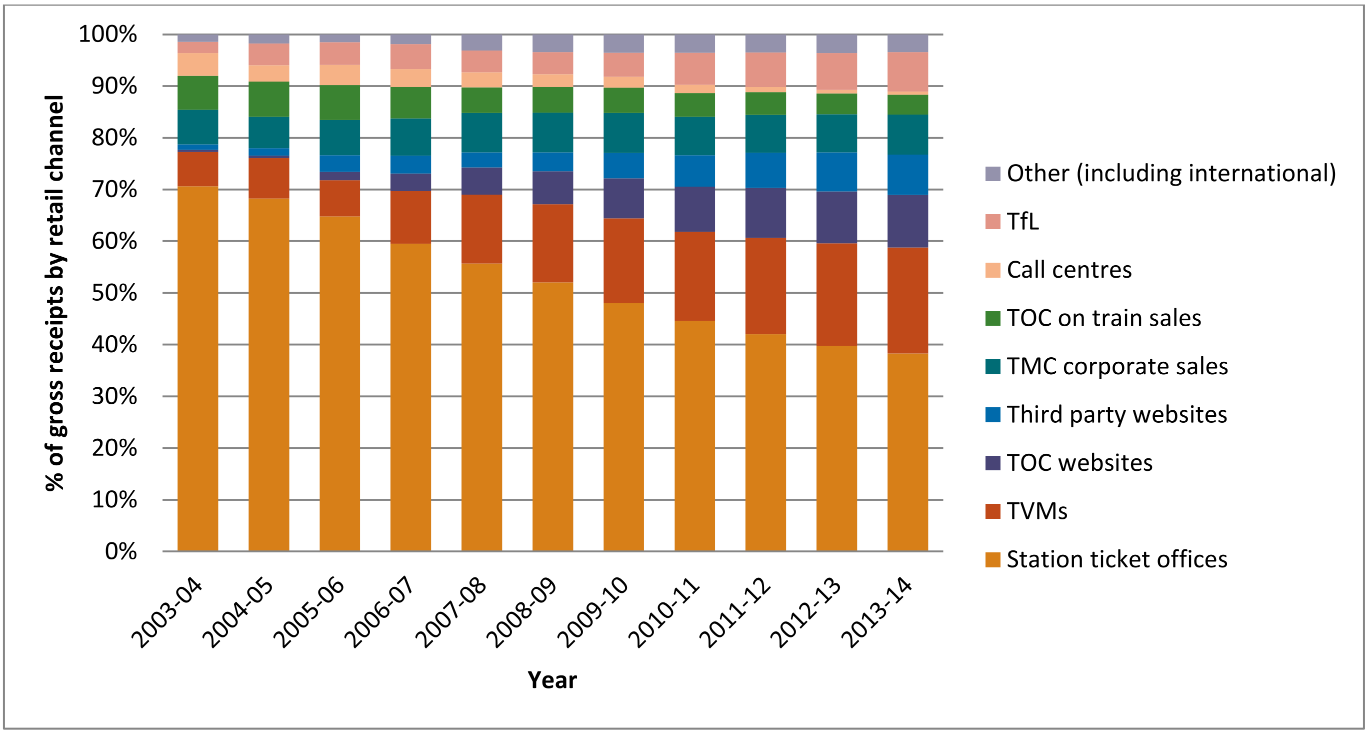
2.15 The sales channels by which retailers sell tickets vary. For example, third party retailers do not typically sell tickets through station ticket offices[23] or at TVMs, tending instead to sell almost exclusively online and over the phone (or also face to face in the case of some travel agents). As illustrated in Figure 3,

[22] Note that the category "other sales" includes international tickets, staff tickets and Passenger Transport Executive (PTE) offers.

[23] In the case of approximately 10-15 station ticket offices, they are run by third party retailers on behalf of TOCs (under Schedule 26 of the TSA), rather than directly by the relevant TOC.

stations ticket offices remain the most popular sales channel (with just under 40% of total revenue to the industry coming from tickets sold through this channel), though the proportion has declined considerably in the last 10 years. The next most popular sales channel is the internet (representing just under 20% of revenue, made up of both TOC and third party internet sales) and TVMs (which account for 20% of revenue), both of which have seen a significant increase in market share over the last 10 years. Over time, the market share of third party retailers (including TMCs) has increased from around 10% in 2003-04 to around 16% in 2013-14. In the same period, the TOC market share has decreased from around 87% to around 73% of revenue.

Figure 3: Gross receipts by retail channel, 2003/04 to 2013/14 (% of total receipts)



Source: LENNON

Changes to ticket selling

2.16 There have been some changes in the way tickets are sold over the past 15 years. Figure 1 illustrates some examples of these changes to ticket retailing. It suggests that there have been some developments in the way fares are sold to passengers and, correspondingly, the way they are delivered as tickets to passengers (known as fulfilment) through, for example, the growth of online sales and the development of print-at-home ticketing. These initiatives have been brought about by both TOCs and third party retailers.

2.17 Figure 1 also highlights changes which have occurred in the range of products sold and in the development of new products, including Cross Country’s 10 minute advance tickets (see Chapter 5 for further detail). Other developments in this area include Group Save (3 for 2), the Two Together railcard and single-leg pricing. See Annex C for further detail on changes to ticket selling in the last 10 years[24].

2.18 While we welcome views on whether we have appropriately captured the most significant and recent changes to ticket retailing, we also want to understand whether stakeholders consider that the pace and level of developments and change has been appropriate in meeting passengers' changing needs.

Questions for Chapter 2

We welcome stakeholders' views on our description of the ticket buying and selling practices, in particular:

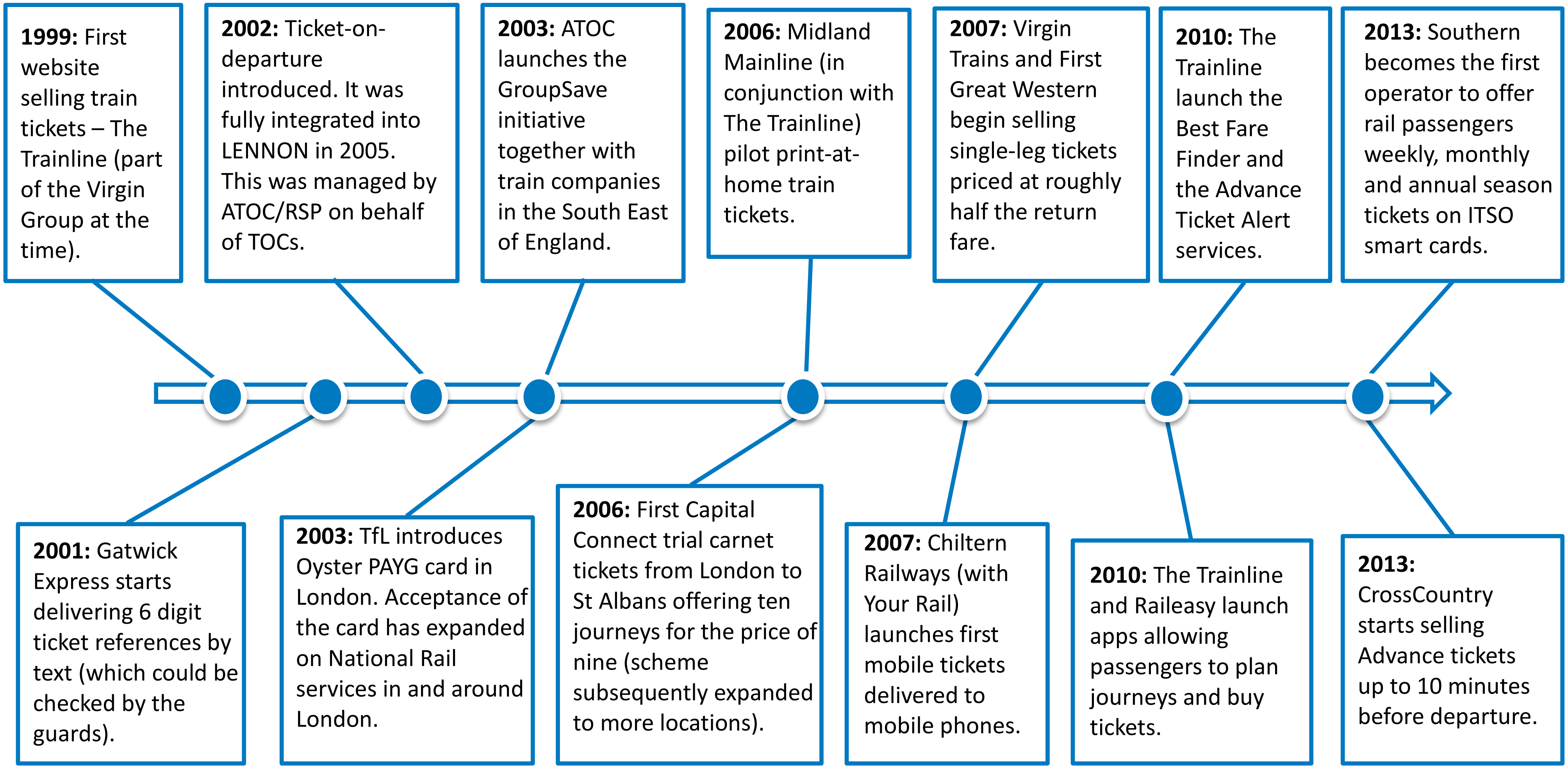
1. Is our description of the retail market for tickets and passenger buying behaviour correct? If not, are there any relevant trends/issues we are missing?

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?

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

[24] Another significant change which should be noted is the 2008 fares simplification which reduced the number of fare types so that all of the main fare types (other than season tickets, rovers, rangers and special fares) now fall in the Advance, Anytime and Off-peak/Super Off-peak types.

Figure 4: High-level timeline of some developments in ticket retailing



Source: ORR

3. The regulation and industry arrangements and practices for selling tickets

Summary

This Chapter describes the regulation and industry arrangements and practices retailers are subject to in selling tickets. These relate to retailers' incentives to drive sales, their obligations to facilitate an integrated, national network and the industry governance, rules, processes, and systems they are subject to in selling rail tickets. The impacts of these arrangements is discussed is Chapters 4 and 5.

Introduction

3.1 TOCs (including franchised TOCs and OAOs) and third party retailers face different drivers, or incentives, in how they sell passenger tickets and raise revenue. They are also obliged to sell certain tickets in particular ways that centres on the requirement to protect passengers and to promote the benefits of an integrated, national rail network. In working together to meet these requirements, industry has developed governance arrangements and associated industry rules, processes and systems.

3.2 Alongside Chapter 2, this Chapter is designed to provide background information to better understand the impacts of the arrangements discussed in Chapters 4 and 5. This chapter sets out an explanation of the following arrangements for ticket selling:

(a) The drivers or **incentives** retailers face in selling tickets;

(b) The **obligations on retailers to promote the benefits of a national, integrated network**;

(c) The **governance arrangements** retailers have developed to help them work together in facilitating a national, integrated network;

(d) The **industry rules** retailers have developed; and

(e) The **industry processes and systems** retailers use to sell tickets.

3.3 Chapter 4 discusses the potential impact of retailers' incentives and of the obligations on retailers to facilitate an integrated, national network. Chapter 5 discusses the impact of governance arrangements, industry rules and industry processes and IT systems that have been developed to support an integrated, national network for passengers.

Retailers' incentives to sell tickets

3.4 All retailers are incentivised to earn more revenue from selling more and higher-value rail tickets to passengers. At a high-level, this encourages all retailers to target new passengers, to respond to passengers' changing needs and preferences and to drive down the cost of retailing. However, different retailers are also subject to different incentives given the differences between the commercial frameworks in which they exist. These are discussed by retailer type below.

Franchised TOCs

3.5 Typically, TOCs operate under franchises that entitle them to operate passenger services on particular routes[25]. Franchise agreements have varied, but often specific, requirements on how TOCs should drive revenue from selling tickets, often depending on the particular route in question. Typically, a franchise agreement will specify the minimum number of trains to be run per hour and the expected future passenger demand that the franchised TOC is expected to meet. It may also require the TOC to improve its retailing, for example to invest in the roll-out of a new website for selling tickets[26].

3.6 Furthermore, some franchise agreements have risk-sharing mechanisms designed to reduce the TOC's exposure to unanticipated changes in its revenue and/or costs[27], some of which only take effect during the franchise period. Alternatively, TOCs may operate under a management contract, or operating concession. Often used where the services to be provided are potentially more complex, they are designed in such a way that the TOC will typically focus on costs and service quality management, while the revenue risk is retained by government. Such mechanisms or contract designs may also impact upon a TOC's retailing behaviour[28].

3.7 Furthermore, TOCs are, to some extent, constrained in their ability to change the price of rail fares in order to drive revenue. Just under half of all rail fares are regulated. Typically, regulated fares are season tickets, some long-distance Off-peak return tickets and commuter fares (for major cities). Under a franchise

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[25] Franchise agreements are awarded by the DfT, usually through a competitive bidding process (or by Transport Scotland for services under the existing ScotRail passenger rail franchise and franchises that apply only in Scotland).

[26] Often, these requirements are identified as potential commitments by the franchised TOC during the bidding process.

[27] These mechanisms typically relate to i) Revenue sharing mechanism, whereby the government and the TOC share the additional revenue earned over a particular target, often over the course of the entire franchise period; and ii) Revenue support mechanisms, whereby any shortfall in the target revenue is shared between the government and the TOC, often only starting from Year 4 of the franchise. The Government has also explored the possibility of GDP-driven mechanisms that are designed to share only the risk captured around unexpected changes in national GDP (for example, the East Coast invitation to tender (ITT)).

[28] The Brown Review of the Rail Franchising Programme, December 2012, p14. See here. These mechanisms may encourage TOCs to focus on cost-saving mechanisms where the gains are not shared with government. Note that a TOC in revenue support may ask the DfT to allow it to keep all the revenue earned from particular revenue-raising mechanisms. The DfT considers such requests on a case-by-case basis depending on the merits of the initiative.

agreement, franchised TOCs may change the price of their regulated fares within a price cap set by government and only at three specified points in the year. For unregulated fares, which include Advance fares, First Class, some Off-peak fares and some anytime fares, franchised TOCs may also change the price of these fares based on commercial factors; however they may be limited in their ability to do this in practice by the existence and/or level of the regulated fare for a particular journey.

Open Access Operators

3.8 There are a small number of OAOs that provide regular, scheduled train services on a commercial basis and without a franchise agreement (notably Grand Central and Hull Trains). OAOs may operate on routes that franchised TOCs run on but, for example, call at different stations. These parties are not required to run minimum services (such as number of trains per hour) as some franchised TOCs are, so arguably have more flexibility (and corresponding risk) in how they choose to drive passenger revenue.

3.9 OAOs are also not subject to any fare regulation, which may provide them with additional flexibility to compete on the ticket price in certain markets (though they will, of course, need to take account of the existence and/or level of regulated fares of its competitors).

Third party retailers

3.10 Third party retailers do not operate rail services and, as such, will seek to drive revenue by increasing the number and value of fares sold to passengers. They earn commission from the relevant TOC for doing this. Some third party retailers also charge a booking fee in addition to the price of the fare, often depending on the level of the fare. They may also generate revenue by providing ancillary services (such as corporate travel management or Travel Agent services) and/or by undertaking some retailing functions on behalf of TOCs (under specific and bilateral commercial arrangements between the third party retailer and a TOC). They may also earn revenue by allowing TOCs or industry affiliates (e.g. E-bookers) to make use of the technology behind their retailing systems, such as white label retailing websites[29].

Obligations on retailers to facilitate an integrated, national network

3.11 Retailers of rail products are subject to certain obligations in the way they sell tickets to passengers. These obligations were established at the time of privatisation and set by government to retain the benefits of an integrated, national network for passengers (such as widespread and easy access to ticketing) and to preserve commercial benefits for the rail industry (such as the ability to offer network-wide products), even where it may not always be in the commercial interest of individual TOCs to do so. Obligation to sell on an impartial basis

[29] A white-label retailing website is one which sells train tickets using an existing ticket issuing system (TIS) that is rebranded to reflect the retailer who is selling who is selling the tickets.

3.12 In advising passengers about rail fares and in selling them the appropriate tickets, retailers are required to provide passengers with the information to make an informed decision. This information must be, amongst other things, clear, intelligible and accurate and must not mislead[30].

3.13 There are also specific obligations on some rail retailers to act fairly and, at through certain points of sale, to provide information that is factual, accurate and impartial[31]. This provision is designed to provide passengers with a national network of retailing. It means that, when buying tickets at an impartial point of sale, passengers may use the services of any TOC or third party retailer for any journey. Impartial points of sale include any regulated station ticket office[32] and TOC and third party retailers' internet and telephone sales[33]. Because of their technical limitations, TVMs are not required to be impartial points of sales (given, for example, they are typically unable to offer a large number of fares)[34].

3.14 The impartiality provision is also designed to safeguard against the risk that a particular TOC discriminates in favour of its own tickets (or a third party in favour of its preferred TOC) to the detriment of the passenger or the TOC's competitors[35].

3.15 Linked to the obligation to sell on an impartial basis, retailers are also required to have on offer a full range of the fares available to passengers (though TVMs must only sell all fares relating to the flows that are valid for travel from that station, rather than a full range of fares)[36]. Furthermore, and for the purposes of most fares, retailers must offer the same range of fares at the same prices regardless of the sales channel through which they are purchased[37], though some TOCs do offer online discounts (see Chapter 4 for further information on online discounting).

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[30] These requirements derive mainly from the Consumer Protection from Unfair Trading Regulations.

[31] The Ticketing and Settlement Agreement (the TSA) Chapter 6-30 addresses impartial selling. The TSA distinguishes between impartial and designated (non-impartial) points of sale. Schedule 45 of the TSA lists the TOCs and third party retailers whose internet site and telephone line are deemed to be impartial points of sale. The TSA is an intra-industry agreement that sets out much of the obligations, rules and processes for retailing; it is discussed further below.

[32] The significant majority of station ticket offices are regulated and, therefore, are considered impartial. Where they are not impartial, this must be made clear to passengers.

[33] Some third party retailers are also considered impartial (condition 15 of the template third party licence). TMCs and Travel Agents are not usually required to act impartially (but many choose to do so).

[34] However, they should not provide information that misleads passengers in their choice of tickets.

[35] In general, TOCs have interpreted impartial selling as the obligation to provide the customer with information or a ticket that is the most suitable for their needs. Where a customer asks to purchase a specific fare for a specific journey, this can be sold without giving any further information (TSA Chapter 6-30(2)(d)). Even where more than one TOC is involved the customer may be specific by stating their requirements in terms of destination station; ticket type; train; and/or class of travel.

