

# SUBMISSION TO THE PUBLIC BILL COMMITTEE ON THE GOVERNMENT'S RAILWAYS BILL

## Proposed Changes to the Government's Railways Bill

January 2026

The Alliance of Passenger Rail New Entrants (ALLRAIL) is the global non-profit association (NGO) of independent passenger rail companies. We represent six rail passenger owning groups in the UK – Arriva, Go-Ahead, FirstGroup, Mitsui, MTR UK and Transport UK Group.

The Railways Bill gives the UK a pivotal opportunity to align rail reform with broader objectives of economic growth, productivity, and fiscal responsibility. The Bill, instead, represents a significant shift in the governance of Britain's rail sector – moving away from the competitive framework that has encouraged innovation and growth over the past three decades, and towards a more centralised, state-directed structure.

**If enacted in its current form, it would create the most centralised railway in Europe.**  
We believe that the creation of a large public sector organisation in Great British Railways in its proposed form will increase bureaucracy and costs, deliver worse customer outcomes and higher fares, stifle innovation and crowd out private sector investment. With the result that more financial risk ultimately sits with taxpayers.

It is clearly Government's intent to create a largely nationalised industry but nevertheless, we believe that there are some important changes to the Railways Bill necessary to facilitate growth, continue to encourage private sector investment, deliver better customer outcomes and better value for taxpayers and communities. We set out our proposed changes to the Bill below, including the reasons for making them.

We have also provided a mark-up of the Bill to reflect the points below.

## Proposed Amendments to the Railways Bill

A fair and non-discriminatory function for GBR is critical

Whilst the Government emphasises the need for agility and commercial flexibility, the proposed framework for Great British Railways (GBR) would consolidate decision-making across infrastructure, operations, and market access. GBR would be responsible for running passenger services, allocating capacity, and determining access for other operators— **a concentration of responsibilities that would leave the UK with the most centralised railway structure in Europe.**

This means that GBR would both operate services and decide whether competing operators can access the network. This is an inherent conflict of interest, and unless it is clearly addressed in legislation, there is a real risk that access and charging decisions will not be impartial, transparent or consistent. Such a concentration of responsibilities raises questions about how impartial and transparent access and charging decisions will be in future, how independent oversight will be safeguarded and, importantly, how it is consistent with the Government's investment and growth agenda.

To achieve the Government's growth objectives, **as a minimum, the Railways Bill should include a function<sup>1</sup> for GBR to be fair and non-discriminatory in its decision making affecting non-GBR operators.** This is common practice. As recently as July 2025, [with the Football Governance Act](#), Parliament has included explicit duties for a body to act transparently and fairly.

Having such a function should enable GBR to discharge its proposed duty 'to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance'.

We believe that the simplest way to do this is **to expand section 3 (1) (e) of the Bill:**

'Providing services to facilitate the provision and use of railway services, including where the railway services are provided by persons other than Great British Railways, **whilst acting in a fair, transparent and non-discriminatory manner.**'

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<sup>1</sup> In its Explanatory Notes to the Bill, DfT describes functions as what GBR should do and duties as what GBR should think about when exercising its functions.

Allowing for competitively tendered services as is still done for TfL and Merseytravel

This point relates to the provision in the Bill (section 31) only to allow direct awards of public service contracts for designated services:

### **'Provision of railway passenger services'**

- (1) The Secretary of State may secure the provision of a railway passenger service designated under section 25.
- (2) The Secretary of State may do so only by making a direct award of a public service contract, to one or more of Great British Railways or a GBR company, in accordance with regulation 17 of the 2023 Regulations (general direct award provision for rail).'

**Section 31 would allow designated services to be delivered only through direct awards to GBR or a GBR company**, removing the option of competitive tendering of designated services in future. This would entrench a model that will be the most centralised railway structure in Europe, limiting flexibility should priorities change.

Whilst the current Government's intent on nationalisation is clear, the possibility of competitive tendering of designated services should remain so that, if priorities change in future, alternative delivery models are still available. We would advocate that **the Bill should contain**:

- **A provision to allow for competitively tendered designated rail services**  
if GBR and/or government believes that is a better model in future;
- **A duty for GBR to support and enable the devolution of rail services.**

### Access to Infrastructure and Services

**This relates to Part 3, Chapter 1 of the Bill.**

The provisions in the Bill on network access are unfairly skewed towards GBR services. This risks not only the continuation and growth of open access services, but also freight and devolved services. A central concern is that GBR would both allocate capacity and run passenger services, meaning it would be responsible for deciding whether competitors can enter or expand on the very network that it uses itself.

