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Dear Abigail

Licence on Passenger Information: ATOC Response

Thank you for the opportunity to comment on the ORR consultation on amending licences on passenger information.

We share your objectives

ATOC shares the ORR view of the importance of providing good information to passenger, particularly at times of service disruption. We endorse the objective set out in your consultation of providing, “good quality information about train services to all passengers across all timescales and consistently across all media before they travel, at point of sale and during their journey”.

We are taking action

The determination of TOCs and Network Rail to address the question of passenger information is clear from the work reported to NTF. (For example, the Darwin project being undertaken by NRE in cooperation with Network Rail). We therefore appreciate the support ORR gives in the covering letter to the work by TOCs and Network Rail to address the deep seated problems that exist.

We have concerns about the impact of new licence obligations on existing competitively awarded franchises

Franchisees take on output obligations for a fixed level of taxpayer support or premium. In competitions for franchises there is an opportunity for Ministers to define outputs on passenger information, which has been done. If Ministers wish to change an obligation, or introduce a new set, there is a mechanism in the Franchise Agreement to do this.

It is recognised that franchisees will wish to undertake improvements in passenger service which are not mandated in a Franchise Agreement. These will primarily be driven by commercial considerations given the competitive nature of franchise competitions. The existence of regulated fare levels means that there is often little opportunity to capture quality improvements in higher yields; this is an example of the misalignment of incentives noted in the McNulty Report.

The proposed licence obligation creates problems for a number of franchisees:

- They do not know what resources will ultimately be needed to re-engineer the processes to deliver the service we all want to see.
- There is no funding in place to meet any net cost associated with the delivery of the necessary improvements to meet the objective.
- Where there is a potential positive long term business case, there can be a mismatch between the timing of the costs and benefits for an individual TOC.

Some of these problems may be capable of resolution for some of the TOC owner groups. But there is the real possibility that an agreed change to the licence will not be possible in all instances.

There are also concerns about the current drafting of the licence

In addition to the issues above we have significant concerns about the wording of draft licence itself:

- The proposal divides a single business process into two parts: a Network Rail part; and a TOC part. There is no guiding mind or party with overall responsibility for the whole process. Train operators being closest to the passenger are the right people to do this. This focused accountability will require appropriate controls over the whole process.
- There is not a mechanism to ensure that what is provided is efficient. A multi party process where costs are shared directly or indirectly needs an explicit consideration of efficiency issues.
- There is no indication of how licence compliance will be judged, and how perceived breaches will be addressed, particularly in the early years. There must be an enforcement policy available at the same time as the consideration of a new licence.

- The new licence runs the risk of double jeopardy as TOCs seek to satisfy both franchise obligations and new obligations created by the licence, with no guarantee that both sets of obligations will be aligned.
- The licence as drafted will in practice put compliance with the information obligation ahead of any other consideration for a TOC. There will be difficult instances where a trade-off will exist between getting accurate information to passengers, and the operational management of the trains for the benefit of passengers. There should be an explicit recognition of this in the face of the licence which is expanded in the enforcement policy.

A new licence obligation requires further consideration.

In the light of the above, ATOC recommends there should be further consideration of both the need and form of a new licence obligation on passenger information, and whether an alternative franchise mechanism has a role to play. We do not believe that this will slow us down in grappling with the real issues which must be resolved to give better quality information to passengers.

ATOC members are keen to work with the ORR to improve passenger information for passengers. We would be pleased to meet with you and your colleagues to discuss this further.

Regards

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