[36] TSA Chapter 6-30(3) addresses the requirement to offer a full range of fares.

[37] TSA Chapter 6-10(3) states that, with respect to non-fixed priced products and non-excess fares, "The amount that may be charged to any Purchaser of any Rail Product… is at the discretion of the Operator which Sells that Rail Product". Our understanding of this provision is that the amount to be charged is for the inherent product, so that it should not vary according to the sales channel in which it is sold. The TSA does not appear categorical on this matter, however. This provision does not relate to temporary fares.

Obligation to create and sell inter-available and through tickets and to offer a walk-up service

3.16 Inter-available fares are designed to provide passengers with flexibility over the TOC they travel with and the route by which they travel, thus enabling passengers to travel on *any* of the TOCs serving that flow[38]. The lead TOC (usually the TOC that earns the most revenue on that flow) is required to create (and therefore set the price of) inter-available fares, with all other relevant TOCs being required to accept that fare[39]. Similarly, TOCs are obliged to create and sell through-ticket fares, which allow passengers to travel across the network and to buy a ticket from a single point for a single journey using different trains[40].

3.17 Reflected in these obligations to provide flexible tickets, TOCs are also required to offer passengers a walk-up timetabled service without requiring them to reserve a specific train ahead of their intended departure[41].

Obligations on train operating companies to maintain minimum opening hours for station ticket offices

3.18 Where a regulated station has a ticket office, its lead TOC is required to have its ticket office open at certain times and days[42]. At its creation, the purpose of minimum station ticket office opening requirements was to ensure that potential passengers had access to a trained representative who could provide relevant information about a ticket purchase. The station ticket office is required to offer a full range of fares, including fares that enable passengers to depart from different stations other than those served by that station ticket office[43].

3.19 As illustrated in Figure 5, TOCs estimate that the average cost of selling a ticket represents about six per dent of the price of the fare. With respect to the cost of selling a ticket through a station ticket office, however, TOCs say the cost is around eight per cent of the price of the ticket, compared with four per cent through a TVM and five per cent through the internet. See Annex D for further information on the cost of retailing through different sales channels.

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[38] TSA Chapter 4-16 addresses through ticket fares and inter-available fares created by agreement between operators and TSA Chapter TSA 4-20 addresses the creation of through ticket fares and inter-available fares by lead operators (the TOC which provides services for over half the length of that flow).

[39] A TOC who is not the lead TOC (i.e. secondary TOCs) may set the price of its dedicated (i.e. Advance) fare lower than the lead TOC's fare. The lead TOC may also offer lower-priced fares through promotional (time-limited) fares.

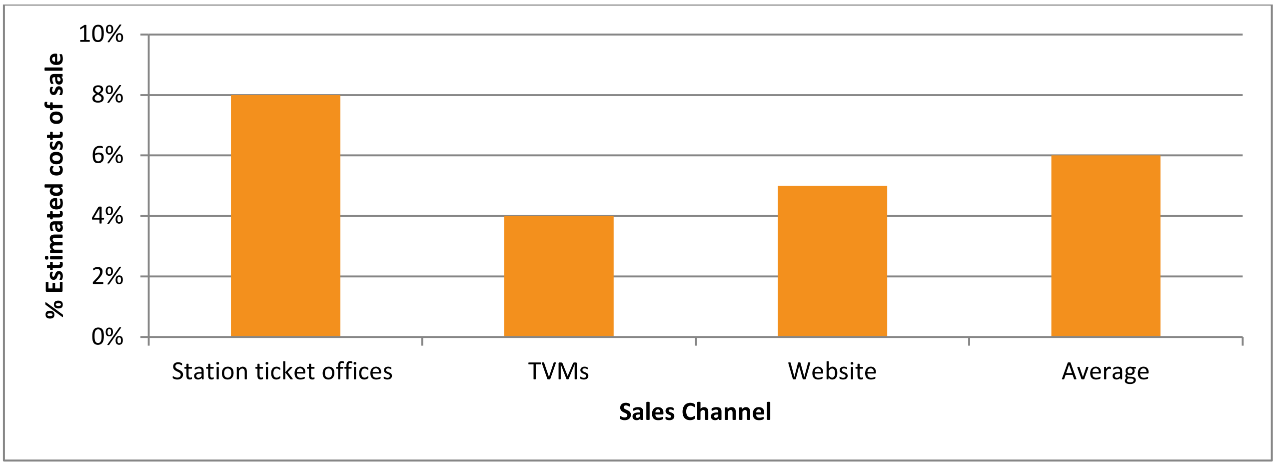
[40] A third party retailer may also be responsible for producing a combined fare to create a through ticket fare (TSA Schedule 27).

[41] This is a requirement under the franchise agreement and/or a reflection of the requirement on franchised TOCs and OAOs to reserve use of the network in advance.

[42] TSA Schedule 17. See here. The DfT determines who the lead TOC of a station is. Note that as part of its Fares and Ticketing Review the DfT is considering how the process for seeking a change to the station ticket office opening hours could facilitate efficiencies for the passenger and the taxpayer. OAOs do not currently manage station ticket offices and, therefore, the associated regulation does not apply to them.

[43] TSA Chapter 6-14.

Figure 5: TOCs' estimated cost of sale by sales channels



Source: ATOC

Prohibition on TOCs charging fees (and other requirements)

3.20 In selling tickets, and regardless of the sales channels, TOCs are not allowed to charge a fee. In other words and with respect to the selling of a ticket, TOCs cannot charge anything in addition to the price of the ticket[44]. Note that this provision applies only to TOCs, and not third party retailers.

3.21 TOCs are also required to create discounted fares for passengers with railcards (such as the Senior Person's railcard) and to provide any relevant ancillary services. TOCs are also subject to other requirements in the way they retail, many of which are designed to reinforce the benefits of an integrated, national network. These include, for example, the minimum opening times of TOCs' websites and maximum queuing times at station ticket offices[45].

Governance arrangements in retailing

3.22 Reflecting the obligations on retailers to create and sell tickets in such a way that protects passengers and facilitates the benefits of a national, integrated network, industry has developed certain governance arrangements part of which are intended to facilitate cooperation among TOCs (and, to some extent, third party retailers) in retailing.

3.23 As illustrated in Figure 6 below, there are a number of different industry organisations to help meet the regulatory and industry rules and to facilitate cooperation and coordination among TOCs and other retailers. These include:

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[44] TSA Chapter 6-10. Third party retailers are not subject to this requirement by virtue of the explicit provisions in the third party retailer licence in relation to prices and fees.

[45] TSA Schedule 44, Condition 15 requires TOCs to have their websites accessible between 6am and 10pm and TSA Chapter 6-36 requires TOCs at impartial points of sale must use reasonable endeavours to ensure nobody queues for longer than 5 minutes at peak times and 3 minutes at off-peak periods.

(a) The Rail Delivery Group (RDG): Made-up of representatives from Network Rail and passenger and freight operators, it coordinates and leads on cross-industry initiatives and works with governments and other stakeholders in developing and influencing industry policy. RDG employs a small secretariat, some of whom are secondees from its member organisations;

(b) ATOC, which is made-up of passenger (and freight) TOC representatives. It acts as a trade association in promoting and protecting the interests of its TOC members and in sharing best-practice among TOCs. It also manages much of the industry processes and IT systems that facilitate TOCs working together. ATOC Limited provides secretariat and support services for both ATOC and RDG;

(c) Rail Settlement Plan Limited (RSP), which is owned by the TOCs. It has responsibility for overseeing the process for creating new products, allocating revenue among TOCs and retailers and managing the particular systems and associated data used to facilitate retailing. It is also responsible for accrediting retailers' ticket issuing systems (TIS), auditing retailers (in line with the TSA and central system standards) and in administering the TSA; and

(d) National Rail Enquiries (NRE), which operates the NRE website and telephone service that provides information on timetabling and fares for all TOCs and manages much of the industry data.

3.24 The regulations and industry arrangements are set out in legislation and in industry governance arrangements, including industry schemes and the Ticketing and Settlement Agreement (the TSA), both of which are owned by TOCs and administered by RSP. The TSA is a complex and lengthy intra-industry agreement that sets out much of the obligations, rules and processes for retailing. It covers, for example, how fares should be created; how retailers must sell fares (including the standards they must meet in retailing and the commission owed for selling tickets of behalf of a TOC); and how third party retailers must retail[46]. In principle, the TSA governs TOCs and the relevant licences govern third party retailers; however, many of the provisions relating to third party retailers cross-refer to the TSA.

3.25 TOCs, through the wider governance arrangements, are responsible for changes to the schemes and to the TSA, including any changes to the IT systems and processes. These are typically dealt with by three groups under the TOCs' governance framework:

(a) The Commercial Board, which is responsible for any changes to the arrangements governing railcards (such as the Senior Person's railcard or the Two Together railcard), retail agents and international products;

(b) The Ticketing and Settlement Scheme Council, which is responsible for the industry systems and data concerning fares and reservations and for the allocation and settlement of revenue between TOCs and third parties (such as TfL and Eurostar); and

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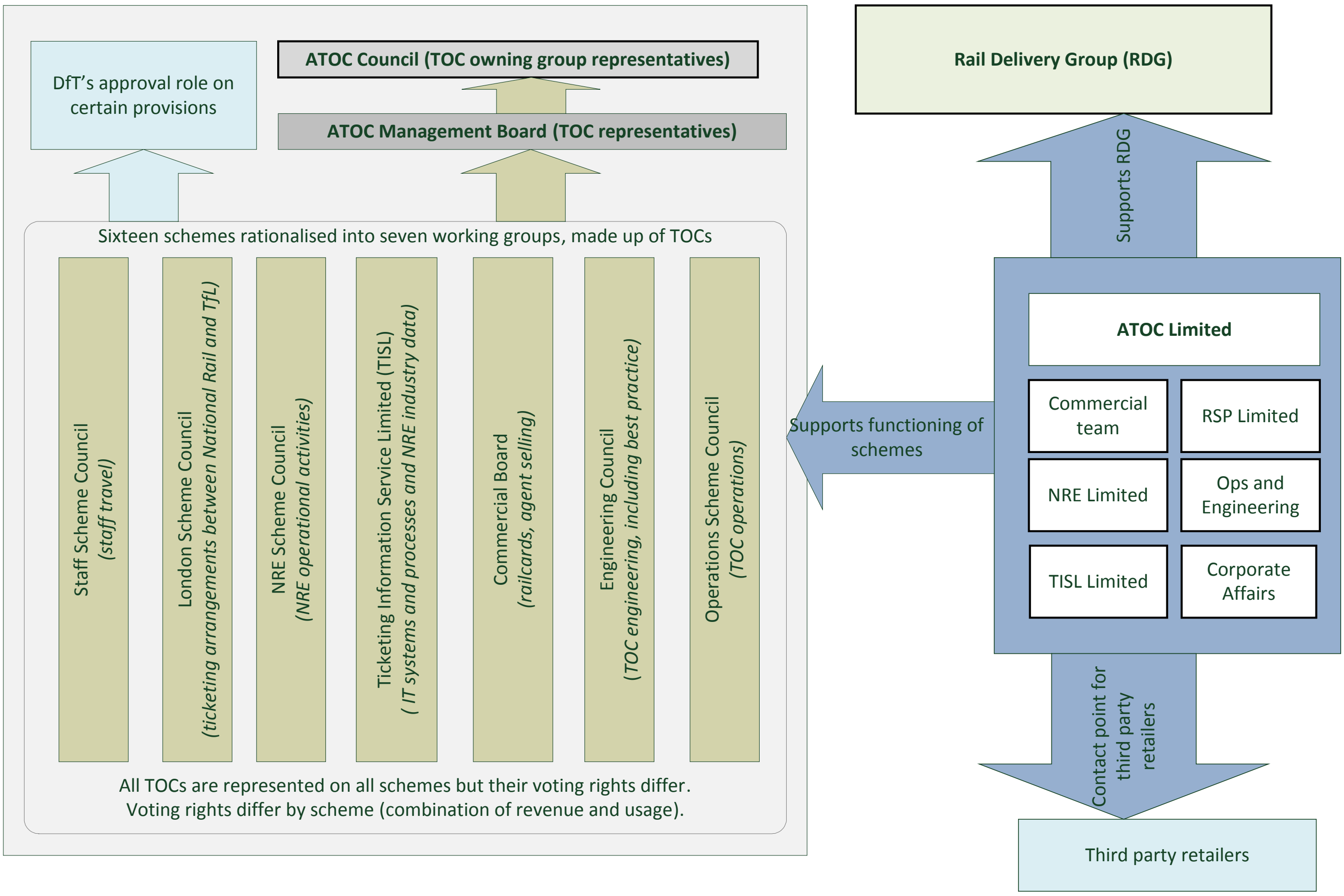
[46] The TSA, including the associated schedules, are available here. Under the terms of their Statement of National Regulatory Provisions (SNRPs), OAOs are subject to the TSA rules and are party to the TOC governance arrangements.

(c) The Train Information Services Scheme Council, which is concerned with any changes to NRE.

3.26 TOCs participate in these groups, with each group being chaired by a TOC owning-group representative. The voting rights of each member differ by scheme, with the voting rights determined by each TOC's revenue and demand on (or usage of) the systems.

3.27 Any changes to the TSA that alter TOCs' rights or obligations require DfT's approval. However, certain parts of the TSA are exempt from this requirement, including those relating to third party retailer arrangements (such as contracts between TOC and retail agent (schedule 26) and those applying to ATOC retail licence (schedule 27)) and ticket-on-departure charges[47].

Figure 6: Industry governance arrangements for ticket selling



Source: ORR

[47] TSA Chapter 15-61 onwards sets out the arrangements for altering the TSA.

Industry rules

3.28 Reflecting the obligations on retailers to create and sell tickets in such a way that facilitates the benefits of a national, integrated network, industry has developed certain rules for how retailers must sell tickets.

Commission for selling other TOC tickets

3.29 TOCs earn commission for selling other TOCs' fares (known as inter-TOC commission) and third party retailers earn commission for the sale of all TOCs' fares.

3.30 The commission retailers earn is a percentage of the price of the fare, with the rate depending on the sales channel through which the ticket is sold and the type of product sold. See Annex E for the current commission rates (by sales channels) and the commission rates applying from 2015 onwards.

3.31 Commission rates for inter-TOC and third party selling of tickets are determined centrally by the TOCs[48], though any changes to the inter-TOC commission rates are required to be formally approved by the DfT. TOCs say that, in setting the commission rates, they consider factors such as the cost of sale through different sales channels, the average transactional value and the ability of retailers to earn other remuneration through fees or ancillary services.

Accreditation of a Ticket Issuing System

3.32 A TIS enables retailers' ticket machines and websites to access and sell fares. All retailers are required to have their TISs accredited[49]. This requirement is designed to ensure that a retailer's TIS meets any obligation to sell on an impartial basis (based on the passenger's selected criteria) and that any tickets sold to the passenger are genuine. The accreditation process also confirms that the TIS can interface effectively with industry central IT systems, producing tickets and data to industry standards and ensuring sale data is captured.

3.33 Newly franchised TOCs typically inherit the previous franchisee's TIS, making it unnecessary to undergo a full accreditation at the start of a franchise. New third party retailers have a choice of developing their own ticket machines and/or systems or to use another retailer's system (known as its Application Programming Interface (API))[50]. The cost of accreditation is £1,000 per day and usually takes up to 10 days for previously-accredited APIs (though this depends on each retailer's system and the extent to which there are problems), or considerably longer for new APIs. Alternatively, third party retailers may choose to

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[48] This is done through a TOC working group known as the Ticketing and Settlement Scheme Council. For the inter-TOC rate, the Ticketing and Settlement Scheme Council formally approves any changes to the rate (as it's a change to the TSA) before its submitted to the DfT; however, the initial review and recommendation to change the rates comes from the ATOC Commercial Board in the first instance before going to the Ticketing and Settlement Scheme Council for formal approval.

[49] TSA Chapter 6-20(6) and TSA Schedule 27, Part 1, clause 4.3. Accreditation is done by RSP.

[50] There are only a handful of parties who supply TISs to the retail market.

have on-going accreditation which is available at reduced rates. Furthermore, all retailers are required to have their TISs re-accredited where they undertake certain incremental changes to their systems. They are also required to have their systems re-accredited every three years.

Specific rules on third party retailers

3.34 Third party retailers are subject to specific rules in order to sell tickets. These vary by the type of third party retailer and include, for example[51]:

(a) Requirement to share marketing plans with ATOC: In sharing their proposals in how they intend to market and promote their business, online third party retailers (under the requirements of the Third Party Investor Licence) are asked to demonstrate to ATOC that their expected performance, turnover and retail strategy is appropriate. ATOC say that this is designed to ensure the reputability of the applicants;

(b) Minimum qualifications in rail ticketing: Third party retailers must have a minimum of two staff, or 20% of all staff, qualified to sell rail tickets under ATOC-specified standards, in order to ensure that staff are knowledgeable about fares and other products;

(c) Minimum bonding requirements: Third party retailers are required to provide financial cover in the form of a bond or security in the event that they suffer a financial failure and, as a result, default on monies owed to TOCs[52]. TMCs and Travel Agents have an alternative choice of contributing to an ATOC-administered fund, known as the Travel Agents Reserve Insurance Fund (TARIF) scheme. The levy to be contributed is determined by the value of retailers' sales in the preceding periods[53]; and

(d) A prohibition on selling certain products, including season ticket (in contrast, TOCs can sell weekly, monthly or annual season ticket and earn two per cent commission for doing so through their station ticket office)[54] and online discounted products.

3.35 These rules are set out in licences granted by ATOC, which all third party retailers are required to have in order to sell fares. Reflecting the fact that there are different types of third party retailers, there is more than one licence type (see Table 2), each with different requirements on third party retailers. See Annex F for further information on the licensing of third party retailers.

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[51] ATOC is in the process of removing the minimum requirements on third party investor licensees to spend £1 million per year on marketing and technical development. This requirement was designed to ensure third party retailers were offering innovative technology systems and expanding the rail market through advertising.

[52] The value of this bond, guarantee or security must be an amount equal to RSP's maximum exposure, this being the total indebtedness of the Third Party Retailer on the 7th calendar day after the date on which the third party retailer should have made the final payment to RSP for the previous period. A bond monitoring spreadsheet is set up by RSP and used to calculate the required bond value each Period. (ATOC Third Party Retailers Set Up Guide).

[53] In 2012, ATOC estimated that, were the majority of TMCs and Travel Agents to join the scheme, the TARIF levy on each party would be around 0.18% of their periodic sales revenue. The scheme is administered by ATOC and is governed by a management board comprising TMCs, TOCs, ATOC, and RSP representatives.

