



FINAL

Consultation Response

**ORR Consultation on Periodic Review
PR13**

September 2011

Matt Brunt
Assistant Director

*pteg*Support Unit
Wellington House
40-50 Wellington Street
Leeds – LS1 2DE
0113 251 7445
info@pteg.net

1. Introduction

- 1.1. **pteg** represents the six Passenger Transport Executives (PTEs) in England which between them serve more than eleven million people in Tyne and Wear ('Nexus'), West Yorkshire ('Metro'), South Yorkshire, Greater Manchester, Merseyside ('Merseytravel') and the West Midlands ('Centro'). Leicester City Council, Nottingham City Council, Transport for London (TfL) and Strathclyde Partnership for Transport (SPT) are associate members of **pteg**, though this response does not represent their views. The PTEs plan, procure, provide and promote public transport in some of Britain's largest city regions, with the aim of providing integrated public transport networks accessible to all.
- 1.2. **pteg** welcomes the chance to input into the PR13 process and respond to this first consultation.

2. Consultation Response

Context

- 2.1. PTEs are seeking a greater devolved role in the delivery of local rail services in the West Midlands and North of England, and discussions are currently underway between the PTEs and the DfT on this issue. The McNulty review identified potential benefits relating to devolved funding, specification and management of local rail services and **pteg** will be looking for the PR13 process to facilitate this wherever possible.
- 2.2. The PTE devolution process could result in PTEs having a much more significant interest in funding Network Rail's activities, either through subsidy to TOCs, or directly. As such we have an extremely keen interest in reducing rail industry costs, but also in delivering rail growth and passenger satisfaction. The PTEs are also considering whether taking more direct control over fares (including potentially taking revenue risk) and stations is also appropriate. These decisions will be influenced by the industry framework as it emerges from the PR13 process.
- 2.3. The local rail services supported by PTEs will continue to require significant amounts of public subsidy to operate. However they make a significant contribution to the social and economic wellbeing of the areas they serve. A general issue for the PR13 process will be to recognise that the largely non-commercial nature of PTE area rail services could drive behaviours which do not recognise the wider transport benefits that these services provide, and lead to sub-optimal decision making when rail is considered in the wider transport and economic environment. For example, both TOCs and Network Rail are not necessarily currently incentivised to deliver modal shift in our cities and may therefore put the requirements of more commercial rail services ahead of urban commuter services. The need to balance the local needs of our areas against the demands of commercial franchised operators and open access operators is therefore important.
- 2.4. PTEs could therefore have an increasingly important role in the funding and delivery of urban rail services in the key economies of the WM and North and it will be important that PR13 fully recognises the characteristics and requirements of these services.

Objective for PR13 (Chapter 3)

- 2.5. **pteg** supports the proposed objective for PR13.

Price Control Separation and Network Rail Devolution (Chapter 6/Annex B)

- 2.6. **pteg** welcomes the devolution proposals, but recognises many of the practical difficulties which exist in implementation. The separation out of responsibility and price controls within Network Rail should be helpful in focusing management attention on delivering the outcomes that best meet the needs of the WM and Northern urban rail networks. Network Rail's current devolution plans do not include the creation of a specific Northern route, and with the current LNW and LNE routes running from London to the Scottish border, there is a concern that a focus on the PTE areas could be difficult to achieve as there would be a lack of alignment with the operator(s). The very different operating and cost environments for the WCML and ECML to the local routes will need to avoid distorting the incentives or charges for the PTE area networks. We believe therefore that a separate route for the Northern franchises will facilitate cost disaggregation to a meaningful level: it may be possible (and potentially advantageous) to retain the North-South mainline routes within their own route management arrangements, but separate out the remaining more regional and local Northern routes into a separate management unit.
- 2.7. As the PTEs work to develop the proposal for the new Northern Franchise with the DfT, we would welcome on-going dialogue with the ORR and Network Rail about how devolution within the Network Rail structure can best be achieved to facilitate the optimum arrangements for the provision of the Northern local rail services.

Setting Outputs (Chapter 6/Annex C)

- 2.8. **pteg** considers that there are a range of outputs which NR should deliver, but that these need to be carefully framed considering their often conflicting outcomes (e.g. capacity vs. performance vs. journey time). Different routes across the PTE areas have different priorities for improvement, although generally network and train capacity is the most pressing issue, and any output specifications should not dilute the incentives to deliver on this requirement.
- 2.9. **pteg** considers that safety needs to remain a top priority, but would welcome a debate on whether setting firm targets as part of a Periodic Review process is appropriate, given the various other safeguards and incentives that exist to deliver a safe rail network.
- 2.10. In particular, if safety targets are to be set, it should be done in a way that looks at the wider safety of the transport network, so that where rail can remove journeys from less-safe modes of transport, this should represent a net improvement in overall safety levels. Investment in safety improvements might be better targeted at schemes which generate modal shift rather than deliver a small change in an inwards-focused index.
- 2.11. Train service performance is clearly a key issue for both funders and users, and is delivered by both Network Rail and the operators working effectively together on both a strategic level, as well as day-to-day on the ground.
- 2.12. There is merit in Network Rail having a strong interest in "whole system" outputs; however it is not reasonable for Network Rail to be held accountable for issues such as train crew shortages or rolling stock unreliability. It is, however, important to ensure that Network Rail does not potentially gain financially through performance regimes for any failings by TOCs, as this would create perverse incentives working against an overall goal of improved performance.