GBR should not have the role of granting access to the network to its competitors. Strong statutory safeguards are essential to manage the inherent tension that will

exist. The current system can be improved upon and made more streamlined but the principle that an independent regulator should be the final arbiter of access to the infrastructure when there are competing demands is a sound one. Otherwise, there is an inherent conflict of interest which needs to be clearly managed in legislation if access decisions are to be impartial, transparent and consistent. It also risks undermining the effective use of publicly funded infrastructure and limiting growth.

Much is left to GBR policies and procedures (primarily its Access and Use Policy). Although aggrieved bodies can appeal to the ORR, it is not clear what the appeals would be based upon. A fair and non-discriminatory function on GBR, as described above, would help in this regard because it would give a basis on which to appeal if an aggrieved party believed that GBR was not acting in this manner.

**Ideally, we would like to see ORR's current role remain in deciding on access to infrastructure and charging arrangements.** If, however, the government's intent remains that GBR should take access and charging decisions, we think it is important that GBR adopts the current access and charging framework. DfT and Network Rail are looking at different options for GBR's future Access and Use Policy but we haven't seen any justification for changes to current arrangements, including the 'Not Primarily Abstractive' test for open access operations. This is a well understood process by all participants and there is no reason to change it. Assessments should also consider wider benefits such as regional economic growth, investment in new fleet, improved connectivity and better utilisation of infrastructure.

GBR should make access charging decisions, not just based on the same principles, but also based upon the same methodology that Network Rail and ORR currently adopt. Otherwise, there will be no incentive for GBR to decide that non-GBR operators can't afford to pay higher charges than they currently pay. Predictability and neutrality in charging decisions are essential for investor confidence.

**A combination of the following provisions in the Bill creates an unlevel playing field:**

- The power for the Secretary of State to introduce regulations to amend or remove access rights and/or access contracts (see below) and;
- The provisions in section 63 (Capacity duty) and 64 (Charging) of the Bill are clearly aimed at giving primacy to GBR services and potentially discriminating against non-GBR services. That will not be in the best interests of customers, funders and taxpayers.

**We believe that the following changes are important to address the concerns above:**

**Section 63 of the Bill** should be changed as follows:

- The drafting of Section 63 (2) of the Bill should be removed and changed **to ensure non-discriminatory and fair access to the network**, in line with the suggested additional function that we have put forward.
- Suggested wording for Section 63 (2) instead is: **'Great British Railways must exercise the functions so as to ensure that it allocates capacity over GBR infrastructure in a non-discriminatory manner to benefit customers and communities to the best effect. If Great British Railways reserves capacity for its own services, it must state the specific purpose for which capacity is reserved. Great British Railways must utilise the reserved capacity within six months'**

**Section 64 of the Bill** provides for GBR to make a scheme setting out charges it will levy on non-GBR operators. We have a **number of concerns**:

- The underlying principle of charging based on costs directly incurred, if it continues to mean short-run marginal cost, is the right one. However, it should be calculated on the basis of efficient costs directly incurred, not necessarily on actual costs. **The Bill needs to reflect this concept.**
- The existing provisions for mark-ups are based on what the 'market' can bear. The new provisions in the Bill are based on what an efficient operator can bear. This could unfairly penalise more efficient operators. This **should be changed to the current approach based on what the 'market' can bear.**
- There is a requirement for GBR to charge in relation to trains which are planned to use GBR infrastructure but do not operate, or do not operate in full. **We believe this should be removed.** The ORR has reviewed this concept in the past and rejected it.

**Section 65 of the Bill** makes provision for GBR to establish a 'performance scheme'. There is no strong justification to change the current performance regime arrangements. The provisions in the Bill will create conflict and confusion.

In particular the provision in the Bill saying '**the scheme may not provide for penalties or compensation to be paid by Great British Railways in relation to any disruption that is outside its control**' **should be removed**. This could create unequal incentives between GBR and other operators and cause lots of disputes as to whether an event was outside of GBR's control.

**Sections 67 and 68 of the Bill** set out the appeals procedure to ORR. We have a number of concerns with the Bill which should be amended.

Section 67 says that 'A person aggrieved by the decision may appeal to the ORR'. But on what basis? **A function on GBR, as described above, to make decisions which are fair and non-discriminatory would give a strong basis on which to make an appeal.**

Section 68 says that 'when determining an appeal under this Chapter the ORR must apply the same principles as would be applied by the High Court on an application for judicial review. **This is too narrow and should be removed. The ORR should be given more freedom to develop its appeals procedure.**

Section 68 also says that 'the Secretary of State may by regulations make provision about steps that must be taken before an appeal can be brought under this Chapter, set fees and time limits for appeals under this Chapter, and make provision governing the practice and procedure to be followed in the case of appeals under this Chapter'. **We believe that such powers will further undermine independent economic regulation and should be removed.**

**There should be a provision that ORR takes into account a duty to promote competition** when hearing appeals. **This would therefore require section 20.1 para (d) to be removed.**

. It currently has such a duty and this should remain. Open access competition has been an enormous benefit for customers and communities and without ORR balancing the benefits of competition against other duties, it is conceivable that ORR would never find in favour of an appeal by an open access operator.

