

EVIDENCE SUBMISSION



ASLEF Response – Call for Evidence – Railways Bill: House of Commons Public Bill Committee

1. The Associated Society of Locomotive Engineers and Firemen (ASLEF) is the UK's largest train driver's union representing over 22,000 members in train operating companies, freight companies as well as metro services such as London Underground and light rail systems.
2. We welcome the opportunity to provide evidence to the Committee on the Railways Bill. ASLEF has long campaigned for the re-nationalisation of our railways inclusive of bringing track and train together, whilst the Passenger Railway Services Act 2024 has taken a positive step in this direction by bringing the franchised operators back into public ownership, the current Railways Bill is the important next step in enabling these operators to join together with the infrastructure manager and create Great British Railways (GBR).
3. Whilst we believe that there is still scope for the re-nationalisation of services to go further, we welcome the positive steps that are being taken to ensure that the railways operate in the interests of the public and not that of private shareholders.
4. The Railways Bill creates the framework from which GBR will be able to take a better whole system view of the railways to enable the efficiencies and benefits provided by scale and whole network thinking.
5. In responding to the committee, we will work through the Bill to highlight positive clauses alongside clauses which may need refinement to ensure that GBR is able to deliver for staff, passengers and freight users. We would also like to bring specific attention to concerns we hold around parts of Clause 85 which we outline in greater detail in our response.
6. We have previously responded to the Transport Select Committee's short inquiry into passenger standards and experience, access to the railway and the role of devolution and suggest that the committee also considers our response which was published on the Transport Select Committee's website¹.

Part 1: The new regime for the railways

Clause 1 & 2

7. We welcome Clauses 1 and 2 setting GBR as an at arm's length body as we believe it is imperative that there is separation from the DfT and Treasury from the day to day operations of the railway under GBR. This will enable GBR and those with expertise and experience on the railways to get on with running the rail network in accordance to the long term rail strategy set out by the Secretary

¹ <https://committees.parliament.uk/writtenevidence/153329/html/>

of State .

Clause 3

8. We welcome the current list of functions of GBR and believe it is sensible for GBR to make decisions on who can access its infrastructure. We see the potential for a much improved passenger experience with the ability of GBR to set fares and sell tickets whilst taking over 'back of house' ticketing management functions that the RDG currently performs. Of note, is the fact that the RDG currently has control over the staff travel system, this is an area which we believe needs reform and can see a more equitable system being delivered to staff under GBR.
9. We welcome the clarification made by subsection (2)(a)&(b), that part of GBR's function includes strategic planning for the future development of the railways, alongside the ability to make decisions on access, we can see this clause enabling GBR to truly plan and grow its services and the network. This will also enable GBR to outline to the DfT and Treasury their desires for future development to ensure that decisions are taken that are focused more on the railway itself rather than political desires and short-term political gains as has been the case over the last decade.
10. We note that subsection (5) allows GBR to authorise a subsidiary or a company jointly owned with Scottish Ministers, Welsh Ministers or a transport authority to deliver its functions for it or alongside it. We do hold concerns around the potential for full devolution of services and can see this clause working best with partnership models being adopted, where GBR is still the employer and deliverer of the services but with the services integrated into a region and developed in partnership.

Clause 4

11. We welcome the protections for the current levels of transport devolution in Scotland and Wales and think it is sensible to provide for the ability to enable Scottish and Welsh Ministers to allow GBR, a subsidiary of GBR or a jointly owned company to carry out their railway functions if they wish it to but to not look to impose any revisions to the current level of devolution.

Clause 5 & 6

12. As we have outlined already, we see co-operation working best with GBR operating in partnership with mayoral combined authorities / mayoral strategic authorities (MSAs) or passenger transport executives. We note that subsection (2) could enable MSAs to assist GBR to develop the rail network within their region, such as utilising the new visitor levy to help fund transport investments to improve regional rail services or assist GBR in bringing a defunct branch line back into service.
13. Whilst Clause 6 looks to mirror the co-operation with TfL, we are concerned with the current approach from TfL to request full devolution of services, as we

currently see with Thameslink Great Northern services. If the current request is accepted it will see Great Northern move into public ownership to then being concessioned out to the private sector under TfL, for the passenger services to then be operated for the profit of private shareholders. TfL does however provide examples of how MSAs could utilise funding models to raise further funds to develop the rail network in their region, such as the land value capture model that was used to help fund Crossrail.