[54] While a third party retailer may sell season tickets, it does this on behalf of a TOC under specific and bilateral commercial arrangements. Under these arrangements, the TOC is responsible for settling revenue from those sales. The level of commission received for these sales, where relevant, is the TOC commission levels.

Table 2: Types of third party retailer licences

Licence type	Purpose	Licence required for third party retailers to operate?
Interim Retail Licence (IRL)	Licence for third party retailers to sell rail tickets, valid for 12 months to enable such retailers to prove their business concept	Yes
Third Party Investor Licence (TPIL)	Fixed term (up until 2018) third party retail licence. ATOC is moving to a three-year rolling licence from 2016.	Yes
Travel Agents	Licence for TMCs and Travel Agents. This is a permanent licence, terminable at two months' notice at ATOC's discretion	Yes
International Sales Licence (ISL)	Licence for third party retailers to retail GB rail tickets internationally. This is awarded through a competitive tender process run by ATOC.	Yes, where the retailer operates internationally
Inclusive Tour Licence (ITX)	Licence for tour operators who sell holiday packages that include rail fares.	Yes, where the retailer sells tour holidays
'Approved Third Party' Licence (ATP)	Legacy licence for providers of other transport retailing, specific to TOC-sponsored arrangements.	No longer issued

Source: ORR

Industry processes and systems

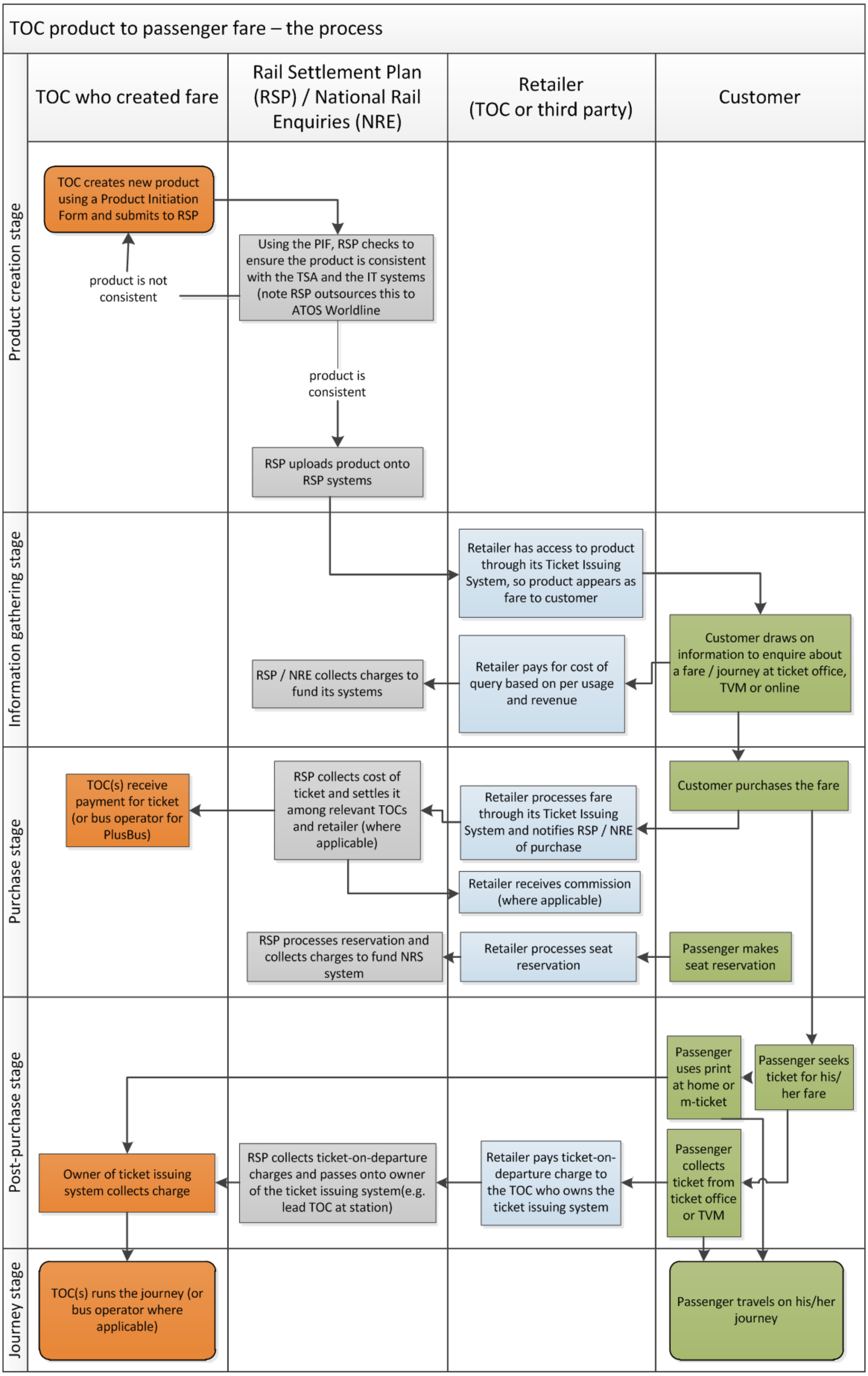
3.36 To support the rules on retailers in the way they sell tickets, TOCs and third party retailers are required to follow certain industry processes and to use certain central IT systems in the way they create new products, access information about fares and sell tickets.

The process for creating new products

3.37 Any new products that TOCs wish to sell must be created in accordance with the TSA. In practice, this means that TOCs must complete and submit a Product Initiation Form (PIF) to explain the terms and conditions of its new product, usually about 10-12 weeks in advance of wanting to make the ticket available. The PIF is then verified by RSP to ensure it is consistent with the TSA (and the associated IT systems)[55]. See Figure 7 below, which illustrates the process of how a product becomes a fare.

[55] RSP currently outsource this activity to ATOS Worldline. Note that where an Advance fare has different prices depending on when the rail fare is purchased (which usually increases closer to real-time), the differently-priced fares are created as separate products, usually with an associated quota of the number of fares that can be issued at that price.

Figure 7: The process for creating a passenger ticket



Source: ORR

Use of common platforms in accessing information and selling tickets

3.38 Figure 7 highlights that, in providing information about fares and in selling tickets, retailers rely on central IT systems and industry-owned data to access the necessary information. The most important IT systems and data include:

(a) Fares data, which are provided by all TOCs that wish to make their fares available to others for sale. Together, TOCs own the data (though the RSP manages it);

(b) Timetable data (owned by Network Rail) and routing data (managed by RSP), which provide information about passenger train services and associated bus and shipping links;

(c) Real-time train information, which provides live train information around, for example, updated train schedules, movement of trains and train positions. This may be particularly relevant where a rail fare is being purchased close to the intended departure time. This data is managed by NRE;

(d) National Reservations System, where the passenger wishes to book a seat on a train. This is managed by RSP;

(e) Live Sales Management, which includes Ticket-on-Departure function, to enable passengers to collect tickets purchased online or by phone at the station. This is also managed by RSP;

(f) The LENNON system, which retailers use to record actual sales figures for all flows, via their TIS. This is also managed by RSP. Retailers also use it to notify each other when they sell inter-available and through tickets and/or tickets on behalf of TOCs. Today's general practice is for the significant majority of fares, including advance fares, to be notified through the LENNON system[56];

(g) The Ticket-on-Departure system, which enables passengers to collect their pre-purchased ticket at a station. This imposes a 40p charge per transaction on the retailer; and

(h) The ORCATS system, which retailers use (along with LENNON data) to allocate revenue, given the presence of inter-available and through tickets[57]. This means that for inter-available and through-tickets and for fares sold by other TOCs or third party retailers, the carrying TOC does not receive all of the revenue from the sale of a fare. However, all revenue earned from Advance dedicated fares which are sold by the relevant TOC goes to that particular TOC (because the fare is only valid on its particular services). In order to enable appropriate revenue allocation, all retailers are required to 'settle' at the full price of the fare (which has been determined by the relevant TOC(s)).

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[56] While there is not an absolute requirement to settle tickets (as recognised in the TSA Chapter 6-26), industry practice is that tickets are settled through RSP.

[57] For inter-available fares, the revenue received from all customers on that flow is allocated amongst the different operators on that flow to reflect the likely proportion of customers each TOC carried.

3.39 See Annex G for further details on the relevant IT systems and data retailers rely on in selling tickets and Annex H for an explanation on why and how revenue is allocated among retailers. Using these systems incurs a cost, which is usually determined by the retailer's use of the system and the revenue it earns. Not all retailers share equally the direct cost of these systems, however. For example, TMCs and Travel Agents are only required to contribute towards the direct costs of the Ticket on Departure system and the data licence and feeds.

Format of tickets

3.40 The format of inter-available and through-tickets must be recognised by all the relevant TOCs serving that flow. Furthermore, all tickets into London terminals that are operated by TfL must also be recognised by TfL. While TOCs that operate on the same flow may agree their ticketing technology specifications, in practice, it has meant that most tickets are based on the credit card-sized 'magstripe' ticket, first introduced in 1983[58]. For Advance fares and/or where a TOC acts as the main retailer at each of the relevant stations, it may develop its own ticketing technology (such as tickets on a mobile).

Question for Chapter 3

We welcome stakeholders' views on our description of the ticket selling regulations and industry arrangements and practices, in particular:

4. Have we accurately described the ticket selling arrangements in respect to i) retailers' incentives in selling tickets; ii) retailers' obligations to facilitate an integrated, national network; iii) retailers' governance arrangements; iv) retailers' industry rules; and v) retailers' industry processes and systems?

[58] Print at home tickets and mobile ticketing may only be used for a TOC's Advance ticket or where TOCs have agreed to accept other TOCs' ticketing, done on a bilateral basis.

4. The impact of retailers' incentives and of retailers' obligations to facilitate an integrated, national network

Summary

This Chapter looks at the impact of the retailers' incentives in selling tickets and at the obligations on retailers to facilitate an integrated, national network in selling tickets. The franchising approach appears to drive TOC innovation in bidding. The obligations appear to protect passengers and provide them with the convenience and flexibility of an integrated, national network. However, they pose a cost that may not always be fully reflective of those who enjoy their benefits as different retailers make use of the integrated, national network to different extents. The differing incentives may not facilitate collaboration among retailers in innovation. The obligations, for example in maintaining minimum opening hours for station ticket offices, may also constrain TOCs' commercial flexibility.

Introduction

4.1 As discussed in Chapter 3, retailers are incentivised to sell tickets, though the extent to which these incentives impact retailing behaviour is likely to differ among retailers. Furthermore, retailers are subject to obligations, set out at the time of privatisation, in how they create and sell fares in order to protect passengers and to facilitate the benefits of an integrated, national network. The impacts of these incentives and obligations are discussed in this Chapter. We invite stakeholders' views on our understanding and ask specific questions below.

The impact of retailers' incentives in selling tickets

4.2 While all retailers are incentivised to earn more revenue from selling more and higher-value tickets, there are some distinctions between the commercial frameworks under which the different retailers operate in, which is likely to impact their retailing behaviour. For franchised TOCs, the franchise agreement may specify minimum investments each TOC should make in retailing, though the picture is far from uniform among TOCs. OAOs and third party retailers, broadly, have more flexibility in the way they drive revenue.

Franchised TOCs

4.3 While the franchising process plays an important role in identifying and delivering cost-effective investment and in driving TOC-led innovation through the investment process, it may also impact incentives to develop an approach to ticketing.

4.4 First, and given that they run over different time periods, each with different start dates and durations, the franchise agreements may impact a TOCs' willingness to invest in new ticketing technology, particularly if the investment is required towards the end of its franchise agreement. This has been raised as a concern, with stakeholders suggesting that, too often, TOCs have been unable to justify investment in industry systems as they are close to the end of the franchise agreement[59].

4.5 Second, because of the specificity in the franchise agreement, many of the investments a TOC will make in the course of its franchise are determined through the bidding process. While this may encourage TOCs to invest and innovate, it may limit them to particular time periods. It may also make collaboration among TOCs more difficult, given the differences in franchise agreements and given that TOCs need to decide together how investments in industry-wide systems should be made. This was also raised by a stakeholder, with a suggestion that while TOCs need to "*jump together*" to innovate, the franchising approach "*does not create the circumstances in which this is possible*"[60].

4.6 Finally, the risk-sharing mechanisms and/or the design of the contract may encourage a TOC that is subject to those mechanisms to focus on cutting costs rather than driving revenue. This is because any gains from increasing revenue (through, for example, an improved approach to retailing so that a TOC sell more fares) would need to be shared with government but gains from cost-saving would accrue to the TOC only[61].

Open Access Operators

4.7 OAOs are not subject to particular incentives in what train services they must provide. For example, most OAOs do not operate regulated stations and, therefore, do not run station offices. As such, they have more freedom over how they wish to drive sales. They can also choose to offer fares through the most cost-effective route. Correspondingly, however, passengers may be worse off if they can't use certain services (for example a station ticket office) that franchised TOCs are required to provide.

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[59] Arriva UK Trains and Centro responses to the February Call for Evidence.

[60] Arriva UK Trains response to the February Call for Evidence.

[61] DfT, 2012, *The Brown Review of the Rail Franchising Programme*. See here. A TOC in revenue support may ask the DfT to allow it keep all (or a larger proportion) of the revenue earned from particular revenue-raising mechanisms. The DfT considers such requests on a case-by-case basis depending on the merits of the initiative.

Third party retailers

4.8 An important incentive for third party retailers is earning commission on ticket sales, which is determined as a proportion of the price of the fare. This may encourage them to target higher value sales. They are also incentivised to drive sales given their ability to charge a transaction fee from customers, which may encourage them to target the overall volume of sales. For these reasons, third party retailers are incentivised to improve the retailing experience for passengers. Furthermore, third party retailers may be incentivised, and are indeed free, to sell rail tickets with additional goods and services in order to increase revenues.

The impact of obligations on retailers to facilitate an integrated, national network

4.9 As explained in Chapter 3, it is a matter of public policy that retailers of rail tickets are obliged to sell fares in such a way that facilitates the benefits of an integrated, national network.

The impact of impartiality obligations

4.10 The obligation on retailers to provide advice on an impartial basis is designed to protect passengers (given the perceived complexity arising from the fact that there are different TOCs operating different flows with varying fares and restrictions) and to offer them convenience (given the fact it mitigates the need for passengers to identify which TOC is the relevant one for their journey). It is also designed to minimise the potential scope for retailers to discriminate in favour of their (or their affiliated) services when selling tickets. Furthermore, the fact that passengers can, in the main, access the same range of fares regardless of where they buy their ticket reflects the principle of universal access, potentially promoting passenger confidence and protecting the interests of certain passenger groups (for example, those who do not have access to all retail sales channels, such as the internet).

4.11 However, the obligation to provide impartial advice and offer a range of fares may not work perfectly. Passengers are not always confident that retailers are fully effective at selling impartially[62]. There are also concerns from at least one stakeholder that retailers, notably TOCs, may not always sell impartially without favouring the company running the station office[63], though ATOC's recent "mystery shopper" surveys suggests typical compliance rates of between 95% and 97%[64]. Furthermore, it has been suggested that the

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[62] London TravelWatch, 2013, *Passengers' ticket purchasing and Journey experience*. See here. With respect to the impartiality obligation in London, London TravelWatch found that passengers sometimes thought that staff were not always able to provide accurate information about the correct ticket required for certain journeys as a result of gaps that exist in their knowledge, particularly with respect to using National Rail products. In its comparative analysis, CEPA did not find a comparable obligation on parties to provide advice on its competitors' products.

[63] TravelWatch Northwest response to the February Call for Evidence.

[64] ATOC undertakes an annual mystery shopper survey to understand the extent to which retailers are meetings their obligations under consumer law and the TSA, in particular their obligations around accuracy and impartiality. These results are based on a survey undertaken in 2013, with a sample size of 1,855, across various sales channels and scenarios.

impartiality obligation creates passenger confusion and adds to retailers' costs given the obligation to have systems and processes that offer a full range of fares[65].

4.12 Examples of requirements for independent and impartial advice can also be seen in other sectors, as shown by CEPA's comparative analysis. In retail investments, which are perceived to be complex products with complicated pricing, retailers, in advising clients and earning remuneration for doing so, are regulated[66]. Until 2013, financial advisers typically charged one to eight per cent commission on the price of the product that was paid by the product provider. Following concerns these arrangements caused advisers to act as salesmen, and hence encourage the sale of products that would earn them high commission, commissions were banned from 2013. Retailers can no longer earn commission for advising customers on which products best match their preferences, but they can earn commission if recommendations are not made and only basic information is provided. This change was intended to ensure consumers had correct and appropriate information to help them understand the products, and reduce the potential for mis-selling. Third party retailers then make commercial decisions about what services they provide to consumers.

4.13 Associated with the obligation to sell impartially, rail retailers must offer certain fares at the same price through all of its sales channels (though some TOCs have or do offer online discounts for Advance fares from time-to-time – see Chapter 5)[67]. This may reduce retailers' ability to tailor their products to better suit the different needs of passengers and/or to reflect the costs of the sales channel which, it has been suggested, is a constraint[68].

4.14 This is in contrast to the aviation, energy and mobile telephony sectors, for example, where retailers use different sales channels to differentiate customers and offer them different products at different prices.

4.15 A recent development in retailing, promoted by some third party retailers, has been the increased ability for passengers to access split-ticketing options. See Case Study 1, below.

Case Study 1: Split Ticketing

Split ticketing refers to the practice of buying two or more separate tickets for a journey, i.e. for the purposes of tickets, splitting up a longer journey into a series of shorter journeys. This is done to take advantage of potential savings, sometimes significant, resulting from the combined price of the individual legs of a journey costing less to the passenger than the price of the end-to-end through ticket price (or single-ticket) journey.

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[65] Arriva UK Trains and Govia responses to the February Call for Evidence.

[66] CEPA comparative analysis, 2014.

[67] While all retailers can offer discounted fares, they must 'settle' at the full price through the relevant industry systems.

[68] First Group response to the February Call for Evidence.

There are concerns, for example from Passenger Focus, that split ticketing may give rise to further complexity in a market that is already considered complicated, thus potentially adding to passenger confusion. Furthermore, TOCs point out that the terms and conditions associated with split tickets are not the same as the end-to-end ticket. For example, in the event of a delay to one of the legs of the journey, the passenger may not be entitled to continue on the subsequent legs. There are also concerns from RSP that split ticketing journey planning engines would cause undue burden on retailing systems, such as Rail Journey Information Systems (RJIS, see Case Study 7), that may cause knock-on system issues or delays in processing transactions. However, some parties (for example certain third party retailers) suggest that split ticketing gives rise to more choice and scope for savings, particularly for passengers who are prepared to accept different (and potentially less flexible) tickets.

