Further written evidence submitted by We Own It (RWB0070)

> *"What GBR should have when established is a Commercial Opportunities Department tasked with identifying potential destinations currently under or unserved in the inherited timetable....There has to be a moratorium on processing, let alone authorising, any new open access applications." - Roger Ford (rail expert) - Modern Railways magazine, August 2025*

Open Access operators are private operators that apply for and run trains on publicly owned tracks independently of a government contract. Under current rules, all open access applications have to pass the "Not Primarily Abstractive" (NPA) test. This means that for every £7 in customer revenue that they attract away from existing services, they should generate at least £3 from new customers.

Most open-access operations don't meet this test. The government estimates that they undercut the revenues of publicly owned operators to the tune of £229 million per year. Furthermore, private open access undermines public investment, with the four-year delay to the East Coast Main Line timetable undermining the value of £4 billion investment in the line. Recent research on the East Coast Main Line indicates LNER could lose up to £1.1 billion in revenues over the next decade to open-access abstraction. Much of this money will be extracted from the railway system in dividends, rather than being used to improve the service and cut fares for passengers.

We Own It is proposing the abolition of private open access operations when current contracts end, with a view to an approach that unifies the entire railway and takes advantage of this unification to adopt a systematic approach to effective and efficient capacity expansion. The reasons for this are as follows and are explained further in the first two sections below:

- **Loss of money through revenue extraction** from prime routes due to competition on those routes by private open access services
- **Loss of the ability to use the profits** that the unified public railway would have accrued on those prime routes without competition to invest and achieve overall rail priorities
- **Loss of the opportunity** for the unified public railway to run similar services to the open access services itself, at lower overall cost to the public purse and to travellers, with additional ongoing profits for the unified public railway

- **Loss of the ability to plan the railway as a whole and to timetable so as to achieve the most efficient overall use of rail capacity**, including the ability to provide the best possible set of rail connections, because the open access train path allocation process cuts across the timetabling process to meet the open access providers' profit requirements and removes future flexibility to improve the timetable
- **Added costs at the interfaces where the unified public railway must interact with the open access operators**, on everything from the initial contractual arrangements through to day-to-day traffic management liaison and delay compensations, all of which become legalistic and complex, including inefficiencies for all rail maintenance and strategic planning activities from the requirement for prolonged negotiations and sometimes legalised discussions at all the interfaces with open access operators
- **Loss of visibility of some causes of rail inefficiencies** and the means to reduce or remove them, because the open access operators have a vested interest in hiding their problems so as not to have to pay compensation
- **Loss of the ability to have the simplest, most attractive, easiest ticketing system** for passengers because open access operators require the ability to issue competing tickets, so the present horrifically complicated, confusing ticketing system is perpetuated, and the railway continues to lose passengers and revenue as a result of the complexity of fares and different rules attached to different operators' tickets
- **Loss of the ability to shift passengers across different services** when problems occur (open access operators will only accept their own tickets) with resultant customer dissatisfaction, higher compensation costs and increased lost custom
- **Loss of the ability to deploy drivers, guards, and other staff with maximum efficiency**, because operator-specific allocations of staff reduce the pool of staff and spare capacity that would otherwise be able to cover all routes and trains (this is the problem that has led to the common train announcements 'cancelled due to staff shortage' or 'delayed awaiting arrival of train staff')
- **Loss of the ability to procure rolling stock according to an efficient overall strategic rolling stock plan** that buys trains with maximum economies of scale (open access operators procure their own trains at small production runs with significant additional costs) that can fulfil a strategic plan to cascade rolling stock from its first use to other routes as new stock is brought on and as the railway evolves (with an associated

knock-on loss of the ability to use a planned steady pipeline of rolling stock procurement as part of an industrial strategy that best supports the UK's domestic train manufacturers).

- **Loss of strategic planning flexibility** as open access agreements cannot foresee the changes in rail demand, use and potential changes in regional economies that may transpire in their typically ten-year term.