- 2.13. **pteg** would welcome devolution of outputs where this can be sensibly achieved. For performance, even if devolving performance monitoring is difficult to achieve practically for output setting purposes, we would welcome Network Rail taking steps to start a process of monitoring performance on an agreed basis with each PTE (for example so there could be an all-operator measure published for arrivals/departures of services at central Birmingham, Manchester, Liverpool, Newcastle, Sheffield and Leeds stations). This would start to give an indication of how different urban areas are performing against the national averages.

Incentives (Chapter 6/Annex D)

- 2.14. **pteg** notes that there are currently extensive incentive mechanisms in place to encourage effective delivery of outputs. **pteg** agrees that there needs to be a review of their effectiveness, and in particular consider where there are conflicts between outcomes, or where incentive regimes actively make “doing the right thing” more difficult.
- 2.15. However, it is important that there is a degree of stability for both Network Rail and TOCs so that changes are only made where and when necessary.
- 2.16. Incentive regimes must also not load unnecessary costs on the industry through either being complex and expensive to operate, or through serving to encourage operators to price significant risk into franchise bids or service costs. It is important that the money flows arising from incentive regimes are not disproportionate from the wider economics of the services being incentivised – for example it should not be financially beneficial to a TOC to receive compensation rather than run a train service.
- 2.17. It should also be remembered that the incentive regimes also drive other parts of charging regime – for example the Capacity Charge. It is therefore important to consider any wider impacts on costs and charges from the operation of incentive regimes.
- 2.18. PTEs are concerned that the way that Network Rail is currently incentivised to grow rail demand is placing unnecessary costs on funders and taxpayers. Taking the example of the enhancements to the Coventry – Nuneaton line service currently being progressed through a major scheme funding bid, Network Rail is currently potentially benefiting in a variety of ways through a publicly funded infrastructure and service enhancement project. In particular Network Rail benefits by:
- Receiving performance benefits from decongesting Coventry station by the provision of a new platform
 - Receiving capacity charge from the notional performance regime costs
 - Receiving upgraded and more capable infrastructure
 - Receiving volume incentive benefit from the additional trains being operated
- 2.19. As Network Rail is not contributing financially to this scheme, it is unreasonable that they should therefore benefit to this extent, which is placing additional pressure on constrained public sector finances.
- 2.20. As PTEs increasingly seek to specify and fund new services and infrastructure, Network Rail therefore needs to be incentivised to work effectively with PTEs in order to ensure that wider value for money to the taxpayer is achieved. It also needs to be remembered that PTE and TOC objectives are also not necessarily fully aligned when considering the best approach to incentivising efficient behaviour, as TOCs will look to pass on commercial risk to PTEs for any new service developments that we specify and fund. Indeed, it ought to be remembered

that PTEs could feasibly be taking direct revenue risk for local rail services in their areas in future.

- 2.21. Where PTEs specify and fund projects on the railway, PTEs' experiences of Network Rail acting as effective partner in delivery has been mixed. There needs to be clear incentives on Network Rail to ensure that they efficiently facilitate third party projects – i.e. to act in the best interests of passengers and be incentivised to minimise disruption to them
- 2.22. How Network Rail and the industry is incentivised to make best use of capacity is a key concern for PTEs, as on an increasingly capacity-constrained network there are going to be difficult decisions to be made on what constitutes best use of the available paths. It is important that given the non-commercial nature of PTE services, that PTEs as likely future funders and specifiers of these services, are able to secure capacity that enables the delivery of the wider socio-economic benefits that urban rail services bring.
- 2.23. PTEs would welcome on-going dialogue on issues such as TOC exposure to Network Rail costs in the context of emerging policy on PTEs taking a greater franchise role.

Financial Framework (Chapter 6/Annex E)

- 2.24. **pteg** believes that the current five year duration of control periods remains appropriate
- 2.25. **pteg** supports the general approach outlined for other aspects of the financial framework, but will need to consider these issues in more detail as the PTE devolution process starts to clarify the wider funding position for PTEs.

Structure of Charges

- 2.26. **pteg** believes that there is a need to review the structure of charges as there are areas where we believe the current structure is not functioning effectively.
- 2.27. In particular the Capacity Charge is of particular concern to PTEs as this has created significant cost issues, and for Centro has directly led to the withdrawal of services which are no longer affordable on the Walsall – Rugeley route. **pteg** wrote in April 2008 expressing concerns over capacity charge (attached) and these remain very much relevant today. Indeed on the Coventry – Nuneaton line Centro is pursuing a case for trying to achieve an exemption from the charge on the grounds it is unreasonable.
- 2.28. PTEs believe that the Capacity Charge should be scrapped in its entirety as it is not influencing behaviour in any appreciable fashion, and is simply needlessly inflating the costs of providing services to a very considerable extent. It seems odd that Network Rail actually generates more income from Capacity Charges than it does from Variable Track Access charge, especially when the capacity charge calculations are effectively compensation for performance regime impacts, rather than real costs imposed on the industry.
- 2.29. PTEs are sceptical that any charges relating to scarcity would operate any more effectively than the Capacity Charge, and would expect that a holistic industry planning process plus clear timetable planning criteria should be the main determinants of how capacity is allocated.
- 2.30. **pteg** would welcome the appropriate disaggregation of variable charges, and in particular a better linkage between the actual marginal costs for operating a service on a particular route and the charge.

2.31. **pteg** would welcome on-going dialogue on the future structure of charges with the ORR as proposals become clearer.