Currently, we are aware of one retailer who is offering a split ticketing journey planner service that can sell tickets. A number of websites also display split ticketing options, though these would then need to be booked separately. Currently, the only limitation on this service is the restriction RSP has imposed on the number of queries the service can make using industry-retailing systems (10 transactions per second) because, RSP suggest, of the load it puts on the industry systems.

The emergence of split ticketing demonstrates that there is a demand for this product and that there are passengers who value price over the potentially increased complexity of the purchase and the greater risks involved. The industry has, however, imposed limits on the frequency with which the systems are used to identify split ticketing options. Furthermore, it does not currently consider that its impartiality obligation through station ticket offices, internet and telephone sales channels extend to offering split ticketing.

The impact of obligations to sell and create inter-available and through tickets and to offer a walk-up service

4.16 Retailers' obligations to create and sell inter-available and through fares reflects the principle behind having an integrated, national network. With inter-available tickets, passengers would appear to benefit from the flexibility of being able to use different operators, flows and terminals, depending on their preferences at the time of their journey. With through-tickets, they may also benefit from the convenience of having to buy and use only one ticket (rather than searching and buying the individual components of their journey)[69]. From the perspective of retailers, these requirements enable each retailer to leverage the benefits of a wider network (rather than the benefits of individual flows). In this way, these requirements may also promote use of the network.

4.17 The obligations on retailers appear to give rise to some issues, however. They contribute to the need to have industry rules, processes and systems which, as discussed in Chapter 5, come with a cost. These costs may not be proportionate given that a significant portion of journeys are unlikely to involve the use of inter-available and/or through tickets. Furthermore, these ticket types add to the overall number of ticket types, which may give rise to complexity in the ticketing systems, making it appear confusing to passengers.

[69] The provision to offer inter-available and through ticketing was raised by stakeholders in their responses to the February Call for Evidence. For example, Abellio Greater Anglia and First Group said the future framework should retain many of the benefits provided by inter-available and through tickets. Arriva UK Trains said reducing the requirements for fully interoperable tickets could enable greater TOC-led innovation.

4.18 Furthermore, the obligations on TOCs to offer passengers a walk-up, timetabled service also provides passengers with flexibility and convenience, mitigating the need for passengers to reserve a particular train ahead of their intended departure. However, this may make it more difficult for TOCs to respond to unanticipated changes in demand for their services (by, for example, choosing not to run a particular service on a particular day if there is no or low take-up).

The impact of obligations on station ticket office opening hours

4.19 TOCs are subject to station-specific obligations to have their station ticket offices open at certain times and on certain days. This reflects the idea that passengers should have access to a trained representative to provide them with appropriate information and to ensure that those who do not have access to other sales channel (most obviously the internet) can continue to be served. This may be particularly important for infrequent users, disabled passengers and vulnerable passengers[70]. The presence of staff at ticket offices may also promote passengers' sense of security and safety. Rather than considering whether station ticket offices should be open or not, it has been suggested that the focus should instead be on how the value of staff and station ticket offices can be effectively maximised[71].

4.20 However, the requirement to operate station ticket offices at certain times and days poses a cost to industry. It may constrain TOCs' ability to innovate in offering passengers a better service. This appears to be an important concern for TOCs. They suggest that this cost is often significant[72]. They say that the investment spent on station ticket offices could otherwise be deployed in alternative ticketing technology (such as, for example, virtual ticket office machines[73]) or in improvement to station facilities (such as better signage or more shelters at platforms[74]). Running station ticket offices may also contribute to a slower than expected change in sales channel if TOCs are unable to divert investment away from ticket offices to developing other means of retailing[75]. Furthermore, at least one TOC[76] has also suggested that, because the obligations are difficult to change, they represent a fixed cost (despite the use of station tickets offices decreasing), that is difficult to manage.

The impact of TOCs being unable to charge fees

4.21 As discussed in Chapter 3, TOCs are unable to charge fees when selling fares. This means that passengers are clear, from the outset, what the final price of the fare is, without having to take account of

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[70] The Association of European Rail Agencies and TravelWatch Northwest responses to the February Call for Evidence.

[71] Centro and TravelWatch Northwest responses to the February Call for Evidence.

[72] Abellio Greater Anglia, Arriva UK Trains, ATOC, East Midlands Trains, First Group, and Govia raised concerns about the station ticket office opening hours in their responses to the February Call for Evidence.

[73] This could include, for example, a ticket machine that includes a video-link to a member of staff located remotely, who could provide extra assistance where needed.

[74] See, for example, the decision regarding changes to London Midland's station ticket offices here.

[75] Abellio Greater Anglia, Arriva UK Trains, ATOC, East Midlands Trains, and First Group responses to the February Call for Evidence.

[76] Govia response to the February Call for Evidence.

additional fees or add-ons. This is likely to enable easier comparison between fares and aid overall transparency. However, it may also limit TOCs' ability to reflect in the price of the fare the relative costs of retailing though different sales channels, with some TOCs suggesting it adds to overall costs[77]. Furthermore, the fact that third party retailers can charge a fee in addition to the price of the fare may put them at a commercial advantage compared with TOCs.

Questions for Chapter 4

We welcome stakeholders' views on our assessment of the impact associated with the retailers' incentives and obligations to facilitate an integrated, national network in retailing. In particular, we would like views around the following questions:

5. What are your views on the impact of the **retailers' incentives in the way they sell tickets**? To what extent do the incentives discussed herein impact retailers' approaches, and how do these differ by retailer type? From the point of view of a retailer, what factors have to be present to make the development of new products an attractive proposition?

6. What are your views on the impact of the **impartiality obligation**? What is your view on passengers' awareness of impartial retailing? How does the cost of impartial retailing impact passengers' services? How could this be addressed?

7. With respect to **split ticketing**, what are you views? Are passengers appropriately safe-guarded 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? Where there are issues, what could be done to address them?

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?

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?

10. With respect to TOCs being **prohibited from charging fees**, what are your views on the impact of this requirement? To what extent, if any, does this give rise to a distortive effect between TOCs and third party retailers?

[77] For example, Abellio Great Anglia, ATOC and East Midlands Trains responses to the February Call for Evidence.

5. The impact of industry governance, rules, processes, and systems

Summary

This Chapter looks at industry governance, rules, processes, and systems. These industry arrangements help to support the delivery of an integrated, national network which, as discussed in Chapter 4, appears to provide passengers with convenience and flexibility. They may protect passengers by ensuring probity of tickets by requiring retailers to have their ticket systems accredited and by requiring third party retailers to meet specific rules. They also enable retailers to work together. Furthermore, they provide some clarity to new entrants on the relevant arrangements and help to facilitate sharing of costs of industry systems (and therefore economies of scale) and to reduce transaction costs for all retailers (in having centrally-determined commission rates). However, there also appear to be some issues. The industry arrangements pose a cost to all retailers that may not always be fully reflective of those that enjoy their benefits as different retailers make use of the integrated, national network (such as inter-available and through tickets) to differing extents. They may create a conflict of interest among retailers (as only TOCs are party to the governance arrangements) and may add to the complexity of the arrangements given the lack of formal and transparent methodologies for decision-making. They may constrain retailers' commercial flexibility and retailer-led innovation given need for the new products to meet industry arrangements. Furthermore, the rules on third parties may not be proportionate to their objective.

Introduction

5.1 Industry has developed certain governance arrangements and rules, processes and systems in relation to ticket selling. These are designed, in part, to enable retailers to work together and to give effect to the requirements to facilitate an integrated, national network. This Chapter explores the impact of the features. We invite stakeholders' views on our understanding, asking specific questions below.

The impact of industry governance arrangements

5.2 The industry governance arrangements appear to give rise to a number of benefits:

(a) They may encourage TOCs and other retailers to work together in, for example, facilitating the development of network-wide rail products, such as the 16-25 railcard, the Family and Friends railcard, the Senior Person's railcard, and the Two Together railcard (see Case Study 2 below). In having a railcard, passengers can benefit from cost savings on the price of the ticket and discounts for ancillary services, such as days out and hotel accommodation. More generally, railcards also promote the use of the railway, particularly encouraging those who may be less inclined to travel by rail to do so;

(b) They may help to promote best-practice among retailers in how tickets are sold. This may lead to more consistent approaches among retailers in selling tickets, which may make it easier for passengers to understand their rights, and a fostering of best-practice on particular arrangements; and

(c) They may help to facilitate the development of industry processes and systems that are necessary to support an integrated, national network.

Case Study 2: The development of the Two Together Railcard

The Two Together Railcard originally emerged from a review of 'small group' products undertaken by ATOC in 2010. The review was driven by passenger and stakeholder complaints that rail fares were too complex. Products for small groups of passengers travelling together was one specific area of complexity, which ATOC and TOCs felt could be simplified.

One of the conclusions to emerge from the review was that there was potentially untapped market when two adults travelled together, where car travel was often more cost effective. This was not an entirely new idea, but the opportunity was brought into much sharper focus by the review.

Market research was undertaken, the results of which suggested that a significant and profitable potential market existed for a two-adults Railcard. In order to assess this more rigorously, ATOC agreed with TOCs that a trial in a limited geographic area should take place. Funding of £0.5m from TOCs was agreed and a six month trial took place in the West Midlands, with Two Together Railcards being sold between September 2011 and May 2012.

The trial confirmed the profitability of the new Railcard and ATOC developed a business case for a full scale national launch. This included £5m of funding spread over three years from 2013/14, much of it for marketing activity. The ATOC Board agreed the necessary investment in 2013 and the remainder of the year was spent preparing for launch of the new Railcard.

The Two Together Railcard was launched, as planned, in March 2014 and has proved to be extremely popular. In the first year of its availability, the sale of 125,000 Railcards was targeted, whereas this amount has now been sold in the first six months alone.

The Two Together Railcard is a voluntary, collective initiative by TOCs and a new ATOC scheme has been created to provide the necessary legal framework, with TOCs sharing costs in proportion to their share of the revenue from the new card.

5.3 The industry governance arrangements may also give rise to potential issues, however. In particular, third party retailers are not party to the ATOC governance arrangements despite being heavily impacted by the decisions made by the TOCs (as part of the relevant scheme councils and working groups). Equally, there is no role in the discussions for other parties who may be impacted by the decisions such as, for example, independent consumer groups.

5.4 Furthermore, there may be a lack of sufficient transparency in the decision-making processes given, for example, the apparent absence of formal methodologies, criteria or processes in how such decisions are made.

The impact of industry rules

5.5 As discussed in Chapter 3, industry has developed certain rules in relation to retailing. These relate to commission for selling other TOC products, accreditation for retailers' TISs and third party retailer-specific rules.

The impact of having commissions for selling other parties' fares

5.6 TOCs and third party retailers earn commission for selling other parties' fares. The particular level of commission is determined centrally by TOCs, though any changes to the inter-TOC rate must be approved by the DfT. This approach appears to give rise to certain benefits:

(a) Having a multi-party agreement regarding commission removes, or at least reduces, the need for bilateral arrangements among all TOCs and all retailers. Given that there are nearly 20 TOCs, two OAOs and nearly 250 third party retailers, centrally determined and uniform commission structures are likely to significantly minimise transaction costs for all parties;

(b) Having uniform commission rates, which are now set for a minimum of three years hence, may provide clarity to prospective retailers, thus reducing their risk (and, therefore, their costs) in entering the market. This applies to both potential TOCs in the franchise bidding process and to potential third party retailers, particularly to smaller third party retailers, given there is no scope for larger retailers to form their own, bilateral arrangements in place of industry commission at the expense of smaller parties; and

(c) It may provide increased certainty over future revenue that may benefit current retailers through more accurate business planning.

5.7 There may also be merit in having commission arrangements determined (if not approved in the case of intra-TOC rates) by the TOCs, which may be best-placed to decide on appropriate rewards for those selling their tickets based on their retail strategy and their understanding of the costs of retailing.

5.8 However, there may also be some issues with the current approach to commissions, both in the existence of centrally-determined commission rates and the way they are determined and applied. For example:

(a) There may be scope for conflicts of interest on account of the fact that, collectively, TOCs set the commission rates for third party retailers and, at the same time, compete against them to sell fares. This may negatively impact third party retailers' revenue and reduce their ability to invest in more innovative retailing methods to improve service to passengers. Arguably, this issue is exacerbated by the apparent lack of a formal and transparent process for the setting of commission rates and the perceived absence of a formal methodology for determining commission rates[78]; and

(b) It may limit the development of alternative ways to reward third party selling that may be more innovative, specialised and better-suited to rail retailing. These could include, for example, partnership deals or longer-term incentive schemes existing in other sectors. These approaches may better optimise the value of third party retailing to the benefit of passengers by encouraging greater innovation and improved service quality initiatives.

5.9 Furthermore, some stakeholders[79] have raised concerns about there being different commission rates for different sales channels and retailers (with TMCs receiving less commission regardless of the sales channels compared with other retailers because they compete in the corporate market, for example). These stakeholders have also suggested that the current level of commission does not cover the cost of sales, which creates a need for very high sales volumes and, in turn, may limit new entrants, stifle innovation and, for TMCs, discourage them from promoting the use of rail over other transport modes[80]. Parties have also suggested the current commission levels make it necessary to charge a transaction fee to passengers, which may undermine passengers' ability to compare prices across retailers and add to the perceived complexity of fares.

5.10 Third party remuneration in rail differs somewhat compared to other sectors. For example, in the sectors CEPA has compared, commission is not centrally determined but is a commercial matter between each supplier and each third party retailer. In energy and mobile telephony, third party retailers are paid commission, or a fee, for 'introducing' the customer to the seller. In retail investments, third party advisors are not permitted to earn commission but, instead, charge a fee to the customer for providing the advice. In aviation, customers are also charged a fee by the agent. Contrary to 10 or so years ago, commissions for third party retailers in aviation have almost disappeared and have, in some areas, been replaced with incentive reward schemes[81]. The use of consumer charges instead of commission may benefit air travellers as it removes the risk of agents having distorted incentives if commissions are proportional to the cost of the flight. However, if agents are members of reward schemes, these distorted incentives may still be present.

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[78] While ATOC says it consults with key third party retailers on any changes to commission, there is no formal requirement for it or TOCs to do so.

[79] Evolvi and Passenger Focus responses to the Call for Evidence.

[80] Evolvi and Passenger Focus responses to the Call for Evidence.

[81] CEPA comparative analysis, 2014.

The impact of requiring accreditation for retailers' ticket issuing systems

5.11 The benefit of the requirement on retailers to have their TISs accredited is that it helps to ensure that their systems interact appropriately with industry systems and, therefore, that the overall retailing system is robust and reliable. Accreditation also appears to provide important protection to passengers who can be assured their tickets are genuine. It also ensures that correct settlement data is sent to the LENNON system and, therefore, all retailers earn the appropriate revenue (i.e. 'settle' correctly) for each sale.

5.12 However, the accreditation process may also give rise to some issues. The process appears demanding in terms of costs and time required for a retailer seeking accreditation: RSP charges at least £10,000 and takes at least 10 days, even for a retailer that is using technology that has been accredited previously. There is concern that this may act as a barrier for new entrants and that it is not proportionate to what it is seeking to achieve, with at least one stakeholder raising this[82].

5.13 In acknowledging the complexity and costs associated with accreditation, ATOC has taken steps to increase transparency around the process to assist interested parties in joining the retail market[83]. However, the accreditation process remains potentially complex. Stakeholders identified this complexity as a driver of industry costs and a potential barrier to entry for new entrants[84].

5.14 Furthermore, passengers continue to be confused when buying a ticket, including whether it best meets their particular needs[85]. This may suggest that there are limitations in the accreditation process or that it does not target the underlying issues around what information is provided to passengers when buying a ticket, and how.

The impact of rules on third party retailers

5.15 Third party retailers are subject to particular requirements in selling tickets. The purpose of these requirements is, broadly, to ensure that parties wishing to sell tickets are reputable, thus protecting passengers and other retailers. In having formal requirements on prospective new entrants, the rules may also help to provide clarity to those wishing to sell tickets, thus reducing the costs and associated risks around entering the market.

5.16 However, these rules may not be proportionate or appropriate[86]. This may be exacerbated by the fact that the rules are set by TOCs (through the industry governance arrangements) which, in turn, compete with third party retailers, thus giving rise to scope for conflicts of interest. The potential issues identified with the third party retailer-specific rules are around:

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[82] For example, Passenger Focus response to the February Call for Evidence.

[83] For example, see ATOC's Accreditation Guide here.

[84] For example, Campaign for Better Transport and Passenger Focus responses to the February Call for Evidence.

[85] ORR, 2014, *Passenger Experience Report* .

[86] This was raised by Campaign for Better Transport in its response to the February Call for Evidence.

(a) The requirements on third party retailers to share their marketing plans with ATOC may not be proportionate with the objective of ensuring the retailers are commercially viable and may give TOCs an unfair advantage as they're examined by ATOC. Some stakeholders have suggested these requirements are not appropriate, particularly as TOCs are not subject to the same rules[87];

(b) The level of bonding required of third party retailers (including the rules around the TARIF scheme) may mean third party retailers must contribute funds that are disproportionate and/or do not reflect the stability of the industry, thus impacting their competitiveness. This issue may be addressed, at least in part, by the decision to reduce the TARIF levy (from 0.36% to 0.18% of turnover) for 2014;

(c) The requirement to have staff undertake specific ATOC training and to hold certain qualifications may be an overly costly exercise for third party retailers, particularly small business, which may not be proportionate with the objective of ensuring passengers receive appropriate information; and

(d) Third party retailers are not permitted to sell all the fares that TOCs sell. In particular, third party retailers are not permitted to sell season tickets. Furthermore, they don't have access to all TOC fares. See Case Study 3 and 4, below.

Case Study 3: Third party retailers selling of season tickets

To date, third party retailers have been unable to sell season tickets because they are prohibited from doing so under their licence. There is a risk this may be unfair to them as they are unable to compete in an important part of the market. It may also be detrimental to passengers as they suffer from a lack of choice, including in having ancillary products. These could include, for example, insurance in the event of loss or theft of the season ticket or financing options to help manage its cost.

Some TOCs have argued, however, that they are best-placed to sell season tickets. They say it gives them the benefit of a direct relationship with season ticket holders, which is necessary since season ticket holders are frequent users of their services. However, TOCs are able to sell each other's season tickets through station ticket offices and earn two per cent commission for doing so.

Recently, ATOC has committed to running a pilot to allow third party retailers sell season tickets, saying that it considers that there's scope for market expansion. In doing so, ATOC says third party retailers will need to offer the full product range; provide full after-sales service; and exchange customer information with the relevant TOC. They will receive comparable commission to other TOCs, likely to be two per cent.

While third party retailers appear to welcome the initiative, some also sound a note of caution: should the trial determine that a fuller roll-out of third party selling of season tickets is not appropriate, the investment in the relevant systems will be redundant, making it a costly exercise.