This inquiry submission will discuss the following in turn:

1. **Timetabling -** problems posed by private open access to the creation of a railway timetable that serves the needs of passengers while also identifying and informing the efficient deployment of investment into infrastructure.

2. **A commercial approach -** how private open access could impede the adoption of key lessons from the last decade of British Rail, when BR was the most efficiently run railway in Europe.

3. **Finally, we propose how the government could approach ending private open access** in our railway.

Timetabling:

Timetabling should, in fact, be the starting point of any discussion of improving the railway. According to one rail expert, "In functional terms, a railway just boils down to being a timetable".

The timetable is the substantive summation of the actual outputs (services) that a railway provides. The timetable gives the crucial information a potential rail passenger requires to decide whether they can make the journey they want. Jonathan Tyler, an expert on the Swiss "Taktfahrplan" approach to timetabling, says that designing the optimum timetable should be the basis of the entire strategic development of a railway.

Working out the timetable requires working out all the potentially conflicting demands on the railway – e.g. local services vs long distance services; passenger services vs freight services; stopping services vs fast services – and finding the set of train paths that achieve the best balance of those.

The best balance has to maximise the efficient use of the limited rail network capacity in a way that achieves the railway's high-level objectives. For a railway dedicated to public service (rather than private profit), these objectives would include national and regional economic growth, social outcomes,

environmental outcomes, achieving fare revenue that supports the railway, and doing all those things efficiently within limited public subsidy.

However, if, as the government promises, the railway is reintegrated so that there is a guiding mind that has the power to design and implement the best possible timetable for the public interest, then one result should be that the timetable becomes the basis for strategic rail planning and development. This is because the timetable that looks best within present infrastructure constraints will not be as good as it could be or should be.

Planned, timetabled connections between trains are one of the elements almost totally destroyed by the creation of a privatised railway, where all companies are mutually hostile rather than collaborative. But connections are a crucial and sensible part of maximising the usefulness of a railway's capacity for travellers.

Open access trains that are in competition with other trains will continue to militate against the recreation of connections. Even if cooperation is somehow mandated in their contracts (which are necessarily long term and can only have limited flexibility), the presence of open access operators creates interfaces between the railway guiding mind organisation and the private operators, with the multiple inefficiencies that go with such interfaces: administrative costs, potentially legal complications and delays to achieving even the smallest most sensible timetable changes to make connections.

And that is before considering what actually happens on the ground when, for example, a rail traffic control operator decides to ask trains to wait to ensure passengers can make an important connection. This can include potential administrative complications, costs and legal consequences from the open access contracts. The research analyses for the McNulty rail value-for-money study showed the high excess cost created by all the interfaces between the many organisations operating in the privatised railway.

The government and its railway company chiefs may or may not choose to create a "Taktfahrplan", but it must be noted that the Taktfahrplan is an excellent basis to plan connections. Taktfahrplans define the most important stations as key interchange nodes and maximise connection opportunities at these points. This is done by coordinating the arrival of trains from different places so that they arrive in a choreographed order at regular intervals – the rhythm or pulse of the Taktfahrplan. Typically, at a very important node, the most important train might be timed to leave on the hour, every hour, with other trains arriving at various times somewhat before the hour and departing

shortly after the hour. Sufficient time is built into the timings for all possible connections to be comfortably achieved by passengers crossing to other platforms.

For this sort of rhythmic cycle to work right across the network requires that train journey times between nodes are somewhat under half an hour, or just under any multiple of half an hour. So, places where small improvements in line speeds would take node-node times below 30 minutes and achieve new connections immediately start to show up as places that perhaps should be considered as priorities that would offer good value investment. In this way, the timetable – and how it can be improved – becomes the basis for the rail investment plan, and provides a means to lay out a strategy to invest for efficiency.

Private open access makes this process difficult, as once the railway is strapped into the 10-year (or more) access agreement contracts required for open access operators to return a profit on their investment, then significant parts of the timetable become unavailable for changes. Any step-change improvements to the timetable would be likely to require changes by open access operators who, if they didn't want to change, might need compensation or threaten legal action. Furthermore, even incremental changes become the subject of potentially time-consuming and legalistic negotiations with the open access providers.