Clause 9

14. It is sensible to ensure that there is a framework that enables the Secretary of State to give guidance to GBR as to the exercise of its statutory functions, this helps to ensure that the Minister has the ability to keep GBR on track to deliver the long-term strategy for the railway and any national integrated transport plans. However, this clause could enable interference in GBR's plans for the current and future provision of services based on political pressure rather than the specific needs and ambitions of the railway itself. As the Secretary of State will already be setting a long-term strategy for the railways it may be prudent to amend this Clause to ensure that any guidance given on statutory functions, to which GBR must have regard, is limited to specific statutory functions where it is necessary.
15. For example, the recent example of the Avanti West Coast 'ghost train'² highlights the potential for the Secretary of State, under political pressure, to give guidance to GBR to re-instate a service which may have been removed for operational reasons and to enable timetable changes. There would need to be a balance to enable GBR to plan and deliver based on its current and future network plans without the Secretary of State taking any minute decisions such as the re-instatement of a passenger service that was removed with a timetable change.

Clause 11 & Schedule 1

16. Retaining the ORR's role as monitoring GBR's compliance with its licence and for the Secretary of State to be the one issuing the licence. We can see areas where the consumer standards, set by the passenger watchdog, could encourage GBR to offer an improved service with a higher standard of accessible travel policies and higher standards for information for passengers than what has been the norm under privatisation. For example, we have experienced accessible toilets being out of order on services but the current legal accessibility standards afford operators six working days for a fault to be reported and fixed. This means that a train can be in service for a whole working week without any accessible toilets, we believe that Accessible Travel Policies could be improved as part of the consumer standards set by the passenger watchdog. This could reduce the days that a train is able to operate without an accessible toilet to highlight to operators how unacceptable it is to continually run a service that doesn't meet the accessibility standards.

² <https://www.bbc.co.uk/news/articles/cy7v08zkk100>

17. As GBR will be the infrastructure manager and main passenger operator alongside other services devolved to Wales, Scotland and regions of England as well as Open Access and Freight, it is also important that the license is more streamlined than the current Network Rail License, however the license itself is to be consulted on outside of the Bill so the detail is yet to be seen.

18. As we have highlighted, as there will be other operators competing for paths and passengers on the network, this does hold back the ability of the passenger watchdog to set consumer standards which are much higher than other license holders, this is a reflection of the awkward situation that we see with the partial renationalisation of the railways, which sees attempts to juggle 'competition' for passengers and paths for freight services, whilst trying to also take a whole system approach to grow and improve the whole network.

Clause 12 & Schedule 2

19. We understand the desire to mirror the five-year funding cycles which are currently in place with Control Periods with the new Funding Period Review (FPR). This can help to ensure that there is certainty for supply chains that the funding periods can provide. However, we have seen previous control periods operate as a cutting exercise where the funding provided is reduced to a point to enable the safest possible operation of the railway whilst reducing costs to a level which the Treasury is happy with. This has seen the ORR function to assess Network Rail plans to make sure they're safe whilst still delivering cuts. In the past we have also seen track works overrun from one control period to the next or be pushed back to be dealt with in the next control period due to funding constraints and needs elsewhere across the network.

20. We welcome the commitment to separate out funding for passenger services and funding for operations maintenance and renewals (OMR) as we would not want to see funding focused on areas with higher levels of passenger services at the expense of providing funding for less used sections of the network which are in desperate need of investment to ensure safety. This is particularly important with climate change and higher levels of rainfall in mind and the impacts this has on the over 190,000 earthworks that Network Rail and soon GBR manages with most of the embankments are more than 150 years old and not built to modern standards.

21. For CP7 the previous approach has seen decisions taken to reduce funding in the short term but potentially with greater expense in the long term, essentially kicking the can down the road. CP7 saw the decision taken to not refurbish the high output plant and cutting posts in the Track Renewal Service, all whilst admitting that speed restrictions will most likely be needed through CP7 to ensure that network safety is maintained, with the impacts this could have on timetabling and the ability to run the level of service that the public expects this sets up GBR to inherit a network that could be in decline. This shortsighted approach which uses the cheapest option of implementing speed restrictions until a time where funding and resources are available to implement the renewals necessary to ensure that the network is safe, led to the Nuneham Viaduct to almost collapse in April 2023 after it was first identified as an issue

in March 2022³. We are concerned that without increased funding for CP7 we could see a repeat of this and funding pressures on GBR for its first FPR.