The trial is expected to begin in January 2015.

5.17 In other sectors, and as highlighted by CEPA's comparative analysis, third party retailers are also subject to specific conditions in the way they retail. For example, in aviation, tour operators that sell travel

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[87] For example, Evolvi response to the February Call for Evidence. This issue has also been raised in bilateral discussions.

packages (i.e. more than just the flights) must be licenced. The licence means they are subject to inspection by the Civil Aviation Authority (CAA), are charged a fee based on the agent's activities and pay an extra charge each time they make a booking. Revenue resulting from this licensing procedure goes towards consumer compensation in case a tour operator's business fails. In retail investments, advisers must hold minimum qualifications and undertake minimum training each year. Firms who meet these guidelines are listed by the Financial Conduct Authority (FCA).

5.18 Third party rail retailers are unusual in that there is no wholesale market or price to enable them to purchase rail fares and to sell them on to passengers later, potentially earning a profit or incurring a loss depending on passengers' demand and willingness to pay for the fares. Rather, they appear to adopt the role of traditional agents selling on behalf of a producer. For example, they don't have access to TOCs' full product range, including season tickets (as discussed in Case Study 3 above) and fares that TOCs choose to discount (see Case Study 4 below). While they may charge a lower price to the one offered by the TOC(s), they must 'settle' at the full price through the relevant IT system. However, in mobile telephony, third party retailers cab bulk-buy access to the operators' network at wholesale rates and repackage it to provide connection services to customers[88]. In selling rooms on behalf of hotels, some third party retailers charge the customer directly and then pass this to the hotel, usually earning a proportion of this charge which is at its own discretion based on its ability to flex or reduce its margin[89].

5.19 This behaviour is more typical where the wholesale functions (i.e. production) and the retail functions are more separated (or unbundled). This structure enables third party retailers to buy products from the wholesale market and repackage offerings, enabling them to offer significantly more varied products and/or alternative pricing to customers.

Case Study 4: TOCs online discounting

Some TOCs offer online only discounts through their websites without making them available to other TOCs or third party retailers or through all of the TOC's sales channels. These discounts are not available through other sales channels, or through other retailers.

Examples of current discounts include:

- c2c (City2Coast) – 25% off Off-peak travel between Monday to Friday when booking online, provided the passenger is ravelling from a c2c station within the specified area to Southend; and
- East Coast – online discount up to 10% off its lowest Advance fares.

Online discounts tend to be a mix of special temporary fares and blanket discounts that apply to selected channels and/or tickets. Other retailers could match these prices. However they would incur a loss as the

[88] CEPA comparative analysis, 2014.

[89] OFT, 2014, *Hotel online booking: Decision to accept commitments to remove certain discounting restrictions for Online Travel Agents*. See here. In its consideration of hotel bookings, the OFT distinguish between third party retailing of hotels depending on whether the purchaser of the hotel room pays the hotel direct (with the online travel agent subsequently earning commission) or whether the purchaser pays the online travel agent direct (who, in turn, passes a proportion to the hotel).

full amount of the product would still need to be settled through the industry systems. Consultation with TOCs and third party retailers suggests that most online discounts are being as temporary fares, though there is also a suggestion these temporary fares may be being used on an on-going basis. These discounts can apply to regulated and unregulated fares. The TSA specifies that retailers cannot sell tickets for more than their notified price; though temporary fares are governed by the TSA, discounting does not seem to be explicitly covered.

The apparent benefit of this practice is that it enables TOCs to have more control over their own fares, and how they're sold. It allows them to better manage demand across their routes; target passengers through specific sale channels that better reflect their cost of sale; and serve as a marketing and retention tool, enabling those TOCs to have an enduring relationship with their passengers. It also allows passengers to benefit from cheaper fares.

However, the fact that discounted fares aren't available to all retailers and through all sales channels may be problematic. It may confuse customers and pose a barrier for those who buy tickets through station ticket offices or who don't have access to the internet. It may also undermine third party retailers' business activity as they can't offer the full range of fares or the cheapest fares. While other retailers may offer a comparable discount, this is unlikely to be an attractive option given the need for such retailers to 'settle' at the full price, thus making a loss on the product.

In other sectors, such as aviation, energy and mobile telephony, suppliers offer discounted products through certain retailers and/or sales channels or offer certain products through discounted routes. For example, in energy and aviation, prices are very often different when bought online.

The impact of industry processes and systems

5.20 As discussed in Chapter 3, TOCs and third party retailers are required to follow certain industry processes and use certain IT systems in selling tickets. These processes and systems, in part, support and give effect to retailers' requirements to facilitate an integrated and national network. The impacts of these processes and systems are discussed below.

The impact of the process for creating new products

5.21 In creating new products, TOCs must follow certain processes, including ensuring that the product is consistent with the TSA. This provides an opportunity for other TOCs to engage with the TOC that is creating the new product. This may help to ensure there is a consistent and industry-wide approach to new products.

5.22 However there may also be issues associated with this process. Innovative products or services which benefit passengers could be delayed, potentially by one or two dissenting parties. This could limit individual, TOC-led innovation. See Case Study 5 for further information on Cross Country's introduction of 10 minutes Advance tickets that took 18 months to be introduced, possibly because of the time it took to get it through industry processes.

Case Study 5: Cross-Country's Advance Purchase on the Day

CrossCountry, in 2011, sought to trial the purchase of an Advance fare that could be sold up to 10 minutes before the train's departure on its long-distance services.

As this required a change to the TSA (because it defines an Advance fare as one which 'may only be purchased before the start of the day for which…the Fare is valid'), the matter was referred to ATOC's Ticketing and Settlement Council, made up of TOC representatives. In considering the potential change to the TSA, the Ticketing and Settlement Council referred the matter to the ATOC Commercial Board as it was concerned that this policy change would have wider implications for the industry, which needed to be better understood. The ATOC Commercial Board then set-up a Working Group to consider the issue. This gave rise to a 10-month consultation process among all TOCs, involving several meetings. However, agreement was not reached about how a trial could operate and how other TOCs could take part in it if they wished to do so.

In the meantime, CrossCountry, in October 2012, used the existing provisions in the TSA to launch the product as a temporary promotional fare, which could only be used in Standard Class on flows where CrossCountry was not the Lead Operator.

By the end of the consultation process in April 2013, consensus among TOCs was not reached. CrossCountry therefore applied directly to the Secretary of State for Transport for the necessary permission to enable it to introduce the product across all of its services in May 2013. After consultation with the TOCs, the Secretary of State approved the introduction of the product in September 2013 for an 18-month trial period, noting that CrossCountry was willing to work with retailers either to facilitate access to the Advance Purchase on the Day engine or to help them develop their own engines. The DfT considered, in principle, that the initiative was a positive and innovative development for passengers giving them more choice and the option of a cheaper fare[90]. Upon formally approving the product, RSP was able to introduce the product in October 2013.

The impact of using common systems in accessing information, selling tickets and allocating revenue

5.23 Having common IT systems and centrally-owned data feeds appears to give rise to a number of benefits:

(a) There are likely to be economies of scale associated with retailers having integrated IT systems and common industry data. Individual retailers don't need to duplicate their IT systems or processes to sell each other's tickets or to have bilateral and separate commercial arrangements that enable network-wide travelling (for example, with national employers such as the police) and third party retailing. Having integrated retailing systems is also likely to make it easier for national rail services to integrate with other transport providers[91];

(b) Having integrated retailing systems may reduce the transactional costs for parties selling others' tickets. There is no need to have duplicate systems or have many parties collecting and managing the

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[90] DfT, 2013, *Fares & Ticketing Review: Next Steps*.

[91] For example, in the absence of a single retailing system, each of the different London and South Eastern TOCs would have had to form separate and bilateral arrangements with TfL in extending Oyster Pay As You Go to national rail services.

data. Common inputs also help to ensure central quality control and consistency across systems and data;

(c) Having integrated retailing systems is more likely to facilitate wider coordination among retailers on the provision of services, thus potentially improving passengers' experience of an integrated, national rail network; and

(d) Integrated systems enable revenue allocation to take place in the appropriate manner.

5.24 An example of where common IT platforms may have facilitated benefits is the introduction of Oyster smart ticketing on rail in Greater London. TOCs operating in Greater London cooperated with TfL to allow passengers to use Oyster cards that was previously only used on the TfL network. This benefits passengers by simplifying journey ticketing and pricing and encouraging multi-modal journeys. While this has now successfully occurred, the process for introducing Oyster rail in Greater London took some time. TOCs needed to agree how to install and operate Oyster equipment (and the cost of this) and how the Oyster extension permit approach should work. There were also issues to be agreed among TOCs about what impact the Pay As You Go system might have on revenue.

5.25 Notwithstanding the benefits, having integrated retailing systems also appear to give rise to certain limitations, listed below:

(a) Because they are designed to work for the full and wide range of retailers, the systems and the corresponding data feeds may be complex and costly to develop. In responding to our February Call for Evidence, three TOCs cite the complexity of RSP systems as a particular problem, with one suggesting it could limit the ability of new and different retailers from entering the market[92]. The cost of compliance with the industry-owned systems may also have a disproportionate impact on smaller retailers given their relative turnover and may deter smaller projects that may deliver passenger benefit but have a modest anticipated return attached to their introduction. This difficulty in changing and improving the system is illustrated in the problems of rolling out smart ticketing, due to new and old technologies not necessarily interfacing. See Case Study 6 on the South East Flexible Ticketing (SEFT) programme.

Case Study 6: Smart ticketing in the South East

The SEFT programme is a government-funded scheme to introduce smartcards for rail commuters in the south-east of England. The programme involves coordinating input from the DfT, TOCs, TfL, and passenger organisations such as Passenger Focus.

Government has identified a number of benefits resulting from increased smart ticket use, including:

- They open automatic ticket gates more quickly and reliably;
- It will be easier to buy tickets online and collect them at stations;

[92] Arriva UK Trains, East Midlands Trains and Govia responses to the February Call for Evidence.

- They will help to shorten queues at ticket offices;
- They don't wear out as quickly as paper tickets;
- They will allow delay/repay procedures to be simplified; and
- In the longer term, smart tickets will let retailers offer a more flexible range of products, for example, a 'part-time' season ticket, or more dynamic pricing reflecting peak hours.

The SEFT programme, therefore, is intended to bring together the relevant TOCs and other stakeholders and to provide specific funding for infrastructure and systems upgrades to help realise these benefits and, in particular, to help facilitate decision-making among the TOCs and other stakeholders.

Areas where agreement was required, for example, include the design of the back-office systems (which took nearly a year to agree on) and which products to prioritise.

SEFT has now begun to be rolled out; with some commuters having access to smartcard season tickets in 2014. The programme will continue into 2015.

(b) The owners of the retailing systems may lack sufficient incentive to develop to meet industry's needs. As discussed in Chapter 3, the IT systems are owned and managed by TOCs with each having a say in how they should develop (or be replaced) based on their revenue and usage. Industry data is owned and managed centrally by incumbent industry parties. This is potentially problematic for two reasons:

(i) TOCs differ in their size, their business activity and their franchise requirements. This suggests that their ability and incentives to agree on particular changes to retailing systems and data are limited. This may explain why changes to RJIS took over three years[93] (see Case Study 7 below); and

(ii) The IT systems are determined by TOCs rather than all users. This could create a conflict of interest whereby the TOCs make decisions on changes to the system to suit their particular needs, rather than those of other retailers. This may be exacerbated by the fact that the costs of these systems may represent a larger proportion of a third party retailer's costs compared with a TOC's without the third party retailers having decision-making powers over change to the systems or industry data. The issues associated with industry data are discussed further in Case Study 8.

(c) In order to meet the requirements around interoperability, retailers must use the ATOC systems rather than relying on alternative providers. This suggests that there is limited choice for retailers around the integrated systems they wish to use to retail. While it could be argued that this is a necessity for interoperability, examples from other sectors that rely on integrated systems support the possibility of having more than one central provider of retailing systems which, in turn, can work together to facilitate interoperability; and

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[93] Respondents to our Call for Evidence also pick this point up. For example, one TOC suggests that the arrangements require TOCs to "jump together", saying that, too often, TOCs that are close to the end of their franchising term are unable to justify investments in RSP systems.

(d) There may be insufficient competition in the supply of IT systems to support retailing. For example, in the TIS supply market, which is a key part of the common IT platforms used in the industry, ATOC has suggested that there are few parties involved in this market, and to enter it requires significant investment, which may reduce the competition in the market.

Case Study 7: Changes to the Rail Journey Information System (RJIS)

The RJIS system brings together data on fares, routeing and timetabling, and allows access to the Ticket-on-Departure database. It is a crucial aspect of rail retailing technological infrastructure. In 2011, upon agreement among TOCs, RSP embarked on a programme to modernise RJIS. This was for several reasons:

- The perceived high cost of ownership of current services;
- Opportunities presented by contract expiry and termination;
- Service capabilities needed to support changing rail industry needs;
- Opportunities presented by the emergence of new technologies; and
- The desire for a more competitive supplier market for RSP and TOCs.

The Ticketing and Settlement Scheme Council then established a Project Board made up of retail and commercial managers from across the TOC owning groups. The budget to fund the new system was established by RSP, approved by the Ticketing and Settlement Scheme Council and allocated among TOCs and third party retailers. The key drivers for replacing RJIS were:

- Cost of ownership;
- Opportunity presented by contract expiry/renewal;
- Opportunities presented by new technologies; and
- Changes in industry needs.

The new replacement for RJIS which included the provision of the national Ticket-on-Departure database was tendered in three separate packages: Lives Sales Management, Data Transformation and Distribution; and the Routeing Guide, to reflect the differences in the components required. The tendered bids were then assessed by the Programme Board, which decided to award the three packages across two companies in late 2012. It took three years in total from initial assessment to 'go-live', with the modernised system in place by April 2014.

5.26 CEPA's comparative analysis of aviation, energy, financial investment products, and mobile telephony suggests that these sectors don't rely on centrally-owned and integrated IT systems in the same way as rail retail does. In aviation, for example, there are three Global Distribution Systems (GDSs) that provide flight data to third party retailers. The GDSs compete with each other on the flight data they offer and the functionality of their systems[94].

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[94] In aviation, GDSs and Computer Reservation Systems (CRSs) both provide flight data to agents (GDSs provide data from multiple airlines, CRSs from a single airline). There are three major GDSs, but none has complete coverage of the whole retail market. GDSs earn revenue by charging airlines for each booking made by an agent, and may have separate commercial arrangements with agents as well. GDSs compete with each over which airlines they cover and the functionality of their systems from the perspective of the travel agent. There have been concerns recently from the European Commission that there are too few sources of information and that GDSs could potentially behave in oligopolistic ways. European Commission, 2012, *Price transparency provisions.* See here.

5.27 There may also be some analogies with the systems used to process payments among banks on behalf of customers. In its consideration of these systems, the OFT found that because the systems are effectively controlled by the largest banks, there was limited competition among the system providers given the lack of incentives for banks to move to a new or different system. Furthermore, the OFT found that there were limited incentives for one party to innovate as to do so would benefit other members of the systems, the bank's rivals. The OFT suggested that this could lead to systems that did not meet the needs of end-users and that that are costly for non-members (who use indirect, agency agreements to access the system).

Case Study 8: Issues with industry data feeds

There is a wide range of industry data relating to, for example, timetabling, routes of certain trains, real-time data, and station information. This data is important to retailers to help them sell tickets. It's also important to a wide range of other bodies that want to use the information to develop apps and other online tools.

Access to some of this industry data has been historically problematic. For example, stakeholders have expressed concern to us over their ability to gain access to the data on a fair and easy basis. For example, in response to our February Call for Evidence, the Campaign for Better Transport said that ATOC is imposing restrictions on the data that is available to new or existing retailers and also on the way this data is used. Concerns have also been expressed about the costs of the data, including whether the price for accessing the data by third parties is proportional to the cost of production and development, and the quality of the data, including whether the quality of the data is good enough to allow potential users to develop tools or products successfully using the data.

We very much welcome industry's efforts to improve the availability of data, as highlighted in NRE's recent decision to make some real-time train information more available, with significantly less restrictive terms of usage and free for all but the largest users. We also recognise that it may take some time for these changes to have an impact on the market. We would welcome views from retailers and third party developers on how these changes are working in practice.

The impact of having a consistent ticket format

5.28 Most tickets sold in the retail market are provided in a standardised form, i.e. the credit card-sized 'magstripe' ticket, which can be issued by any retailer and accepted by any TOC. This practice allows a passenger to travel with different TOCs, as is the case for inter-available and through-ticket fares, thus facilitating the benefits of an integrated, national network. It also means that tickets can be recognised by TfL at London terminals.

5.29 Having a standardised ticket format may result in lower transaction costs for both retailers and consumers. Consumers' familiarity with these tickets may improve their understanding of the information relevant to their journey. For retailers, both TOC and third party retailers, there may be economies of scale in retailing tickets. For example, only one physical issuing system (such as a special printer) is required, thus lowering retailing costs.

5.30 However, one of the most important potential impacts resulting from this practice is a risk of a piecemeal approach to new ticketing formats. Introducing more innovative ticket formats may require significant investment and cooperation by TOCs, retailers, suppliers, and other stakeholders such as the

DfT. This appears to be difficult given, for example, the limitations associated with the franchise process. Electronic, mobile and smartcard tickets have become more widely available through some TOCs, and through specific schemes such as Oyster in London and SEFT in the South East, but alternative ticketing has yet to be rolled-out extensively.

5.31 Industry has already committed to a series of initiatives to address these issues, including by improving retail information and ticketing[95]. One specific initiative was to improve the design of the current 'magstripe' ticket to allow enhanced information on route, validity and restrictions to be included on the face of the ticket. The roll out of the new design was planned to commence in 2012 and continue for three years. However, the project has suffered significant delays due to the complexity of implementing such change across the whole industry, exacerbated by late delivery by suppliers and concerns over the cost of the change on the part of some retailers. As a result, although roll-out has now commenced, it is unlikely to be completed before 2016.

Questions for Chapter 5

We welcome stakeholders' views on our assessment of the potential impacts associated with industry governance, rules, processes, and systems. In particular, we would like views around the following questions:

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?

13. With respect to the **third party retailers' arrangements**, to what extent does the nature of their relationship with TOCs enable them to benefit passengers, including bringing about competition and innovation? How are the arrangements between the wholesale provider and the third party retailers 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 retailers that we have not captured?

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[95] ORR, 2012, *Fares and Ticketing: Information and Complexity Report*. See here.

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?

