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Dear Gordon

**A Greater Role for ORR Regulating Passenger Franchises in England & Wales
Centro Response**

I am writing to provide Centro's comments in respect of the above consultation.

Centro welcomes the consultation and believes there is opportunity for the ORR to take a stronger role in relation to the regulation of passenger franchises. Our view is that this should be focused on achieving compliance with national policies and guidelines including, for example, Disabled People's Protection Policies (DPPPs) and complaints handling. There could also be a role for the ORR in monitoring compliance in other areas such as Penalty Fares and the Ticketing and Settlement Agreement.

We have a number of questions and concerns on the ORR's proposals, principally in relation to the implications for rail franchise devolution. In common with a number of other city regions, Centro has aspirations to take on a greater role in the specification and management of train services as part of a devolved franchise model. We believe there would be a number of benefits to this approach and it also aligns well with the Government's localism agenda. We anticipate a devolved franchise for the West Midlands would be likely to start in September 2015, the end date of the current franchise.

Centro is also developing proposals to take on a greater role in the management of stations, which would see us become the Station Facility Owner (SFO), assuming responsibility for operating, maintaining, renewing and enhancing local stations. We are, therefore, keen to make sure that the ORR's proposals take full account of these aspirations and, in either case, do not make it more difficult to achieve these aims.

Our detailed comments are as follows:

Question 1: May we publish your response?

1.1 Yes, we are happy for our response to be published on the ORR website.

Question 2: Please comment on the general principles against which changes in responsibility for regulation of passenger franchises should be assessed?

2.1 Any proposal for changes in responsibility for regulation of passenger franchises should be assessed against the following principles:

- i) Would the proposal lead to an improvement in customer satisfaction?
- ii) Would the proposal provide value for money?
- iii) Would the proposal simplify industry processes / reduce bureaucracy?
- iv) Would the proposed changes make it easier or more difficult to devolve rail service specification and management to the city regions?
- v) Is change necessary (i.e. is the current system broken)?

2.2 It is important that any proposed changes should also allow flexibility for different franchising models to be adopted. Centro believes that the needs of the West Midlands region would be most effectively served if train services were locally specified and managed as part of a devolved approach to franchising. The Passenger Transport Executive Group (PTEG) supports the view that city regions would be most effectively served through devolution of powers from Central Government. This would mean a different approach to franchises remaining in the sole controlled of DfT.

2.3 Any proposal for change needs to allow for the scenario that, in some franchise models, specified regulation responsibilities would be devolved to bodies other than the ORR. For example, in the West Midlands, Centro would wish to retain responsibility for setting frameworks and incentive regimes for service quality and service performance according to the local requirements of the region. We would not want these aspects to be regulated by the ORR.

Question 3: Do you see any potential benefits or drawbacks in moving towards giving ORR an enhanced role in respect of franchise change?

3.1 In future franchise changes, Centro hopes to see greater devolution of rail service specification and management to the city regions. In such an environment, it would potentially be useful for the ORR to perform the role of an independent arbiter during negotiations on changes to franchise outputs and independent advice on the efficient cost of changes to franchise outputs. This would ensure that devolved franchises continue to be let in a robust way and to deliver value both for passengers and taxpayers.

Question 4: Are there any representations you would like to make concerning ORR's role in holding Network Rail to account?

- 4.1 One of the key criticisms of Network Rail in recent years has been the increasing cost of capital works, which has been significantly above the rate of inflation. This acts as a barrier to investment in the railway, as many schemes are unaffordable or have a marginal business case based on current cost estimates. A very useful way in which the ORR could hold Network Rail to account would be to introduce an annual measure on a limited number of specific unit rates (e.g. the cost of installing a set of points or constructing a station platform). Over time, this would provide a very tangible indicator of whether Network Rail has been successful in cutting costs.
- 4.2 A further measure of Network Rail's financial efficiency could be to introduce a simplified measure of value obtained per 'pound in the ground'. This would be very useful for demonstrating to railway industry stakeholders and passengers that the money being invested by Network Rail is being spent efficiently.
- 4.3 The ORR could take a role in promoting more effective partnership working in the industry by building in incentives for Network Rail to form alliances at a local and regional level. This could, for example, include shared objectives on passenger satisfaction, which has traditionally been the preserve of train operators and transport authorities but over which Network Rail also has significant influence. Effective local and regional partnerships would support the move to a devolved franchising model in city regions.

Question 5: Should ORR consider any revisions to its enforcement and penalties policies if it takes on a wider role? In particular, should ORR consider how and whether it could accept commitments to make improvements for passengers as an alternative to levying a penalty?

- 5.1 One of the key weaknesses with levying penalties is that passengers, who are normally the people who have been most disadvantaged, derive no immediate benefit from this. Penalties also have the potential to destabilise a struggling train operator, making it more difficult to restore compliance and increasing risk to the taxpayer (e.g. by potentially tipping the train operator into revenue support).
- 5.2 Commitments to make improvements should be considered as an alternative to penalties, as these have an immediate and tangible benefit to passengers and often benefit the railway in the long-term. An excellent example are the off-peak fares and ticketing promotions offered by London Midland during school holidays. These were originally introduced by agreement with DfT to compensate passengers for a period of poor performance. The campaigns have proven successful in generating additional off-peak demand, which benefits the railway industry and the taxpayer in the long-term. There has also been extremely positive feedback from passengers, suggesting that these promotions are likely to improve passenger satisfaction.