22. We are concerned that without the appropriate level of funding to ensure that the current network is maintained and renewed alongside new infrastructure coming into the network, then GBR and ultimately the Secretary of State and the Treasury will have a difficult situation to deal with as paths for passenger and freight operators may be lost due to the need to re-route services around failing infrastructure or due to the need to implement speed restrictions which impact on service patterns. This could also have knock on effects to wider funding as the operators that are paying access charges may be due compensation.
23. We welcome the provisions under Schedule 2 which allow the Secretary of State and the Scottish Ministers to provide additional financial assistance under Clause 3(1)(a) if needed for OMR, although we would hope that the appropriate level of funding is provided in the first place, albeit with years of underfunding under successive Conservative and Conservative/LibDem governments still to be righted.

Clause 13

24. This clause could help to raise revenue for GBR by charging the multitude of companies that could sell tickets on behalf of GBR, to access the booking and reservation systems. We have seen Trainline take over the market and essentially hold a monopoly. This was evidenced by Virgin Trains Ticketing at the Transport Select Committee's oral evidence session on the 10th May 2023⁴ and further evidenced by Trainline and Silverail's oral evidence to the Transport Select Committee on the 8th May 2024⁵, where it was acknowledged that Trainline essentially hold a monopoly.
25. We had hoped that with the creation of GBR, we would see the end of the profiteering from the private ticket sellers, enabling the revenue raised to be fully re-invested back into the network. We welcomed the confirmation that there will be a centralised GBR app and website which will also handle ticketing, this can save passengers money as presently they can be charged booking fees, fees for amending bookings, be sold the wrong ticket or face difficulty in being refunded. We also hope that the existence and continuation of private ticket retailers does not hamper GBR's ability to simplify ticketing such as introducing new fares or ticketing types which may be more problematic for the private sellers to profit from, such as tap in / out technology.

Clause 15

26. We were glad to see that finally there will be a long-term strategy for the railway, we have long called for a long strategy to be set, this creates certainty for supply

³ <https://www.bbc.co.uk/news/uk-england-oxfordshire-65820977>

⁴ <https://committees.parliament.uk/oralevidence/13129/html/>

⁵ <https://committees.parliament.uk/oralevidence/14784/html/>

chain and makes clear to the rail sector the government's long-term plans for the railway, allowing GBR to get on with the daily running of the railway with a view to deliver the long term strategy. We have seen a lack of long-term planning and certainty creating boom and bust on the railways in the past and we would hope that the long-term strategy coupled with the rolling stock procurement strategy, rail freight growth target and the Infrastructure Pipeline all help to create certainty for the sector.

27. We do note that 15(4)(b) enables revision and replacement, which is understandable as the government finances can change over a thirty-year period. However, we think this clause could benefit from more clarity on under which provisions the strategy would be revised or replaced along with explicit confirmation that GBR would be one of the consultees as any revision or replacement could impact on GBR's current and long-term planning and funding allocations as the main infrastructure manager must have regard to the strategy.
28. We also note that, whilst the announcement of the rail strategy outlined that it would cover a thirty-year period, this is not clear in the Bill itself, it presently just states 'long term strategy'. We would not want to see the possible certainty that a long-term strategy would create to be hampered by constant revisions or replacement or with the strategy only covering 10-15 years i.e. three funding periods.

Clause 17

29. We welcome the introduction of the clause requiring the Secretary of State to publish a target to increase the use of rail freight. We did not believe that the rail freight growth target, set in 2023 of 75% by 2050 was ambitious enough. We hope that the Labour government understands the importance and need to move more freight onto rail to reduce emissions and help the UK achieve its net zero targets. We have been calling for an increase in the rail freight growth target as part of our Rail Freight Future campaign⁶, in which we have also highlighted small, targeted investments which would not only help to grow rail freight but enable the use of more electric locomotives to avoid diesel locomotives operating under electric wires as we currently see.
30. As is well known in rail freight, there is little scope for cost-cutting following three decades of privatisation searching for 'efficiencies' which have led to redundancies, the use and acceptance of working practices that fatigue staff and the driving down of terms and conditions as a handful of operators bid against each other for the same contracts encouraging a race to the bottom. We hope that, as GBR must have regard to the strategy, that a sufficiently ambitious target encourages GBR to work to grow rail freight across the network. However, a target alone will not achieve this, and we do need to see funding for electrification of freight routes, providing confidence for those looking to invest in strategic rail freight interchanges whilst the electrification itself also provides benefits for both passenger and freight services. We would

⁶ <https://aslef.org.uk/RailFreightFuture>

also need to see new rail lines along with the expansion of existing lines to release capacity and enable freight to truly grow alongside passenger services.

