

## **Railway market opening across Europe:**

### Striking the right balance between national and European regulatory bodies

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#### **Supporting market opening**

I'd like to thank the European Rail Congress for inviting me to speak at the Summit today, and at an important time with significant reform underway in the European legal framework for rail. I'm going to say a few things about market opening, its benefits and challenges, and connected issues in cross-acceptance and interoperability, from a regulatory perspective. It was good to hear Marcel Verslype speaking about the very practical steps the European Rail Agency is brokering towards harmonisation.

Let me start by saying that ORR – the joint economic and safety regulator for UK's railways – fully supports the objectives of the Commission's market opening programme. We want to see a single market which will improve competitiveness.

We share the Commission's goal of a more competitive rail industry throughout Europe, and, for passenger services, we want rail to be an attractive alternative to short haul flights, and to shift freight from road to rail where it is efficient to do so. This is important both to promote greater consumer choice and to reduce the environmental impact of growing transport demand across Europe, particularly allowing a reduction in the carbon-intensity of both passenger and freight transport .

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For this to happen, the rail industry and its funders must make sure that what it delivers firmly reflects what its customers want.

We need to remember that market opening is a means to an end, not an end in itself. Rail needs to meet the rising expectations of passengers, the needs of its freight customers, and it needs to underpin this by offering great value for money to users and funders. If it can achieve this consumer responsiveness – and we believe that market opening is a critical step towards this – then rising demand and modal shift will follow.

It will also give greater confidence to governments looking to support socially-desirable outputs from rail – including improved connectivity in both goods and labour markets; better social connectivity; and better environmental performance from transport overall.

Our own strategic objectives support this.

*We have committed to supporting sustainable economic growth by promoting innovation and long term investment across the rail industry while ensuring that safety is not compromised.*

I want to reiterate the message that the Secretary of State, Patrick McLoughlin set out yesterday – that the British model shows that market opening works well and there are gains through more competition in the sector.

- In a highly competitive market, within rail and with other modes- notwithstanding the years of recession - freight is growing – 18 per cent up on 2000-01.
- There are more passengers on the network –up 45 per cent in the last decade and passenger revenues are up 53 per cent.
- On a more congested network, passenger satisfaction is close to record levels.
- Although we can never be complacent, the UK industry is among the safest in Europe

The industry is structured so as to encourage the development of competitive markets where possible. Though Network Rail, the Britain's principal infrastructure manager, has no direct competitors, passenger operators face competition through the franchise process and we encourage open access entrants to the market – where it is in the interests of customers and taxpayers.

There is also significant competition in the globalised supply chain, both for infrastructure components and trains; and there is also competition in retail to passengers and in freight services. There's potential in this model to see private businesses shaping solutions and taking commercial decisions.

But too often, in the UK and across the rest of Europe, decision making is bureaucratic rather than commercially focussed on the needs of consumers; and this added to the complexity of rail finances, makes it all the more important that we secure market structures and common approaches which focus the industry better on the needs of consumers and on better value for money.

The conditions for market opening are a critical part of this structure. How we deliver interoperability and common safety and technical standards is crucial to market opening, in the UK and across Europe.

## **Specific challenges for the UK**

The UK faces specific challenges in market opening, because its rail market and geography is different from most other Member States

- We have a different, more constrained loading gauge – part of the legacy of being the first country to roll out rail technology on a large scale in the early 19<sup>th</sup> century;
- and of course we are an island, with a single 'interconnector' to the rest of the European network - the geography makes international rail traffic that bit tougher in the UK.

Notwithstanding these additional complexities, as the regulator, we want to achieve the benefits of better connectivity and of being part of bigger markets. The UK has a good record of complying with EU law designed to achieve greater harmonisation in regulation and standards across Europe, removing unnecessary existing national

legislation where possible. We do this to ensure that there are opportunities for new entrants and to open up markets.

We want to raise the level of competition in rail markets. We welcome rail expertise and investment in our railways from outside the UK, just as we want to see more opportunities for UK-based rail businesses across Europe. As in other sectors, trade brings with it more scope for learning, for innovation, for efficiency and benefits for consumers.