- 5.3 Penalties should be retained as a method of enforcement but other options should be considered before a penalty is levied. In addition, we feel it is appropriate that local stakeholders, including transport authorities, are given greater influence where enforcement is required. In a devolved franchising model, we believe that enforcement should be fully devolved to the body responsible for specifying and managing the franchise.

Question 6: Are there any specific points on which DfT and ORR should set out their proposed approach during the transition period?

- 6.1 Given Centro's aspirations for rail franchise devolution, we would welcome clarification on how the ORR's proposals to take a greater role in regulating passenger franchises can be reconciled with (and even assist in the development of) a devolved approach. In particular, we would be grateful for reassurance that the proposed changes include flexibility for those bodies responsible for specifying and managing devolved franchises to take on some of the regulating roles that would otherwise be performed by the ORR.

Question 7: Should ORR review its funding arrangements in the light of the changes proposed in this consultation.

- 7.1 One of the key objectives of the Rail Value for Money Study (RVFMS) was to reduce industry costs. Centro agrees that Britain's railway is too expensive and would, therefore, be opposed to any changes which increase the cost base of the railway, i.e. through a requirement for greater ORR funding via track access charges.
- 7.2 Currently the cost of regulating franchised train operators is met as part of the franchising authority's overall funding arrangements. Should there be any requirement for additional funding to the ORR, we would expect this to be offset against a corresponding reduction in cost at the DfT, so there is no overall increase in industry costs. The simplest mechanism is likely to be a direct Government grant offset against resource savings at the DfT.

Question 8: Do you have any comments on the proposals for regulating the complaints handling procedures?

- 8.1 We are supportive, in principle, of the proposal that the ORR should be responsible for all aspects of approving, monitoring and enforcing compliance with complaints procedures. However, we would want to ensure appropriate flexibility to be able to tailor local complaints handling procedures in line with local requirements, rather than having a national one size fits all model.
- 8.2 We would want to ensure close joint working between the ORR and Centro on the sharing and analysis of complaints data. Centro already works closely

with train operators on sharing and responding to customer queries and complaints. As an established name in the region, many passengers have a greater awareness of Centro than they do of the franchised train operators and are, therefore, more likely to contact Centro when they have complaint than the train operator. Centro co-ordinates closely with the train operators to ensure complaints are responded to in an appropriate and timely fashion. Similarly, train operators often receive queries that Centro is better placed to answer, in which case we assist them in responding. An example would be car parking at local stations, given that most rail station car parks in the West Midlands are managed by Centro.

- 8.3 Centro has aspirations to take over the responsibility for managing stations in the West Midlands. In this scenario we would become the Station Facility Owner and, therefore, any new licence conditions would, by default, apply to us. We would want to make sure that there is appropriate flexibility within any new licence conditions for Centro to specify and manage its own complaints handling process according to local requirements, rather than having the fine detail of our complaints handling process specified by the ORR.

Question 9: Do you have any comments on any of the proposals for regulating DPPPs (Disabled People's Protection Policies)?

- 9.1 We are supportive of the proposals to transfer responsibility for the approval of DPPPs from the DfT to the ORR, which would have the benefit of bringing together the policy, approval, monitoring and enforcement role in relation to DPPPs in a single place.
- 9.2 As noted above, Centro has aspirations to take on the direct management of local rail stations. We would, therefore, want to ensure there is appropriate flexibility within any new licence conditions to enable us to develop our own DPPPs in accordance with local requirements and ensure consistency with the ITA's policies on disabled person's protection.

Question 10: Do you agree that the regulation of punctuality and reliability performance should be brought together in one place? Could this proposal work and what refinements could be made? Are there any alternative ways of doing this?

- 10.1 We can see that there are some merits to the proposal to transfer monitoring and enforcement of TOC operational performance to the ORR. However, there are drawbacks associated with removing performance from Ministerial accountability. It is also our view that such an approach, if adopted, should be applied flexibly. In particular this proposal needs to be considered in the light of the Government's devolution agenda and the aspirations of local and regional authorities to take a more active role in the management and specification of rail services for the city regions.

- 10.2 As part of any devolved franchising model, Centro would want to take over responsibility for regulation of punctuality and reliability performance, including the ability to set performance targets, penalties and incentives according to local and regional requirements. We would, therefore, be opposed to any changes which impose a national standard way of doing things and do not allow the flexibility for local variation. The model that is most appropriate for the West Midlands region, for example, might not necessarily be the appropriate model for the Northern metropolitan areas or for an intercity type franchise.
- 10.3 Centro does not agree that the application of a new licence condition in operator licences would be the best way forward for regulation of punctuality and reliability, as this would mean that the ORR would be responsible for monitoring and enforcing performance across all train operators. By retaining punctuality and performance requirements within individual franchise agreements, there is greater scope for local and regional variation, as would be proposed in the case of a devolved franchising model.