31. Presently, we have bottle necks and capacity constraints across the network which add complications for increasing rail freight and we would hope that a rail freight target, would be developed with plans to invest in the sections of the network which rail freight requires.
32. We have seen the collapse of international rail freight enabled in part through a lack of investment in parts of the network which could facilitate its continued use and growth, such as the loading gauge enhancements required between Folkestone and Wembley⁷. Presently we have members operating services between Dollands Moor and Dagenham to maintain competency and route knowledge should there be a demand for international rail freight and to facilitate any short-term spot hire. To address this, we would need the target to also apply to non-GBR infrastructure managers or for the ORR to have regard to it as HS1 is currently owned and operated under concession until 2040 by HS1 Limited / London St. Pancras Highspeed following the sale during the then Conservative and Liberal Democrat coalition government⁸.
33. The most recent periodic review for HS1 saw the infrastructure manager try to impose high charges on freight operators whilst also projecting a reduction in half of the number of freight services per year, showing a real lack of ambition or willingness to grow rail freight. This was even after the 2023 rail freight growth target had been set. We responded to the draft determination at the time to highlight our concerns for rail freight⁹.
34. This current situation highlights some of the continued fragmentation on the rail network and the potential complications this could cause when trying to take a whole network view and setting targets for the network, when parts of the network are under a different ownership and operation model.
35. We do believe that GBR could benefit from bringing some rail freight operations in house. Presently all freight operators except for DRS are owned and operated by the private sector. Network Rail currently issues many contracts for the OMR of the network which requires locomotives which are provided by a mix of operators, there could be efficiency savings in the long term and greater control to facilitate growth if GBR brought these operations in house to enable GBR to have greater control of carrying out its statutory functions (3(1)(a)). There could also be benefits to bringing 'thunderbird' services in house to enable GBR itself to recover either its own or other operator's broken-down services on the GBR network. There could also be benefits gained through scale with GBR able to access drivers with traction and route knowledge that may not be present at the same scale with contracted out recovery services.

⁷ <https://www.getlinkgroup.com/en/news/developing-cross-channel-rail-freight-doubling-the-modal-share-of-rail-freight/>

⁸ <https://www.gov.uk/government/news/uk-government-sells-right-to-operate-first-high-speed-railway>

⁹ <https://aslef.org.uk/publications/aslef-consultation-response-orr-periodic-review-hs1-ltd-2024-pr24>

36. As rail freight operations will be in competition with passenger services for paths on an already constrained network, we would need clarity on how clauses 60, 63 & 64 will factor in current and future freight services alongside plans for future GBR services and how any conflicts would be resolved. We will go into more detail under the clauses themselves. We believe that the the most sensible way to run the network as whole, would be for GBR to be in control of both passenger and freight services, this would truly enable a whole network view of timetabling, planning, investment, maintenance, renewals and upgrades.

Clause 18

37. We welcome the clarity under 18(3)(a)&(b) that public interest includes the social and economic benefits derived from railway services and the effect railway services have on the environment. We know how vital the railways will be in tackling climate change and the important role that both passenger and freight services can play in achieving net zero targets. We hope that such a duty would help to avoid any instances such as HS1 looking to overcharge freight operators and essentially remove freight from its network as this would not be in the public interest.

38. As the government is currently championing discontinuous electrification, we are concerned as to how clauses 60 & 63 will assess the public interest when deciding whether to permit access on the GBR network, if for example an application from a freight operator would mean that, due to a lack of investment, they would need to be running diesel locomotives or a bi/tri-mode locomotive emitting emissions for parts of its journey. We would assume that due to the benefits of scale, rail freight will be favoured as in the public interest over the alternative option of freight moving long distances on multiple HGVs and causing congestion on the road network. However, we do need to see investment from government to electrify at the very least sections of the rail freight network which could enable the use of electric freight locomotives which have in recent years been put in storage or scrapped in favour of diesel locomotives due to the costs for electric traction and the need to use multiple locomotives where only parts of the route are electrified.