## **Benefits of broader market opening**

There are domestic benefits and broader benefits of market opening.

In the UK we already have full separation between the infrastructure manager and train operators. We support the EU Commission's position on this.

The UK model shows that this separation of infrastructure and train operation - supported by a strong independent and adequately -resourced regulator – can work well. It has helped to create more opportunities for competition and market entry, through open access and through franchising. We have seen competition for franchises improve the performance and efficiency of train services, coping in particular with the very large sustained growth in passenger demand we have seen in the last decade.

Alongside competition *for* the market, as a regulator we are keen to see more competition *in* the market. The tendering of public service obligation contracts, or franchises, should not exclude the possibility of open access services. Evidence in the UK – particularly on long-distance services - shows that such competition can bring improvements in customer satisfaction, ticket prices and performance. Emerging evidence from open access operation elsewhere in Europe tells a similar story. It is one of the regulator's tasks to assess the impact that such operations have on the value and viability of franchises, and balance this against the benefits to customers.

In conjunction with this, effective economic regulation of the infrastructure has reduced the day-to-day cost of the railway by 40 per cent in the last decade. Our periodic review for the next 5 years will put Network Rail – already performing well in

major project delivery - at the European efficiency frontier, for main operation, maintenance and renewals, notwithstanding the fact that the peculiarities of the British network make this a harder task.

We'd be the first to acknowledge that we have more to do to keep service standards rising and to improve affordability. But this combination of greater competition in service provision and the supply chain, with effective regulation of the monopoly infrastructure provider, is helping to secure better services which are more affordable for freight customers, passengers and taxpayers.

## **Connectivity across Europe**

We will continue to build on the work we've done to improve connectivity with the rest of Europe.

We have worked hard with Eurotunnel and operators to remove unnecessary technical rules for the Channel Tunnel, to improve movement of freight services, and to allow companies such as Deutsche Bahn to deliver proposed new passenger services from Amsterdam and Frankfurt to London. This is enormously important in strategic terms for the UK, as part of the development of and connection into trans-European corridors. As regulator, in both passengers and freight, we see scope for making better use of the available capacity, for making rail more attractive in relation to other modes, and for improving rail's contribution to economic growth.

Our work on cross acceptance with France and the Channel Tunnel should help simplify the acceptance process for new trains. However, Eurotunnel's figures show that on this key European corridor, only half of the available passenger capacity is currently being used.

We now have several freight operators running trains from right across Europe to and from the UK. But, on average this is only about six freight trains per day. Eurotunnel has said that only about 10 per cent of capacity for freight services is being used.

## **Strategic corridors for freight and passengers**

The UK is committed to joining the freight corridor network and there's been good progress on creating a route from Belgium, through France and the Channel Tunnel and on to London. There's still work to do to agree the final route with the Commission.

In doing this we in the UK, together with our friends and nearest neighbours, should learn the positive lessons emerging from the Rotterdam – Genoa corridor 1/A - in terms of authorities working together; developing efficient processes; and simultaneous authorisation, harmonisation and cross-acceptance of rules.

## **Standardisation across the supply chain**

There are real benefits to be had from standardisation and more intense competition across the supply chain as technical barriers are reduced. Britain has a good track record on interoperability, but there is still more to do. That is why we are working with Network Rail and HS1 as infrastructure managers, and with government to develop a new strategy for implementing interoperability for the next five years.

We have made good progress on interoperability in rolling stock. If we can get the system working well we can develop a bigger market for products, with approvals of applications to run new types of trains provided either by the ERA or the national safety regulator.

We've been able to help by making the authorisation process transparent, faster and more efficient. We don't require further authorisation where it has already been given in another Member State. This helps rolling stock owners and train operators to keep costs down – avoiding the high cost of UK 'add-on's' previously thought to add around 30 per cent to costs. An audit by the European Railway Agency found that our procedures for interoperability authorisations are among the best practice across Europe.

On the infrastructure supply chain, too, harmonisation of standards and technical specifications can reduce the fragmentation of supply markets along national and regional lines, improving competition and reducing the costs associated with bespoke technologies.