15. With respect to **industry data**, how does access to and quality of data manifest? What is the impact?

6. Emerging thinking and next steps

Summary

Our emerging thinking centres on the potential benefits and issues associated with the regulation and industry arrangements and practices. In understanding how material and/or relevant these impacts are, we want to understand the extent to which they facilitate well-functioning markets and/or protect the interests of consumers. In exploring how to capture the benefits and address the issues, we will consider approaches to delivering integrated retailing, institutional arrangements and third party retailing, drawing on our current and future work on other sectors where relevant.

Introduction

6.1 Having considered the possible impacts of the ticket selling arrangements, this chapter summarises the potential benefits and issues associated with regulation and industry rules and practices. It then outlines how we intend to approach the next stage of the Review, including how we intend to assess the materiality and relevance of these opportunities and issues and how we intend to analyse potential options. In this context, we also set out some initial observations taken from CEPA's comparative analysis on third party retailing in other sectors.

Summary of potential areas for focus

6.2 The potential benefits include the following:

(a) **They may help protect passengers in buying tickets**. Obligations on retailers to sell impartially help ensure passengers get the necessary information by ensuring train operating companies can't favour their own services over others (see section 4.10). It, and the prohibition on train operating companies from charging a transaction fee for selling tickets, helps provide transparency to passengers over the price of the ticket (see section 4.21). The obligation to maintain minimum opening times for station ticket offices also helps to ensure all passengers get the information they need when buying a ticket (see section 4.19). Furthermore, the rules on retailers to have their ticket issuing systems accredited (see section 5.11) and the specific rules on third party retailers may also protect passengers in ensuring ticket probity (see section 5.15);

(b) **They may provide passengers with the flexibility and convenience of an integrated, national network**. Obligations to sell impartially (see section 4.10) and to create and sell inter-available and through ticket fares (see section 4.16) provide passengers and train operating companies with the convenience and flexibility of an integrated, national network. Industry governance (see section 5.2) and the corresponding rules, processes and systems help support delivery of these benefits (see section 5.20);

(c) **They may enable retailers to collaborate to improve their service to passengers**. The industry governance arrangements, rules and processes enable retailers to work together in selling tickets (see section 5.2), potentially facilitating best practice and enabling the development of network-wide products (see section 5.3, 5.20); and

(d) **They may provide clarity to new entrants, potentially encouraging more parties to sell tickets.** The obligations on how retailers should sell tickets (see section 4.10) and the corresponding industry rules, processes and systems (see section 5.5) provide clarity to new entrants on what's required of them). This may encourage new parties to enter the market and potentially drive improvements to passengers' services.

6.3 The potential issues include the following:

(a) **They pose a cost, which may be disproportionate**. The obligations to facilitate the benefits of an integrated, national network (see section 4.10) and the corresponding industry rules, processes and systems they give rise to (see section 5.2) create a cost for retailers. These costs may not always be fully reflective of those that enjoy their benefits as different retailers make use of the integrated, national network (such as inter-available and through tickets) to differing extents, while all retailers contribute towards their cost. This may be particularly disproportionate for smaller players;

(b) **They may inhibit innovation at the expense of improved services to customers**. Retailers' incentives to sell tickets (through, for example, the franchising process) may not encourage the industry to work together in innovating (see section 4.2). Equally, the need to follow and use common industry rules, processes and systems may not facilitate retailer-led innovation (see section 5.20);

(c) **They may constrain retailers' commercial flexibility in how they sell tickets**. The prohibition on train operating companies charging a fee may constrain their commercial flexibility to reflect relative costs of sales in the price of a fare (see section 4.21). Centrally-determined commission rates may constrain commercial flexibility in the way train operating companies reward third party selling (see section 5.6). The industry processes and systems may also constrain retailers in how they sell tickets, for example in introducing a new product (see section 5.20); and

(d) **They may create a conflict of interest among retailers**. The industry governance arrangements are made-up of train operating companies, rather than all retailers (see section 5.2). They determine many of the rules, processes and systems (such as commission rates). This may create a conflict of interest given train operating companies set the rules for third party retailers and, at the same time, compete with them to sell tickets.

6.4 Table 3 summarises the main potential benefits and issues with regulation and industry arrangements and practices.

Table 3: High-level summary of the potential benefits and issues with regulation and industry arrangements and practices

Regulation and industry arrangements and practices	Description of the regulation and industry arrangements and practices	Potential benefits	Potential issues
Retailers' incentives to drive revenue	Retailers face incentives to earn more revenue from selling more and higher-valued tickets	• Franchising drives TOC innovation in bidding • Open Access Operators drive sales through most efficient sales channels • Third party retailers drive volume and value of sales, seeking to innovate on retailing experience	• Franchising limits innovation to bidding process and makes collaboration among TOCs more difficult
Retailers' obligations to facilitate the benefits of an integrated network	Retailers are required to sell all fares impartially. TOCs are required to create inter-available and through ticket fares, maintain minimum opening hours for station ticket offices and are prohibited charging a fee.	• Impartiality, minimum opening hours for station ticket offices and a prohibition on TOC charging a fee protect passengers • Impartiality and inter-available and through ticket fares provides passengers (and TOCs) with convenience and flexibility of integrated, national network • Impartiality minimises scope for TOCs to favour own services	• Gives rise to costs, which may not be fully reflective of those that enjoy their benefits (given that use of the integrated, national network differs among retailers) • Impartiality and inter-available and through ticket fares add to number, and hence complexity, of fares • Prohibition on charging a fee constrains TOCs' commercial flexibility to reflect relative costs of sales in price

Industry governance	TOCs own industry organisations (such as ATOC, RSP and NRE) to facilitate and manage integrated, national retailing.	• Enables retailers to collaborate, including to facilitate benefits of integrated, national network	• Create conflict of interest as third party retailers are not party to the arrangements • Add to complexity of arrangements given lack of formal and transparent methodologies for decision-making
Industry rules	Retailers are subject to rules in the commission for selling other TOC products and the accreditation of ticket issuing systems. Third party retailers are subject to specific rules in selling tickets.	• Supports delivery of integrated, national network • Rules to have ticket systems accredited and third party retailer rules protects passengers by ensuring probity of tickets • Provides some clarity to new entrants • Reduces transaction costs by having centrally-determined commission	• Gives rise to costs, which may not be fully reflective of those that enjoy their benefits • Centrally-determined commission constrains commercial flexibility in rewarding third party retailing • Rules to have ticket systems accredited and the third party retailer-specific rules may not be proportionate to their objective • Creates conflict of interest given rules for third parties are set by TOCs
Industry processes and systems	Retailers are subject to industry processes in creating products and accessing and using common IT systems and data. The format of inter-available and through tickets must be recognisable.	• Supports delivery of integrated, national network • Protects passengers by ensuring probity of tickets (with knock-on benefits for all retailers) • Enables costs to be shared among all retailers, with corresponding economies of scale	• Gives rise to costs, which may not be fully reflective of those that enjoy their benefits • May inhibit commercial flexibility and retailer-led innovation given need for new products to meet industry arrangements

Source: ORR

Assessing the materiality and relevance of the impact of the arrangements

6.5 We want to understand the materiality and relevance of these impacts, both now and in the future (given the potential future changes to how tickets are sold). In particular, we want to understand the extent to which retailers' incentives in selling tickets, retailers' obligations to facilitate an integrated, national network and the industry governance, rules, processes, and systems facilitate or inhibit the following market behaviours:

(a) Passengers are active, empowered and engaged in the market to the extent that they apply pressure on suppliers and retailers to reduce costs and raise quality (i.e. the demand-side part of the market); and

(b) Retailers can and do seek to compete to deliver services that meet consumers' needs and expectations (i.e. the supply-side part of the market).

6.6 In order to determine the extent to which these behaviours exist within the retail market, we consider that the core principles of access, quality, empowerment, and choice must be present in the arrangements[96].

Table 4: Principles for assessing the passenger and retailer experience

Principles	Passenger / consumer features (i.e. the demand-side)	Retailer features (i.e. the supply-side)
Access	• Conditions that enable passengers to purchase tickets using retail channels that are best suited to their needs • A range of tickets or services that meet different needs, allowing many types of passengers to use rail services	• Ability of retailers to enter, expand and exit the market for ticket selling without overly onerous requirements • Absence of significant monopoly power so that no one firm has power to dominate the market at the expense of smaller competitors and potential new market entrants
Quality	• Prompt, reliable retail services and ticket fulfilment services • Effective resolution of issues affecting ticket purchase	• Retailers are able to provide good quality information and services that enable them to meet their service commitments, and they compete to do this effectively and cost-efficiently
Empowerment	• Available, accurate and timely information • Clear and accurate advice, at point of need • Fair terms and conditions for tickets, objectively enforced • Access to prompt and meaningful redress	• Retailers are able to compete in the market on fair, objective and non-discriminatory terms • The terms under which retailers compete are objectively enforced
Choice	• Clear choices that are easy to exercise, suiting different passengers' needs • Clear comparison of choice between products and providers (e.g. ticket retailer)	• Retailers can easily access timely and relevant information to enable them to make effective decisions • Retailers compete in offering choices to retailers, and do this on fair terms

Source: ORR

[96] These principles were also used in the ORR's Passenger Experience Report in order to assess how well passengers' experiences were being met.

Options to capture the opportunities and to address the issues

6.7 Stage One of the Review has focused on identifying the potential benefits and issues associated with the regulation and industry arrangements and practices for ticket selling. As discussed above, going forward and for Stage Two of the project, we want to understand the impact of the current arrangements on current and future passengers. We also want to identify and to assess high-level options to capture the benefits and/or to address the issues, where necessary.

6.8 We intend for this to culminate in a consultation that sets out our views on the regulation and industry arrangements and practices for ticket selling and, in this context, explains our emerging thinking – or early recommendations – for how to capture the benefits and/or to address the issues, where necessary. This will be necessarily high-level and focus on potential principles given the need to test this further with stakeholders.

Approach to options analysis – current high-level thinking

6.9 While our thinking on potential options to capture and/or address the benefits and issues is at a very early stage – and one that will be informed by stakeholders' feedback through this consultation – we anticipate that our options analysis will centre on different approaches to delivering integrated retailing; on institutional or governance approaches; and on approaches to third party retailing in rail.

6.10 Any options are unlikely to be mutually-exclusive. They will also need to be robust to changing passenger preferences and developments in technology. For that reason, we anticipate that we will also consider passengers' views and expectations for future ticketing and potential future changes in ticketing, including changes to the technology.

6.11 As reflected above, an important element of this work will involve looking at the experience of other sectors. In commissioning CEPA's comparative analysis to look at the third party arrangements in other sectors, we have already begun to do this; see below for further information on how we are using this report.

Options analysis – experience from other sectors

6.12 As discussed, we commissioned CEPA to conduct a comparative analysis of the arrangements, governance and compensation that can be observed of third party retailing in sectors other than rail. It examined the arrangements for aviation, energy, mobile telephony, consumer investment products, and the arrangements underlying price comparison websites. It compared their main features with the features of the rail retail market. Drawing on this analysis, there are four important points to note that illustrate the differences between rail and these markets:

(a) Comparative sectors have greater separation or unbundling between the wholesale provision of the good and the retailing to end-user customers. This may imply that third party retailers in these sectors can have a more significant role in the market (for example through re-packaging products for sale, such as is seen in mobiles and air travel);

(b) There are relatively narrow routes to market in rail compared with other sectors. A wide spectrum of activities can be defined as 'third party retailing' in other sectors – everything from price comparison websites, to brokers who help consumers make product selection, to retailers in wholesale markets who can buy, package and resell products. In rail, third party retailers are limited in the forms their retailing activities can take;

(c) Common retailing information systems, as seen in rail, are unusual in other markets. In air travel, there are three major systems which provide air fare information to agents globally, none of which completely cover the retail market, and they compete with each other to access Travel Agents. In the arrangements for price comparison websites, one site rarely covers an entire market, and is not expected to, either by consumers or regulators such as the OFT; and

(d) The complexity of rail products and pricing is frequently cited as a reason why the existing obligations and industry governance, rules, systems, and processes are in place; however this comparative analysis shows that perceived complexity also exists in other markets.

Longer-term approach to the Review

6.13 At this stage, it is difficult to anticipate the longer-term timelines for the Review. It is worth noting, however, that ORR does not have direct powers to implement a wide range of options, including much of those discussed above. Rather, and as highlighted in Chapter 3, much of the arrangements are determined and owned by the government or the industry.

6.14 For this reason, therefore, we expect that, in taking forward options (including in implementing them), we will need to work very closely with governments and with other parties, including TOCs, third party retailers and passenger groups.

Next steps

6.15 We welcome stakeholders' views on our thinking set out herein and, in particular, on our questions (see Annex A for a full list). Please submit your response, in electronic format, to the ORR Retail Review inbox (ORRretailreview@orr.gsi.gov.uk) by **31 October 2014**. Alternatively, if it is not possible to email, please send in hard-copy to:

Siobhán Carty
Competition and Consumer Policy team
Office of Rail Regulation

One Kemble Street
London
WC2B 4AN

6.16 We would also welcome the opportunity to discuss the themes raised in the consultation face-to-face. If you would find that helpful, please contact us through the ORR Retail Review inbox (ORRretailreview@orr.gsi.gov.uk).

6.17 If you send a response, you should indicate clearly if you wish all or part of your response to remain confidential. Otherwise, we would expect to make it available on our website and potentially to quote from it.

Questions for Chapter 6

We welcome stakeholders' views on our conclusions and next steps. In particular, we would like views around the following questions:

16. What are your view on our proposed approach to assessing the materiality and relevance of the 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; and ii) retailers can compete to deliver services that meet consumers' needs and expectations.

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

18. What other views have you regarding the Review that has not been captured in the questions above?

Annex A: Full list of questions

A.1. The full list of questions we would like stakeholders' views on are:

Chapter 2

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?

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?

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

Chapter 3

4. Have we accurately described the ticket selling arrangements in respect to i) retailers' incentives in selling tickets; ii) retailers' obligations to facilitate an integrated, national network; iii) retailers' governance arrangements; iv) retailers' industry rules; and v) retailers' industry processes and systems?

Chapter 4

5. What are your views on the impact of the retailers' incentives in the way they sell tickets? To what extent do the incentives discussed herein impact retailers' approaches, and how do these differ by retailer type? From the point of view of a retailer, what factors have to be present to make the development of new products an attractive proposition?

6. What are your views on the impact of the impartiality obligation? What is your view on passengers' awareness of impartial retailing? How does the cost of impartial retailing impact passengers' services? How could this be addressed?

7. With respect to split ticketing, what are you views? Are passengers appropriately safe-guarded 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? Where there are issues, what could be done to address them?

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?

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?

10. With respect to TOCs being prohibited from charging fees, what are your views on the impact of this requirement? To what extent, if any, does this give rise to a distortive effect between TOCs and third party retailers?

Chapter 5

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?

13. With respect to the third party retailers' arrangements, to what extent does the nature of their relationship with TOCs enable them to benefit passengers, including bringing about competition and innovation? How are the arrangements between the wholesale provider and the third party retailers 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 retailers that we have not captured?

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?

15. With respect to industry data, how does access to and quality of data manifest? What is the impact?

Chapter 6

16. What are your view on our proposed approach to assessing the materiality and relevance of the 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; and ii) retailers can compete to deliver services that meet consumers’ needs and expectations.

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

18. What other views have you regarding the Review that has not been captured in the questions above?

Annex B: Summary of non-confidential responses to the February Call for Evidence

B.1. This Annex summarises the non-confidential responses to the February Retail Market Review Call for Evidence. It does not represent ORR's position or policy.

B.2. We received 21 non-confidential responses. This included eight TOCs (including ATOC and some owning groups), five consumer representative groups and a third party retailer. We also received some confidential responses. A full list of non-confidential respondents is provided in Table 5[97].

B.3. In general, all non-confidential respondents were positive about the need for a review and forthcoming about what they consider the problems to be. The exception is the Transport Salaried Staffs' Association (TSSA), who said the review is not justified.

B.4. In the February Call for Evidence letter, we said that **the drivers** of the review relate to concerns from the DfT and parts of the industry around the functioning of the market. Respondents appeared broadly happy with these drivers, though there were a handful of further suggested drivers. For example, some TOCs said a key driver should be passenger preferences or overall efficiency in the market. Others, particularly consumer groups, said increased simplicity and innovation in the market should be a driver.

B.5. In terms of the **scope of the review**, we said we'd consider TOCs behaviour, the impact of industry arrangements, innovation, and the third party arrangements. Respondents were generally happy with this, with many describing it as "reasonable". Notable suggestions for inclusion in the scope of the review included the efficiency of regulation, the impact of the franchising arrangements and third party retailers.

B.6. With respect to **positive features of the market**, a number of TOCs, in particular, said the market is working "*reasonably well*" and point to the growth in rail travel as evidence. Stakeholders commended the wider range of available sales channels, smarter approaches to ticketing and the growth of Advance tickets as positive features of the market. However, respondents were markedly more vocal about the **negative features of the market.** These centre on the following:

(a) TOCs said that **industry rules** are problematic. They argued that the rules around ticket office opening hours give rise to significant costs and constrain their ability to innovate with respect to other sales channels. Some TOCs also argued that RSP processes are complex, giving rise to a costly TISs and an uncompetitive market for TIS suppliers. Three TOCs complained about their

[97] The individual non-confidential responses are available on ORR's website. See here.

inability to charge fees for retailing. TOCs' views on the constraints network benefit rules pose were mixed, though they didn't feature highly in the responses;

(b) Many stakeholders from across the board raised problems with the **functioning of sales channels**. While many of them pointed to the benefit of more sales channels, Railfuture said the high number has complicated issues. Many stakeholders also highlighted what they said are serious problems with TVMs, with Which? calling for a "*radical and urgent reform*". TSSA and West Yorkshire PTE complained that ticket offices aren't working effectively (e.g. excessive queuing times). Many TOCs said that exploitation of technology in ticketing has been slow;

(c) A range of stakeholders raised concerns with the arrangements for the **third party retailers.** The European Rail Agents Association and the Campaign for Better Transport questioned the benefit of the third party market and two TOCs said they pose a "*quasi-regulatory burden on train companies*". However, there was some discussion around the lack of transparency and perceived unfairness with the arrangements. For example, Passenger Focus raised concerns about third party retailers not having access to all fares (e.g. season tickets) and being subject to charges. It also said that the arrangements are of concern as they could amount to high barriers to entry, stifling innovation;

(d) A number of concerns were also raised about the quality and availability of **data feeds**, with one consumer group saying it represents the "biggest issue" at stake in the review. Stakeholders said it would improve TVMs and, more generally, make the market more competitive and innovative;

(e) Some stakeholders also complained about the **fare structure** (calling for a pan-integrated ticketing strategy led by government) and the impact **franchising approach** has on retailing (arguing it creates a "*jump together*" approach).