39. Further to the point above, as diesel freight locomotives run at slower speeds, release pollution and can suffer from reliability issues, we are concerned that it may not be seen as in the public interest to accept access request from freight operators if it could impact on GBR's ability to increase passenger services on parts of the network where there already are capacity constraints. Freight operators have been disadvantaged by a lack of investment in the network which would facilitate cleaner, more reliable and faster rail freight services, allowing freight to grow whilst ensuring that passenger services aren't constantly forcing freight services into sidings and loops to facilitate the passenger service overtaking them.

40. For example, on the benefits of electric rail freight, two electric Class 90 locomotives (some of which were stored and scrapped recently by DB Cargo in

2024¹⁰) could run a 1,235t intermodal train at the current maximum allowed line speed for rail freight (75mph) over Shap summit whilst a Class 66 (the workhorse of the freight sector) usually achieves a typical speed of 25mph over Shap summit, which can result in the loss of at least one train path. Highlighting the potential benefits for both passengers, freight operators and wider society by electrifying the rail freight network. This could also help to remove some of the 4,000 HGVs carrying containers on the M6 between 06:00 and 18:00¹¹.

41. We also hold concerns around the move to discontinuous electrification imparting complications onto the rolling stock, with bi-mode and tri-mode locomotives and trains having the potential for different faults to arise for the different modes of traction. It has become clear that the government is looking to battery technology to enable green discontinuous electrification of passenger services. The fact is that, presently this is not a viable option for rail freight and the introduction of the Class 99 (costing £5m per unit¹²) and the Class 93 (£4m per unit¹³), with the cost being born solely by the private sector whilst the required electrification for rail freight to facilitate the use of existing electric locomotives that have been in service for years but are now in storage could be covered at £100m per annum over 20 years with an initial no regrets infill only costing £50m pa over two years¹⁴.
42. The Scottish government has demonstrated how a rolling programme of electrification can bring down costs¹⁵ and we would hope that the UK government would adopt the same foresight to electrify the network and avoid any situation where it could be considered not in the public interest to accept an access request due to a lack of investment in the network leaving it un-environmentally friendly to grant access unless a private operator is able to purchase or lease bi and tri-mode locomotives first.

Clause 20

43. We welcome clarity that the ORR's competition duty will not apply to GBR's management of its infrastructure, it is sensible to allow GBR to assess its capacity and access request from other operators based on what is in the public interest. However, this highlights an area where we believe that further reform would be needed to ensure that there is a whole network approach taken to the infrastructure and its capacity.
44. We believe that for a whole network approach to be taken GBR would operate best with the infrastructure currently concessioned out such as HS1 being back under GBR's control, this could enable a long-term approach to developing and

¹⁰ <https://www.railmagazine.com/news/2024/07/22/first-of-the-class-90-electrics-scrapped-with-more-to-follow>

¹¹ <https://www.railengineer.co.uk/posts/page/2/>

¹² <https://www.railfreight.com/business/2025/11/06/gb-railfreights-new-class-99-get-green-light-for-uk-operations/>

¹³ <https://www.railmagazine.com/news/network/rail-operations-fuels-its-ambitions-with-tri-mode-class-93s>

¹⁴ <https://ciltuk.org.uk/News/Latest-News/ArtMID/6887/ArticleID/37134/Rail-electrification-possible-for-95-of-UK-freight-trains-CILT-research-reveals>

¹⁵ <https://www.modernrailways.com/article/scotlands-rolling-programme-cuts-electrification-costs-26>

growing international traffic for passengers and freight whilst enabling a long-term view as to how to better connect HS1 with HS2.

45. We welcome the fact that the competition duty will not apply to the ORR's safety functions or any functions relating to the licensing or certification of persons who drive trains.

Clause 23 & 24

46. We hope that the memorandums of understanding can ensure that a whole network approach is taken, ensuring that capacity is maintained for cross-border passenger and freight services, whilst enabling both the Scottish and Welsh Governments to develop and grow services in their countries.

47. We note that the current Welsh Government has a desire for full devolution¹⁶ of services and infrastructure and we can see the memorandum of understanding creating an opportunity for some of these desires to be satisfied with a clear framework for how Welsh Ministers and the Secretary of State will work together in exercising their respective functions in relation to railways and railway services, with particular focus on the governance and management of GBR.