Lessons from British Rail

In its last decade, from about 1980 onwards, British Rail (BR) was transformed. John Nelson's book *Losing Track* gives a vivid first-hand summary of the deep changes from the perspective of one who was on the front line of the internal battles and who went on to one of the most senior positions in the railway, managing the whole of Network Southeast.

BR firstly established business units with very clear profit centres, so that managers at multiple levels could see where expenditure was going and where revenue was coming from. This entailed creating business units that spanned previously separated functions and, after a decade of change, ended up with fully vertically integrated business units that operated trains, managed rail infrastructure, ran stations and marketed rail services.

John Nelson sums up these changes as the adoption of a 'commercial' approach, and certainly, much of this would be standard practice in well-managed big private sector businesses. He emphasises a market-oriented

approach, and the value of having all parts of the business, such as finance, marketing, engineering and train operating functions working closely together with shared visibility of the consequences of their actions on the bottom line.

Open access operators disrupt this system. They work individually, with their own profit centre focused on profit for their shareholders, with no shared incentives with the rest of the railway (indeed some conflicting incentives), separated from the infrastructure provider and other train operators. The structures of visibility and accountability in the rest of the unified railway break down at the interface.

The way this situation creates a misalignment of incentives has been glaringly apparent with the franchisees on the privatised railway and has been analysed in attempts to improve efficiency. As an example, it may be more profitable for the open access provider to spend its time and money fighting a claim against the infrastructure provider and hiding the evidence of what it did wrong, rather than having clear visibility of all the issues arising so that the railway can sort them out and achieve the most overall efficient outcome.

An efficiently run public railway needs to be able to look across all its profit (/cost) centres to decide where it could invest more to get more income, by increasing train services on its prime profit-making routes or extending them to new destinations (the main approach taken by the open access operators), where necessary, improving rail infrastructure to do so. It needs to be able to make informed decisions (and advise the government) about where it should put some of those profits into rail infrastructure and services on other parts of the network that cannot run at a profit, but appear justifiable for their social or economic benefits. And it needs to be able to consider what is the best approach for rail lines that may not make money when considered in their own right, but that feed passengers to other services that, as a result, do make profits.

All open access routes inevitably concentrate on the prime routes that fall into a profit-making category. They will all inevitably chop some profit from the public operation of those lines. The publicly owned railway will be left with, at best, less scope to re-deploy profits internally to run marginal or loss-making socially or economically valuable services. At worst, considering the painful history of railway cuts, the publicly owned part of the railway could be pushed into a downward spiral where its services are politically deemed insufficiently valuable for the public money it consumes. Furthermore, this could see the publicly owned railway accused of using its public funding inefficiently, and become highly vulnerable to political decisions to cut its funding.

How to end passenger open access services

The railway already has multiple open access operators. Those that have survived have done so because they are making profits. It would be profitable for the unified publicly owned railway to simply take them over. This could be done without penalty at the end of their access agreement contracts (these appear to usually be a ten-year term), although there might have to be payment to take over their rolling stock (or if they did not offer a good price, to obtain new rolling stock or redeploy existing rolling stock to the services).

The Railways Bill should, nevertheless, give a definite warning of the intention to abolish open access for the public interest. This is because, as David Hall has pointed out for the water industry, a decision by parliament to take over private assets because it is in the public interest would mean that there is no legal basis for compensation.

It would then be up to the re-integrated publicly owned railway company whether to modify the open access services to better integrate into its timetable, on the basis of an analysis of the best way to encourage increased patronage and income.

The Railways Bill should also put a duty on Great British Railways to look to increase both passenger numbers and fare income through assessing where it can develop new services profitably. This would mirror the activities of open access operators hitherto, but without the wasteful competition they embody, whilst rekindling the successful mode of behaviour shown by British Rail in its later years.

This duty to innovate and seek to profitably expand services should also be extended beyond the narrow route-based view taken by open access operators, because some new destinations may add no profit but may be worthwhile for the new trade they feed into the rail network as a whole.

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