The rules of course need to be sufficiently open and flexible to allow innovation to improve efficiency and customer service. We believe that a trans-European competitive market will help to secure the next steps forward in rail technology and service delivery for passengers and freight. The roll-out across Europe of ERTMS, a part of the drive for interoperability is a huge opportunity to develop European and global markets in signalling and control technology, promoting competition and innovation.

## **Meeting the challenges**

I have highlighted some of the benefits. Now I'd like to turn to the challenges.

If we want to make rail more competitive with other modes, challenges need to be addressed to ensure that market opening and interoperability deliver benefits in the longer term.

Application of interoperability to infrastructure projects should bring savings through greater standardisation if the tools in the Directive are used properly.

We see the priorities for regulation to help to opening up the market as making it easier for operators to understand and access capacity on the strategic corridors so we get more value from the capacity we have, cross-acceptance, removing unnecessary national rules, and promoting safety management systems. We are particularly keen to understanding barriers to the use of spare capacity, which have a growing cost in terms of lost output and economic activity as growth and trade recover in the UK and across Europe. If we can make progress on these, then we will help to transform rail's market share, in freight and passengers.

We look to the European Commission to make sure that the right framework of laws is in place, and to ensure that they are implemented effectively. Effective implementation of existing laws is at least as important as new ones. We want to see better implementation of existing EU laws across Member States, not just an overlay of new ones.

The supply chain and operators should take advantage of the opportunity to innovate –to improve delivery for consumers, understanding better what really matters to

passengers and freight users; improving capacity in a cost-effective way; and progressively improving efficiency, asset management and whole-life costs.

The European Rail Agency will be faced with a range of new tasks. It will be important for it not to compromise its core functions – making the safety and interoperability regimes work, taking forward the harmonisation of operational rules, and facilitating a more consistent approach by NSAs. And we would welcome more independent analysis of Technical Standards for Interoperability to identify impacts, costs and benefits especially for infrastructure projects: we support the ERA in this.

A big issue for governments across Europe – not just the UK – is to give serious consideration to the costs and benefits of wider interoperability and of achieving the ‘target system’ across a single railway market. How much more can we get from interoperability – can we go further to reap potential benefits through the supply chain? Where are the biggest opportunities and how can we prioritise them? And on developing corridors – a similar question – where are the biggest gains in improving economic and social connectivity? Where is the case strongest for promoting modal switch, and how can we prioritise it? Where are the biggest barriers to growth which need to be tackled? If we look across to other modes, and to firms’ location and investment decisions – what is the market telling us?

And – recognising our own history in the UK - should we try to deliver “EU cross-border” interoperability by upgrading our lines to permit European sized vehicles? Do the long-term economic and capacity benefits justify this?

Finally, we regulators need to keep working together effectively, for example through IRG-Rail - for economic regulation which will facilitate trans-national rail services, and serve trans-national rail users with reliable services and better information for consumers. It is important for IRG-Rail to build on efforts to incentivise performance and make the existing regulatory framework work better.

We recognise that there is a particular challenge where vertically integrated structures persist, but regulators should focus on efficient use of capacity across rail networks and in particular on corridors, identifying and tackling the risks of discrimination against new operators; and recognise that paths need to be trans-national.



We would encourage others to accept an approach in which authorisations given in one country are accepted by another country without unnecessary checks. Providing cross border rail services will continue to be expensive if rolling stock is required to meet multiple safety and technical standards.

We firmly believe that safety and efficiency complement each other and if safety authorities can ensure that duty holders have effective safety management systems, and strive for continuous improvement, that will deliver not better safety but also efficiency gains.

Regulation plays a key role. Governments in Europe stand to gain from strong independent regulation in supporting safety, improving the industry's efficiency and consumer focus, and in creating the right environment for investors and innovators right across the rail value chain.

We all have a role to play. There are huge opportunities for rail across Europe. The decisions we take now will have consequences for decades to come. If we get it right, the renaissance of rail can be an important part of the economic renaissance of our continent.

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