Question 11: What are the key areas that should be covered by service quality measures and commitments? How should Government decide what to include in each franchise? Is there any merit in having a core set of requirements that apply to all?

- 11.1 Service quality measures should be based principally on those factors which are known to influence customer satisfaction. These could be based on the questions in the National Passenger Survey and other relevant research (e.g. Centro's annual Customer Satisfaction Survey). Key areas are likely to include cleanliness, upkeep and repair of stations and trains but could also be expanded to include 'softer' measures which affect customer satisfaction such as the attitude and helpfulness of staff. It may also be appropriate to review the weighting of different elements and the items measured according to changing circumstances. There should be freedom to do this locally.

Question 12: Please comment on the specific benefits and disbenefits of the requirements on service quality measurement and commitments being enforced by licence rather than by contract.

- 12.1 Centro considers that service quality measures and commitments should be set locally as part of a devolved franchising model, rather than being imposed by the ORR as part of a new licence condition. Any proposed changes should allow flexibility for different approaches between train operators.
- 12.2 We recognise the argument for better alignment of cross-industry action to deliver improvements for passengers. However, we do not believe there should be a one size fits all approach to service quality standards. The standards specified as part of a locally managed franchise for the West Midlands might be very different, for example, to those standards required for

an intercity type operator. It is important to retain this flexibility rather than establishing service quality regimes that are not appropriate to the local circumstances and may drive additional cost for the industry.

Question 13: Do you believe that the proposed licence condition would provide effective and proportionate accountability for delivery of service quality standards? Would a transparency obligation, relying on reputational incentives, be adequate? Or should it be supplemented by a compliance obligation? Should the compliance obligation be subject to doing what is reasonably practicable to deliver it, for instance through a purposive approach similar to that being considered for performance?

13.1 We are not convinced that a new licence condition is the appropriate means of managing service quality standards across all franchises, for the reasons detailed above. We do, however, believe that a transparency obligation would be useful, in order to require licence-holders to monitor and publish performance against service quality commitments. It is in the interest of the passenger to see this data and it is also a useful incentive to licence-holders to focus on meeting and exceeding their service quality commitments.

13.2 We believe a compliance obligation would also be necessary to support the delivery of committed outputs (e.g. station cleanliness) and provide assurance about the delivery of the commitments being made. However, purposive measures may be more appropriate for other more subjective measures (e.g. passenger satisfaction with the attitude and helpfulness of staff). In practice, there may be merit in adopting a combination of the two approaches, depending on the nature of individual commitments made.

Question 14: What would need to be set out in guidelines to ensure credibility and consistency of reporting against service quality measures and transparency for passengers? How do we ensure that we give sufficient clarity and flexibility for franchisees in guidelines?

14.1 In order to ensure credibility and consistency of reporting against service quality measures, guidelines would need to go into significant detail. There is a risk this would create a conflict with the Government's desire to give flexibility for franchisees.

14.2 Our view is that greater flexibility is possible in the current franchising model, in which service quality standards can be specified to suit the requirements of each individual franchise. Under a devolved model, this would allow complete freedom for local franchise management bodies to specify appropriate service quality measures for their area, rather than being tied to a set of national guidelines and licence conditions.

Question 15: Do you agree with the approach set out on monitoring of compliance with the service quality commitments? In particular do you think that an adapted safety management maturity model could be applied in this context?

- 15.1 As part of a devolved franchising model, we believe the flexibility should be allowed for monitoring and enforcement of compliance to be devolved from the ORR or DfT to other bodies responsible for specifying and managing train services. We are concerned that the ORR's proposed approach would make this more difficult to achieve.
- 15.2 We believe that Centro would be well placed to take on these responsibilities as part of a devolved franchise for the West Midlands. Centro has extensive experience in monitoring service quality and developing action plans to meet service quality targets across three different modes (rail, bus and tram). We also have previous experience of managing a service quality management system under the original West Midlands rail franchise, for which Centro was co-signatory with the DfT.
- 15.3 We would propose to develop appropriate structures at a local and regional level to provide assurance to all stakeholders (including passengers) that the franchisee is delivering on its service quality commitments and there is a process by which we would work with the franchisee to use best endeavours to restore compliance in the event of failure.

Question 16: Do you agree with the ORR's proposed approach for service quality commitments of requiring improvement plans as a prelude to formal enforcement action?

- 16.1 We agree that a proportionate approach should be taken to addressing any serious and systemic failings. As with the current DfT model, improvement plans should be used as a prelude to any formal enforcement action. This allows the licence-holder adequate opportunity to restore compliance, thereby meeting the needs of passengers without the requirement for full enforcement proceedings.

Thank you for taking our comments on board as part of this consultation. Should you wish to discuss any of these points in more detail, please do not hesitate to contact me. I would be more than happy to talk to you either over the phone or to set up a face to face meeting if you think this would be beneficial.

Yours sincerely

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