B.7. With respect to **examples of particularly innovative retailing** outside of rail, many stakeholders pointed to the success of TfL's Oyster card. They also highlighted the TVM and print-at-home and m-tickets. Outside of GB, parties highlighted the Bahncard and practices in Boston, Hong Kong, the Netherlands, and Singapore. There were numerous references to aviation, with a number of parties saying we should compare the different markets.

B.8. Regarding our **overall approach and proposed timetable**, parties were generally positive. ATOC and East Midlands Trains said we need to fully involve TOCs. West Yorkshire PTE said we should consider the use of focus groups and fresh surveys. With respect to the workshop, Evolvi said it is too short and involves too many people and the TSSA said it is insufficient, suggesting ORR has the opportunity to discuss directly with trade union officials and staff representatives who deal with ticketing.

B.9. Regarding **other issues**, a number raised the importance of consumers being provided with appropriate information, with Which? explicitly pointing to the Code of Practice for retail information. Furthermore, Network Rail said there any new ticketing or retailing arrangements need to consider the planning needs of the industry.

Table 5: Names of non-confidential respondents to the February Call for Evidence

No.	Name of organisation	Type of organisation
1	Abellio Greater Anglia	TOC
2	Arriva UK trains	TOC
3	Association of European Rail Agents	Industry third party organisation
4	ATOC	TOC (trade association)
5	Campaign for Better Transport	Consumer rep group
6	Centro	PTE
7	East Midlands Trains	TOC
8	Evolvi	Technology provider
9	First Group	TOC
10	Govia / Go-Ahead Group	TOC
11	James Miller	Individual
12	Loco2	Third party retailer
13	Network Rail	Infrastructure manager
14	Passenger Focus	Consumer group
15	PTEG	PTE
16	Railfuture	Consumer group
17	TfL	TOC
18	Transport Salaried Staffs' Association	Trade union
19	TravelWatch NorthWest	Consumer group
20	Which?	Consumer group
21	WYPTE / Metro	PTE

Annex C: Trends in ticket selling

C.1. This Annex provides a high-level overview of the changes which have been occurring in rail ticket retailing in the last 10 (or so) years. The changes we have looked at relate to ticketing, the range of products sold as well as, to a lesser extent, developments in ancillary services. The purpose of this Annex is not to provide an exhaustive picture of all the changes or innovation which has occurred, but rather to look at some representative examples to initiate a discussion about the sources and drivers of change and innovation.

C.2. There is a sense, as highlighted by both the DfT in its Fares and Ticketing Review and in responses to the February Call for Evidence that the rail sector has not benefited from as much innovation, or change, as other sectors, such as aviation for example. This is a concern because innovation is important in the role it can play in:

(a) improving the customer experience of booking tickets and using the railway;

(b) helping to facilitate access to public transport for new passengers or groups of passengers to enhance the use of public transport overall;

(c) bringing benefits for the public, individuals and companies; and

(d) increasing cost efficiency of retailing.

C.3. To help understand whether the DfT and others' concerns are justified, we have looked at the state of changes in rail ticketing, including where changes in rail ticketing have been occurring and which industry players have been driving initiatives forward. While our role is not to direct particular changes in this area (for example through the provision of funding), it is helpful to understand more about the drivers of change, how competition and innovation may relate to each other, and the role of industry arrangements and practices in facilitating change.

C.4. Changes in rail ticketing could be driven by TOCs, third parties, technology providers, or government.

Areas where changes in ticketing can occur

C.5. There are a number of areas of ticket retailing where changes could occur, which are outlined below. Although touching on the first two areas briefly, this Annex mainly looks at the third area, namely ticket sales and fulfilment methods, which is a priority area for government.

Discounts and loyalty schemes

C.6. These consist of initiatives such as railcards which offer discounts to passengers based on various criteria, such as age or employment status. Discount schemes have existed for a number of years and new ones are still being developed (e.g. the new Two Together railcard (see Case Study 2)).

C.7. Furthermore, certain retailers have also introduced broader loyalty schemes providing customers with various benefits in return for their purchases, such as discounts on future purchases or discounts with other retailers. Examples of such schemes are the redspottedhanky.com loyalty scheme or East Coast Rewards, to name a few.

After sales services

C.8. This can cover a wide range of measures such as administration of complaints and refunds, targeted advertising, and other changes to the after-sales process which help build relationships with customers and ultimately grow revenue.

Ticket sales and ticket delivery or fulfilment methods

C.9. A priority area for both government and passengers appears to be the development of new products and new product delivery methods. The rest of this section focuses specifically on changes in ticket sales and ticket delivery methods, which are two of the areas where most benefits could potentially be secured for passengers and which previous research by Passenger Focus[98] has found there is scope for improving the customer experience.

C.10. The majority of tickets used today are still the paper credit card sized tickets inherited at the privatisation of the railway.

C.11. More recently, the pace of change has quickened with funding for smart ticketing in the South East being provided by the DfT through its SEFT programme (see Case Study 6)[99].

C.12. In the area of ticket sales, various initiatives have been seen, such as the move to more internet-based retailing, which has seen significant growth in market share over recent years (see Chapter 2). Other initiatives which have been seen are CrossCountry's retailing of Advance tickets up to 10 minutes prior to the time of departure, or Trainline's advance ticket alert.

C.13. Changes have also been seen in the area of ticket delivery methods. Print-at-home tickets or tickets delivered via mobile phone are only two changes which have brought the rail retail market more in line with other retail markets in terms of the flexibility afforded to customers. Technology has, in part, been driving innovation in this area, with technology developers often being active partners in new schemes.

C.14. Overall, from our high-level research, it appears that some change is occurring in ticket retailing methods and ticket delivery methods. There seems to be less change occurring in terms of the range of products sold and development of new products, although this is now starting to happen with the CrossCountry advance purchase on

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[98] Passenger Focus, 2003, *Smart ticketing – what rail passengers want*. See here.

[99] Arguably, a success story in smart ticketing has also been the TfL Oyster card which has been driving usage of public transport in London through an improved customer experience. However, the Oyster smartcard does not conform to the DfT's preferred smartcard strategy which has resulted in the need for a bridging mechanism which is being delivered through 'ITSO on Prestige' (IoP) scheme that would allow ITSO smartcards to be used on the TfL estate, a crucial issue from a passenger perspective.

the day initiative. To better understand the process of introducing change in rail retailing, see Case Study 5 on CrossCountry’s introduction of its 10 minutes Advance tickets.

C.15. In terms of the sources of innovation, and as can be seen from the timeline included in Chapter 2, both TOCs and third party retailers alike have proposed and introduced such initiatives.

Annex D: Further information on the cost of retailing through different sales channels

D.1. As outlined in Chapter 3, TOCs have estimated that the cost of sale differs depending on the sales channel through which the fare is sold. This conclusion is based on analysis by LEK Consulting (commissioned by ATOC), which quantified the cost of sale for station ticket offices and TVMs using TOC confidential financial information. Analysis by ATOC was separately used to quantify the cost of online sales, using TOCs confidential costs. This Annex outlines further detail about how these indicative costs of sale were estimated. Both direct costs, such as staff and ticket stock, and indirect costs of sale, such as TIS maintenance and management overheads are included.

D.2. The different sales channels posed a variety of issues for LEK and ATOC when calculating the costs for each of them. By sales channel, the assumptions made are:

(a) *Ticket office*

Direct costs included were the cost of ticket office staff, ticket stock and credit card commission, whereas indirect costs include TIS maintenance, cash handling and management overheads. The financial information LEK received meant they were able to quantify costs by the size of the station (using the standard Network Rail classification of stations) and then weight the results for each station type using LENNON data. There is significant cost variation between different station sizes. LEK also looked at the opportunity cost associated with station ticket office retailing, which reflects the commercial value the ticket office space might otherwise produce. Data was limited but it seems clear that opportunity costs are potentially material.

(b) *TVMs*

Direct costs included were the cost of ticket office staff, ticket stock and credit card commission, whereas indirect costs included TIS maintenance, cash handling and management overheads. There is significant variation between TOCS on TVM costs, depending on the average transaction values – long distance TOCs have a lower cost of sale through TVMs due to higher value transactions and higher transaction volumes.

(c) *Internet retailing*

The analysis of internet sales costs included costs for the TIS, ticket fulfilment, RSP charges, web marketing, and payment card processing. There are difficulties in calculating average cost of internet sales because of three key issues. Firstly, how a TIS has been procured has a large impact on the cost of sale for internet retailing – i.e. whether the TOC buys a TIS or uses a white label third party site, leading to significant variation in the cost breakdown available, and so some TOCs may have a much lower cost of sale via the internet. Additionally, there is significant variation in how TOCs use web marketing, with some doing very little direct communication, and others having significant budgets for marketing staff and advertising. Finally, ticket sale revenue can be calculated using all sales (both TOC ‘own’ and inter-TOC) or, TOC ‘own sales’ plus commission on the sale of products for other TOCs. ATOC analysed the cost of sale using both approaches, and then took the weighted average as the estimated cost of sale.

ATOC acknowledge that third party retailers are likely to have a higher cost of online sale than TOCs online sales cost, particularly if third party retailers marketing costs are included.

Annex E: Further information on commission rates for third party selling

E.1. Current commission rates are set out in Table 6. ATOC segment the commission rates depending in which market the retailer is operating. Therefore, the rates are different for TMC retailers, on train and station sales, internet retailers, telesales retailers and international retailers.

Table 6: Current rail industry commission rates

Market	Channel / Threshold	Third Party Sales	Inter-TOC Sales	Notes
Public internet	Non-Season Ticket sales Season Ticket sales	5.0% Not allowed under third party licences	5.0% 0.0%	• Third party retailers may charge additional fees as allowed within law • Third party retailers may enter into additional bilateral remuneration arrangements with TOCs • TSA prohibits charging of fees by TOCs
Public telesales	All sales	9.0%	9.0%	• Third party retailers may charge additional fees as allowed within law • Third party retailers may enter into additional bilateral remuneration arrangements with TOCs • TSA prohibits charging of fees by TOCs

TMC/TA and TOC BTS sales	All sales	3.0%	3.0% or 6.0%	• TA/TMCs may charge additional fees • TA/TMCs may enter into additional bilateral remuneration arrangements with TOCs • TOCs receive 3% if additional fees are charged or 6% if fees restricted to annual Warrant Account fee
Business Account Facility (Public internet sites)	Sales up to £50k Sales over £50k	5.0% 3.0%	N/A	• Once £50k threshold per account is exceeded in any RSP year, all future sales in all future years will be subject to TMC rates
Station and On-train sales	Ticket Offices, Ticket Vending Machines and On-Train	Non-Season Tickets Season Tickets	9.0% 2.0%	• Season Ticket rate applies to tickets with weekly or longer durations • TSA prohibits charging of fees by TOCs and restricts ability to change ticket office opening hours or to close ticket offices
International sales (from 1 Oct 2014)	BritRail Passes Domestic point to point fares	9.0% 8.0%	N/A	• Non-UK originating sales through third party retailers holding a dedicated International Sales Licence • Commission on point to point fares was 9% between 1 April 2010 and 1 April 2012

Ticket-on-Departure fulfilment fees (per transaction)	TVM Issue Booking Office Issue	£0.40 £0.90	£0.40 £0.90	• Ticket-on-Departure fulfilment fees are payable by all participants (TOCs, Third Party Retailers and TA/TMCs)

Source: ATOC

History of commission rates

E.2. A number of the commission rates were "inherited" by the rail industry at privatisation. Ticket offices, TVMs, telesales and Travel Agents all received nine per cent commission for non-season tickets and 2 per cent commission for season tickets (though Travel Agents were not permitted to sell season tickets). This rate of nine per cent has existed since at least the 1980s, though the exact rationale behind it is not clear, it may have reflected wider travel industry commission rates. British Rail attempted to reduce the commission rate for travel agents during the late 1980s but was not able to achieve this.

E.3. Commission rates have mostly decreased over the past 10 years:

(a) In the internet market the rate of nine per cent was initially felt reasonable by ATOC to cover the high cost of developing a TIS, but this has since been reduced to five per cent. Commission for internet sales above £200 million was reduced to 4.5% in 2008; however this was increased to five per cent in 2010. There was also a temporary commission rate of seven per cent for new internet retailers; however this was withdrawn due to complaints by existing retailers. The internet inter-TOC rate was aligned with the public internet rate from April 2012.

(b) For TMCs, two levels of commission rates came into force from May 2004, with those TMCs continuing to use ATOC-procured TISs earning seven per cent commission while those procuring TIS provision directly with the supplier earning nine per cent. From January 2008 all TIS provision was supplied directly to the TMC from the TIS manufacturers and commission was reduced to five per cent. July 2010 saw further changes, with the rate being four per cent where the TMC provided protection against settlement default through bonding and three per cent where this cover was not provided. From April 2011 all TMC commission rates were reduced to three per cent with a requirement for all outlets to provide protection against settlement default either through a bond or as a participant in the TARIF scheme.

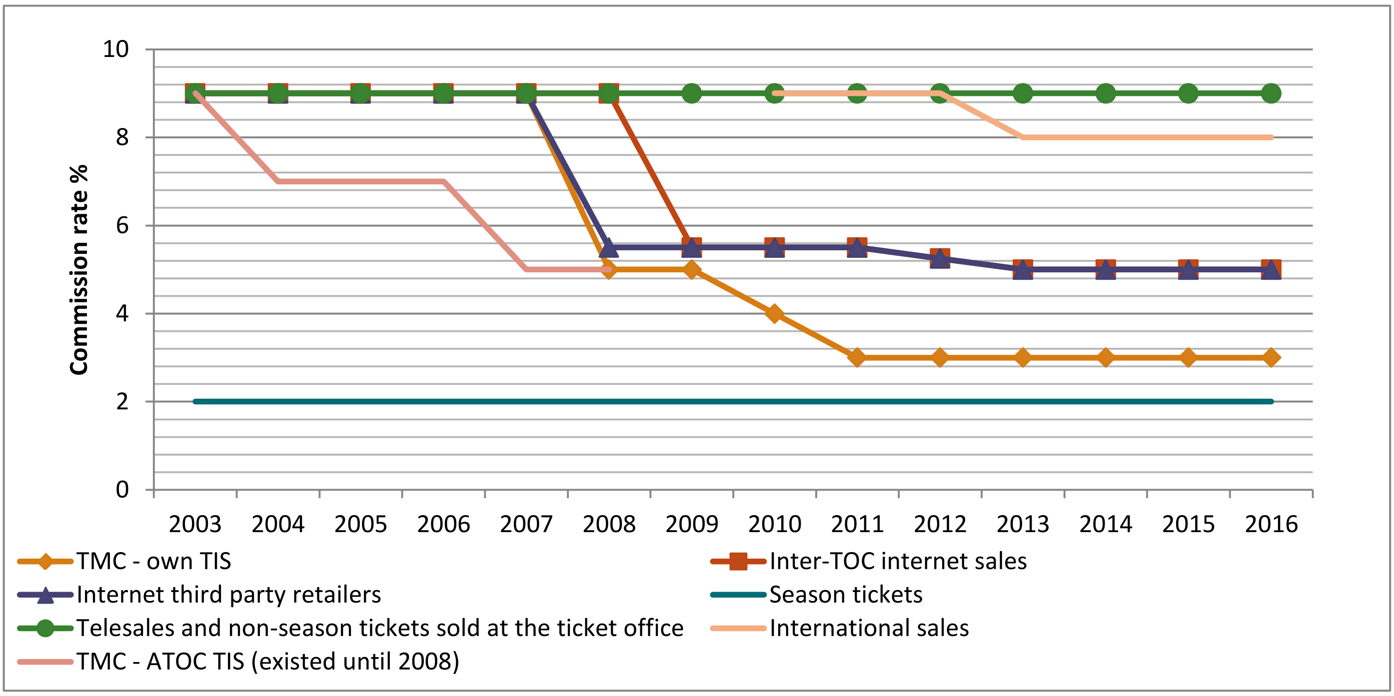
(c) Telephone sales and on-train sales remain at nine per cent commission. Season ticket sales remain at two per cent, to reflect the higher value of those tickets.

(d) Commissions for international sales are also different. From 1 April 2010 the commission rate was nine per cent and this was reduced to eight per cent from

1 April 2012. BritRail passes will be included in the International Sales Licence from 1 October 2014 at a commission of nine per cent, reducing to eight per cent from 1 April 2017 until 31 March 2019. ATOC describes these rates as reflecting the higher cost of sale for international retailing.

(e) TOCs may run a Business Travel Service (BTS), which is similar to a TMC operation. If a TOC has a BTS arm, which retails tickets for other TOCs, the retailing TOC receives 6 per cent commission if service fees are not charged or if fees do not exceed the annual warrant account fees and 3 per cent if fees are charged. ATOC have committed to removing the 6 per cent rate in 2014, to eliminate any ambiguity in the current arrangements.

Figure 8: Historical commission rates[100]



Source: ATOC

Changes to commission rates

E.4. Commission rates are decided in two ways. Inter-TOC commission rates are agreed through the Ticket and Settlement Scheme Council (TSSC), and changes require approval from DfT. Third party rates are agreed through the Retail Agents Scheme Council (RASC), which is now part of ATOC's Commercial Board. ATOC explains their approach to commission setting as being mindful of both the business interests of the TOCs (reducing cost of retailing) and the need to ensure rates are equitable. The main factors ATOC considers are:

[100] If a TMC was not bonded in 2010, they received 3 per cent commission. All TMCs were required to provide protection against settlement default, either through a bond or, from 2011, through participation in the TARIF scheme

(a) the cost of sale through different channels;

(b) the average transaction value to which the commission rate are applied;

(c) general benchmark rates that apply in the wider travel sector;

(d) the ability of retailers to earn other remuneration through fees and ancillary income; and

(e) the extent to which third party retailers are adding value, in particular supporting growth and market expansion.

Future commission rates

E.5. ATOC's future strategy for commission rates is to provide commission rates on a three-year rolling basis, with the intention of providing more certainty to retailers. ATOC also intend to treat new third party internet and TMC retailer applicants positively, but not to proactively seek new entrants. With regard to TMC expansion, ATOC predict there is limited potential as the majority of TMCs are already licenced. See Table 7.

Table 7: ATOC's intended future commission rates 2015-2019

Market	Channel /Threshold	Third Party Sales	Inter-TOC Sales
Public internet	Non-Season Ticket sales Season Ticket sales	5.0% 2.0%[101]	5.0% 2.0%
Public telesales	All sales	9.0%	9.0%
TMC/TA and TOC BTS sales	All sales	3.0%	3.0%
Business Account Facility (Public internet sites)	Sales up to £50k Sales over £50k	5.0% 3.0%	N/A
Station and On-train sales	Ticket Offices, Ticket Vending Machines and On-Train	Non-Season Tickets Season Tickets	9.0% 2.0%

[101] This is provisional rate that may change subject to the outcome of the trial for third party retailers selling season tickets. If the trial is successful, ATOC intend for TOCs and third party retailers to receive the same commission for season ticket retailing.