**Section 69 of the Bill** on access agreements will again tilt the balance in favour of GBR services to the detriment of devolved body services, open access and freight services. GBR should be subject to the same rules as everyone else. **This section should therefore be removed.**

**Section 71 of the Bill** provides a power for the Secretary of State to establish Regulations as follows:

'The Secretary of State may by regulations make provision about the operation of—

- (a) access agreements that were entered into before the date on which 25 this section comes into force, and
- (b) access rights granted under the 2016 Regulations, so far as the agreements or rights have effect in relation to GBR infrastructure.

**'The regulations may, in particular, provide for—**

- (a) the amendment or termination of access agreements and access rights'**

**This is a draconian power and seems to us to overstep the role of government.** It is highly unusual for government to have unqualified powers to intervene in private contracts for such a long period. We accept that technical amendments will be needed to ensure existing contracts operate within the new framework, but the breadth of these powers, and lack of safeguards, create unnecessary uncertainty for operators, investors and funders.

DfT has argued that, once contracts are transferred to GBR, the power will cease to apply. This raises the question of why such a wide-ranging power is needed for such a long time.

This provision in the Bill **should therefore be replaced with a narrower power allowing amendments only where necessary to ensure contracts are legally operable within the new structure and on materially the same terms.** This is essential to retain investor confidence in the UK rail sector. It is completely at odds with GBR's proposed duty in the Bill 'to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance'.

A duty on GBR to promote passenger growth

**There should be a duty in the Bill for GBR to increase the number of people travelling by rail,** in line with government aspirations, modal shift, economic growth and decarbonisation. Growing passenger use supports better connectivity, improves the financial position of the railway and strengthens local and regional economies.

The Bill contains a provision for GBR to have regard to a freight growth target set by the Secretary of State. There is no such provision for passenger services. There should be -

this asymmetry risks undermining passenger services and reducing the effective use of publicly funded infrastructure. Otherwise, we risk a declining railway that will be bad for customers, the economy and environment. The emphasis in the Bill on performance (punctuality) could incentivise GBR to cut services in order to improve punctuality.

We recognise that the Government has argued that a passenger growth target may conflict with punctuality targets, but the inclusion of a freight growth target shows that a balanced approach is possible. A passenger growth duty would support a better-performing, more cost-effective railway that meets wider economic and social objectives.

The following **should therefore be added to GBR duties**:

Change section 18 (2) (a) to read 'in the manner best calculated to promote the interests of users and potential users of railway passenger services including, in particular, to promote passenger growth and to have regard to the needs of disabled persons'

Section 17 of the Bill should also **include a passenger growth target as follows**:

#### **Rail freight and passenger growth target**

- (1) The Secretary of State must set and publish targets to increase the use of the railway network in Great Britain for **the carriage of passengers and goods**.
- (2) The Secretary of State
  - (a) must keep the targets under review, and
  - (b) may revise or replace them.
- (3) If the Secretary of State revises or replaces the targets the Secretary of State must publish the revised or replacement target.
- (4) Great British Railways must, when exercising its statutory functions, have regard to-
  - (a) the targets set by the Secretary of State under this section, and
  - (b) any strategy or policy of the Scottish Ministers relating to the use of the railway network in Scotland for the carriage of passengers and goods.

#### **A duty on GBR to demonstrate value for money**

There is a proposed duty on GBR to take into account the costs that will need to be met from public funds and the need to make efficient use of those funds. **This should be widened to a value for money duty on the use of public funds**. GBR could otherwise spend public funds efficiently but on the wrong things that may not provide the maximum benefit to customers. A broader duty would ensure that decisions maximise

benefits for passengers, communities and taxpayers and would complement the proposed public interest duty.

Maintaining a competitive market and a level play field in retailing, including retaining impartial retailing

Customers will get best value from the innovations that third-party retailers bring in competition with GBR in the future. They will also get the best price for their journey by having access to all operators' tickets, as they do currently.

It is therefore critical that the Bill creates a fair environment for all retailers and that **the current provisions requiring impartial retailing (providing information and access to all operators' tickets) remains for GBR.**

We suggest the following changes to the Bill to achieve these objectives:

Section 3 (1) (d), at end insert '**by promoting a thriving competitive market in the retail ticketing market and to sell all operators' tickets impartially.**'

Schedule 1, Section 5 (2), at end insert '**including requirements to promote a fair and competitive retail market, treating all market participants, including GBR's retailing function, on a fair and non-discriminatory basis.**'