International sales (from 1 Oct 2014)	BritRail Passes Domestic point to point fares	9.0% until 31 March 2017, then 8% until 31 March 2019 8.0%	N/A
Ticket-on-Departure fulfilment fees (per transaction)	TVM Issue Booking Office issue	£0.40 £0.90	£0.40 £0.90

Source: ATOC

Annex F: Further information on licensing of third party retailers

The history of retailing third party retailing

F.1. Retailing of rail tickets has significantly increased since privatisation. However, there are still systems and processes in place that are legacies of nationalised retailing which may be having a significant impact today.

F.2. When British Rail was privatised, the only third party retailer licence that existed was the 'Travel Agents Licence' (TAL) which licenced Travel Agents, generally on the high street, used to sell train tickets for leisure purposes. ATOC data shows that, around this time, sales at the train station and on the train made up the vast majority of ticket sales. This licence was a relatively light-touch regulatory instrument, the key features being commission of nine per cent and a one-month termination period. ATOC estimates there were approximately 500 TAL holders at privatisation.

F.3. With the advent of call centres and the internet, the face of retailing changed and many passengers moved away from physical Travel Agents to the new sales channels and the number of TAL holders declined significantly to 217 agents in 2007. While many agents ceased trading, some moved into providing new services to the corporate market, and so many of the Travel Agents became Travel Management Companies (TMCs).

F.4. As privatisation of rail progressed, ATOC made some changes to third party retailing:

(a) to reduce the cost of the third party retailing channel, ATOC withdrew the provision of TIS from TMCs, who were given three years to move from using ATOC's TIS to their own. In response, one TMC developed the Evolvi system;

(b) commission was lowered for those third party retailers who continued to use ATOC's TIS; and

(c) new licences were introduced, most importantly licences to allow the operation of large internet retailers.

Types of licences today

F.5. Today, ATOC administers five specific types of licences under the Retail Agents Scheme within the TSA. While much of the TSA requires DfT approval if changes are made, certain sections are exempt from this requirement and can be altered if the correct voting majority is reached among TOCs. One such exempt section is Schedule 27, which contains the ticketing agent licences and arrangements. The licence types are:

(a) Travel Agent's Licence (TAL) – used chiefly by TMCs, this licence has no fixed term, can be terminated without cause at two months' notice, and commission changes at six months' notice. Twenty per cent or two members of staff (whichever is greater) must hold the CORAC qualification (a rail retailing qualification), which is also administered by ATOC. This licence is relatively light touch in terms of few other obligations, including no obligation to act impartially. There are currently 231 TAL holders;

(b) Third Party Investor Licence (TPIL) – used by retailers who are looking to make a substantial long term investment in retailing, with a particular focus on internet selling. TPIL holders have a fixed term, currently until 2018, are required to act impartially and make significant investment in technology and advertising per annum (until recently set at £1 million minimum). A TPIL holder typically operates on an interim licence for a year before becoming a full TPIL holder. There are currently three TPIL holders (thetrainline.com, redspottedhanky.com, and raileasy.com), and two more interim licence holders;

(c) Inclusive Tour Licence (ITX) – licence available for tour operators who use rail as key component in holiday packages. Licence runs for 12 months, in sync with typical period of tour programmes. Holders are required to produce a minimum number of brochures each year and holders can access special 'net fares' which do not pay commission;

(d) International Sales Licence (ISL) – fixed long term licences to permit sales outside the UK only. There are currently three ISL holders, and there will be five from 1 October 2014; and

(e) 'Approved Third Party' Licences (ATP) – a small number of licence holders are providers of other transport. These are TOC specific and sponsored arrangements that are legacy arrangements and are no longer issued.

F.6. The Retail Agents Scheme has formally delegated its powers to the ATOC Commercial Board, who now manage the approach to third party retailing.

Annex G: Further information on industry data

G.1. Availability and access to data can be a significant barrier to entry into a market such as the rail ticket retailing market. This is because in order to sell train tickets for the integrated, national network, and provide effective information to passengers, retailers need to have access to data on the whole range of fares available, on timetables and routes.

G.2. This Annex outlines the types of data feeds available to ticket retailers, and the conditions under which retailers can access them. The data feeds included are:

(a) fares data;

(b) timetable data;

(c) routing data;

(d) real time train information (RTTI); and

(e) Network Rail data feeds.

G.3. To the extent that this data is necessary for new parties to enter and operate in the retail market, it is important to understand whether it is freely and impartially available to all parties who might need it.

Fares, timetable data and routing data

G.4. The Rail Settlement Plan (RSP) is authorised to make fares, timetable and routing data available under licence to third parties on behalf of the train companies with the objectives of promoting rail travel and encouraging the wider distribution of accurate and consistent rail travel information on an impartial basis.

G.5. Fares data consists of fares information relating to permanent fares offered by TOCs. This data will typically include general fares information such as price, validity, class of travel and restriction information. TOCs can create new products or fares, but new products that TOCs wish to sell must be created in accordance with the TSA. TOCs may also wish to make their fares available to others for sale, in which case this information is provided by TOCs to RSP.

G.6. The timetable data supplied as part of the RSP timetable data feed is sourced from Network Rail in a Common Interface Format (CIF) and is filtered to exclude non-passenger train services. The timetable data is updated on a weekly basis. It contains all national rail passenger train services, associated shipping and bus links, as well as reference data to support timetable enquiry systems. It does not include real time train information.

G.7. Routing data is created by RSP from the information used to specify route validity for certain fares and prescribed passenger journey route options.

G.8. Parties wishing to receive regular feeds of RSP data (fares, timetable and/or routeing) are required to pay a licence fee and sign an RSP data licence. The RSP licence fees for 2014/15 are outlined in Table 8.

G.9. Parties may choose to source RSP data directly from RSP, in which case they will also be required to pay an RSP datafeeds charge to RSP, or can source the data from an approved supplier, in which case they would have to negotiate a fee with that approved supplier. However, in either case they are required to pay for and sign an RSP data licence.

G.10. The RSP Datafeeds Charge is determined by the type of data and frequency with which the Licensee receives the core RSP Licensed Data (train timetable data, fares data and routing guide data). The current RSP Datafeeds Charges by type and frequency are shown in Table 9.

Real time train information (RTTI)

G.11. Passengers want to see access to information and technological advancement in the railways in line with what they are enjoying in other retail markets.

G.12. Software developers can make an important contribution to the passenger experience by bringing to market new products or services which meet this increasingly sophisticated demand. The emergence of mobile real time train information (RTTI) applications, for example, has, with the support of the industry, been enabled by third party developer expertise and know-how.

G.13. NRE grants access to RTTI data by way of a licensing regime. The RTTI data is the subject of another ORR work stream at the moment, and is therefore not discussed further here.

Network Rail data feeds

G.14. Network Rail also provides access to a number of data feeds. The feeds available are:

(a) *SCHEDULE* - daily extracts and updates of train schedules from the Integrated Train Planning System, in CIF and JSON formats

(b) *MOVEMENT* - train positioning and movement event data

(c) *TD* - train positioning data at signalling berth level

(d) *TSR(Temporary Speed Restrictions)*– details of temporary reductions in permissible speed across the rail network

(e) *VSTP(Very Short Term Plan)*– train schedules created via the VSTP process which are not available via the SCHEDULE feed

(f) *RTPPM(Real-Time Public Performance Measure)* - performance of trains against the timetable, measured as the percentage of trains arriving at their destination on-time

(g) *SMART* - train describer berth offset data used for train reporting

(h) *Corpus* - location reference data

(i) *BPLAN* - train planning data, including locations and sectional running times

G.15. To use these feeds, users need to create an account with Network Rail. Anyone can do so, but there is a limit of 500 registered users, which will be increased if there is sufficient demand.

G.16. Access is provided under special terms and conditions, which you must agree to as a condition of your use of the data feeds. These terms and conditions may be amended from time to time.

Central industry retailing and settlement costs

G.17. The consolidated costs shown under 'Systems & Services' in the two tables below covers the provision of the following:

(a) Fares Service - allows TOCs to create and store industry fares in a central database (120 million fares).

(b) Timetable and Information Service - takes the base timetable from Network Rail and supplements it with bus & ferry data and associated reference data.

(c) National Reservation Service - allows TOCs to create reservable trains in a central database so availability can be checked and seats can be booked. (350,000 reservable services).

(d) LENNON Service - accepts sales data from TIS and turns those sales into apportioned earnings and commission.

(e) Live Sales Management Service (including Ticket on Departure) - database used by retailers to store Ticket-on-Departure sales until they are collected by the customer using the collection code which is also provided by this system.

(f) Settlement Service - takes output from LENNON and turns it into net settlements for all TOCs and third parties.

(g) Ticketing Contract Management - provides the industry with a central contract for purchasing all ticket stock.

(h) Data Licence and Feeds – reflects the cost of data provision to parties, including the cost of the data licence, the feed of central fares, timetable and routing data and the cost of accessing central industry ticket issuing system test services.

G.18. These tables show, as would be expected given the industry's retailing activity, that TOCs are responsible for the majority of costs. They also show that costs of retailing in the industry are expected to be lower in the next financial year.

Table 8: ATOC/RSP costs for 2013/14

ATOC/RSP Costs	Costs for 2013/14	Third Party Benefit	TOC Share of Costs	TPIL & ISL Contribution	TMC & ITX Contribution	Total Third Party Contribution
Systems & Services	£23.0m	Yes	80.0%[102]	£3.92m	£0.70m	£4.62m
Staff, Overhead & Ancillary Costs	£3.9m	Yes	100%	£0.00m	£0.00m	£0.00m
Indirect Contributions from Third Parties				£0.62m	£1.85m	£2.47m
Total	£26.9m	-	£19.81m	£4.54m	£2.55m	£7.09m
Percentage of total cost	100%	-	**73.64%**	16.9%	9.5%	**26.4%**

Source: ATOC

Table 9: ATOC/RSP costs for 2014/15 (anticipated)

ATOC/RSP Costs	Costs for 2014/15	Third Party Benefit	TOC Share of Costs	TPIL & ISL Contribution	TMC & ITX Contribution	Total Third Party Contribution
Systems & Services	£21.9m	Yes	83.7%[103]	£3.21m	£0.36m	£3.57m
Staff, Overhead & Ancillary Costs	£3.5m	Yes	100%	£0.00m	£0.00m	£0.00m
Indirect Contributions from Third Parties				£0.85m	£1.65m	£2.50m

[102] This percentage does not include Ticket-on-Departure costs passed to TOCs by Third Party Retailers who provide them with ‘white label’ websites

[103] This percentage does not include Ticket-on-Departure costs passed to TOCs by Third Party Retailers who provide them with ‘white label’ websites

ATOC/RSP Costs	Costs for 2014/15	Third Party Benefit	TOC Share of Costs	TPIL & ISL Contribution	TMC & ITX Contribution	Total Third Party Contribution
Total	£25.4m	-	£19.33m	£4.06m	£2.01m	£6.07m
Percentage of total cost	100%	-	**76.1%**	16.0%	7.9%	**23.9%**

Source: ATOC

Annex H: Further information on revenue allocation

H.1. Where a TOC sell an inter-available or through ticket or where any retailer sells a fare on behalf of a TOC, the revenue earned from the fare will need to be allocated amongst others.

H.2. For inter-available fares, the revenue received from all customers on that flow is allocated amongst the different operators on that flow to reflect the likely proportion of customers each TOC carried; and

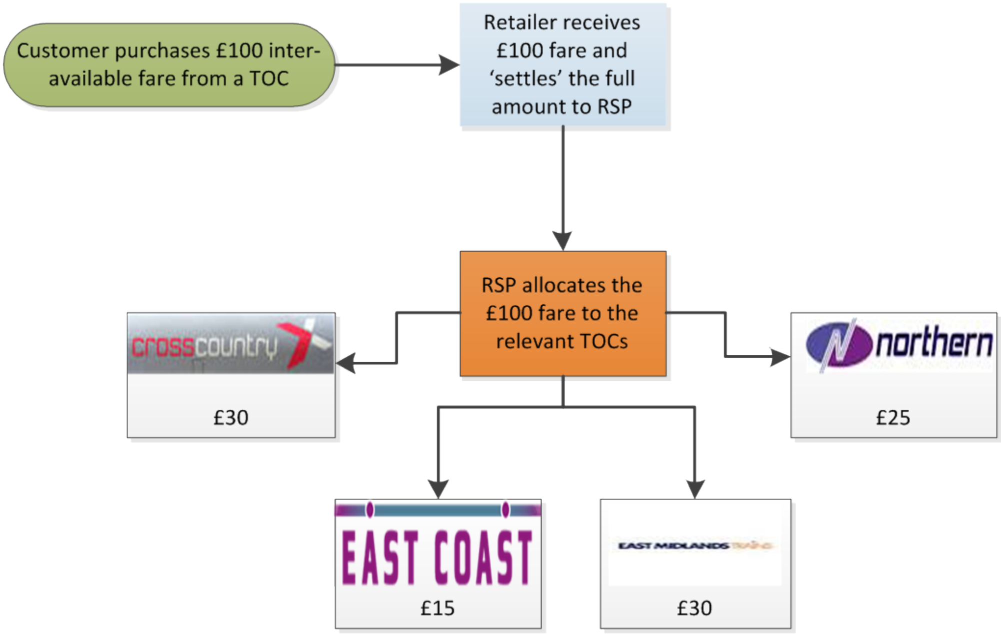
H.3. To illustrate revenue allocation for inter-available or through tickets, here is an example. When a customer buys a ticket to travel from Leicester to Leeds, that customer may travel on various combinations of East Midlands Trains, East Coast, Cross Country Trains, and Northern, and may interchange at Doncaster, Sheffield, Derby, or Nottingham. LENNON captures the sale of the ticket, but unless the ticket has stringent route restrictions, the route actually taken by the customer is not recorded.

H.4. The route taken by any particular customer may never be known, but some route options are more attractive than others. The customer is more likely to choose a faster, more frequent service than a slower, less frequent one. This likelihood can be translated into the proportions of customers choosing each route option, on a particular flow (with a 'flow' representing all journeys from a given origin station to a given destination station, irrespective of the route taken). The revenue received from all customers on that flow should be split between different operators to reflect the proportion of customers which each operator carried.

H.5. The ORCATS system was developed to model the choices made by customers, and to allow revenue to be split between operators. It applies passenger choice modelling to the train timetable, to determine the relative attractiveness of different route alternatives. It then weights the results by journey mileage. For any given timetable, ORCATS works out the possible routes between each origin and destination, and calculates the percentage of the passengers that are expected to choose each route based on the services in that timetable. The output from ORCATS is the Central Allocations File. This lists the proportion of journeys on each flow (or origin-destination pair) estimated to be made by each route alternative. For journeys involving interchanges, each leg of the journey is listed. By combining this information with the LENNON data, which contains actual ticket sales figures for all flows, the number of interchanges occurring at individual stations is estimated.

H.6. Changes to the ORCATS model is a matter for the DfT. Typically, revenue allocation amongst TOCs is confidential. Figure 9 provides an illustrative and hypothetical example of how revenue is allocated among TOCs (and a retailer).

Figure 9: Hypothetical example of revenue allocation among TOCs for journey from Leicester to Leeds using inter-available and through ticket fare[104]



Source: ORR

[104] Note that the revenue allocation is hypothetical and does not represent actual revenue allocation under ORCATS.

Annex I: Glossary

Terms and abbreviations	Definition
ATOC	The Association of Train Operating Companies is made-up of passenger (and freight) TOC representatives. It acts as a trade association in promoting and protecting the interests of its TOC members and in sharing best-practice among TOCs. It also manages much of the industry processes and IT systems that facilitate TOCs working together.
Impartial retailing	Retailers are not able to discriminate in favour of their own services or preferred services.
Inter-available ticket	A ticket that enables passengers to benefit from the flexibility of being able to use different operators, flows and terminals, depending on their preferences at the time of their journey.
NR	Network Rail run, maintain and develop Britain's rail tracks, signaling, bridges, tunnels, level crossings, viaducts, and 19 stations.
NRE	National Rail Enquiries
OAO	Open Access Operators runs train services on a commercial basis without a franchise agreement.
	Office of Rail Regulation
PIF	A Product Initiation Form is a form which all TOCs must complete to explain the terms and conditions of its new product.
Rail franchise agreement	An agreement between government and a train operating company to allow it to run service within a specified region for an agreed period of time. Franchises must meet agreed service standards, but in return collect revenue from passengers.
RDG	The Rail Delivery Group is made-up of representatives from Network Rail, passenger and freight operators. It coordinates and leads on cross-industry initiatives and works with government and other stakeholders in developing and influencing industry policy.
Rover, Ranger Ticket	These flexible tickets allow passengers to travel around a specific area of a given network, for example the South West, for a day or longer.

RSP	The Rail Settlement Plan has responsibility for overseeing the process for creating new products, allocating revenue among TOCs and retailers and managing the particular systems and associated data used to facilitate retailing. It is also responsible for accrediting retailers' ticket issuing systems (TIS), auditing retailers (in line with the TSA and central system standards) and in administering the TSA.
RTTI	Real Time Train Information
SEFT	South East Flexible Ticketing is a government funded scheme to introduce smartcards for rail commuters in the South-East of England
Single Leg pricing	Offering the price of a single leg of a journey, single leg pricing could allow tickets to be sold on a single-leg basis and allow passengers to more easily "mix and match" each ticket type when planning a journey.
Split Ticketing	Split ticketing is the practice of buying two or more separate tickets for a journey, i.e. for the purposes of ticketing, splitting up a longer journey into a series of shorter journeys.
TARIF	Travel Agents Reserve Insurance Fund allows all TMCs and Travel Agents to contribute financially to this fund, as a security measure, in the event that they suffer a financial failure.
TfL	Transport for London
Third party retailer	A third party retailer sells train tickets to passengers and businesses without running the train services themselves.
Through Ticket	A through ticket fare enables passengers to travel across the network, buying and using only one ticket to do so.
TIS	Ticket Issuing System
TMC	Travel Management Company
TSA	The Travel Settlement Agreement is a complex and lengthy intra-industry agreement that sets out much of the obligations, rules and processes for retailing. It covers, for example, how fares should be created and how retailers must sell fares.
TVM	Ticket Vending Machines, machines located at rail stations offering a (limited) range of tickets and allowing pre-paid tickets to be collected by passengers.
Virtual ticket office machines	These have not yet become operational but the system would allow operators to locate ticketing staff in one place, interacting with customers through machines in the stations.
White label retail website	A white label retailing website is one which sells train tickets using an existing ticket issuing system.