Part 2: Passenger and station services

Clauses 25 & 28

48. We hold concerns with the current operation of devolved rail services which fall outside of Section 23 of the 1993 Act being concessioned out to the private sector enabling the continued profiteering. We have recently seen First Group secure the £3bn contract to operate London Overground services¹⁷ growing their foothold on the railways at a time when they are losing franchised operations to GBR.

49. We are concerned that current or future governments may look to circumvent the Passenger Railway Services Act 2024. For example a Mayoral Strategic Authority may request full devolution of GBR services and the current or future Secretary of State from another political party may decide this is their preferred approach, resulting in nationalised GBR services being devolved and then concessioned out to the same companies and managers that were involved in the franchising model, which ultimately failed.

50. Of relevance to this, is the current proposal from TfL to devolve Great Northern services which are due to come into public ownership on 31 May 2026. This could see a short lived time for Great Northern services in public ownership and operation before being devolved to TfL and then concessioned out to the private sector. This would also see our members transferring into DfTO/GBR then back to the private sector again within a short space of time, we would hope that

¹⁶ <https://committees.parliament.uk/publications/50592/documents/277210/default/>

¹⁷ <https://www.railmagazine.com/news/first-group-wins-london-overground-concession>

GBR is enabled to get on with running the railway as a whole, with a focus on partnerships with MSAs before the Secretary of State looks to fully devolve services to MSAs and potentially re-fragmenting the railways in what is a transition period to GBR.

51. We would favour a backstop to ensure that any GBR services which are fully devolved are only allowed to be devolved if they are to be owned and operated by a public transport body rather than concessioned out to the private sector to extract revenue as profits for private shareholders rather than the profits being re-invested back into the network itself to facilitate further growth.

Clause 31

52. We welcome Clause 31 setting out protections for the public ownership and operation of designated rail services. This will protect public ownership of GBR services and across national borders with devolved authorities, however as outlined above we are concerned with the devolution of services to mayors in England facilitating the concessioning out of rail services to the private sector.
53. We have a preference for partnerships between MSAs and GBR to deliver services with the staff staying under the employment of GBR rather than re-fragmenting the railways inclusive of staffing. Keeping the staff and services under GBR and operating in partnership with MSAs could keep opportunities open for staff to move across GBR and for the services offered in partnership to benefit from the scale of GBR with traction and route knowledge being able to be shared and utilised if needed to cover services.

Clause 33

54. We welcome the continuation of the Secretary of State or Scottish Ministers' power to give directions to GBR under clause 7 or 8 enabling them to give direction relating to fares. In Scotland our campaigning led to the removal of peak fares¹⁸, making rail travel more affordable for those commuting to and from work.
55. As the bulk of funding for GBR will come from central government alongside revenue raised from ticketing, it is sensible to enable the Secretary of State or Scottish Ministers to give directions, however it is also essential that ticketing is kept affordable to encourage passenger growth and modal shift from private motor vehicle use to rail travel. As has been demonstrated in Scotland, a new approach to ticketing can be taken to reduce costs and encourage rail travel.
56. It is widely accepted that the current fare structure and variation of ticket types is confusing and can cause barriers to rail travel and we welcome the public statements from the government that GBR will simplify fares and ticketing, we would hope that this would also include ensuring that it is affordable to encourage growth.

¹⁸ <https://aslef.org.uk/news/aslef-hails-permanent-ending-peak-fares>

57. We believe lessons could be learned from European countries and their recent introduction of differing fare schemes to encourage usage, such as the Deutschland ticket in Germany, Portugal's Green Rail Pass and the KlimaTicket in Austria to name a few. We would hope that with a review of ticketing and fares under GBR such schemes and the potential effectiveness of similar schemes in Great Britain is also considered.

Clause 34

58. The continuation of discount fare schemes in primary legislation is welcome as it provides security and certainty for those currently access these schemes, such as through the disabled persons railcard.

The Passengers' Council Clauses 36 - 52

59. It is welcome that the Bill is creating a central watchdog which will be able to hold GBR to account on providing services for passengers and improving the current offer with the watchdog able to set standards which operators and infrastructure managers must adhere to. We have touched on the potential for there to be improvements for accessibility based on the Passenger Council's role under Clause 11 & Schedule 1.

60. We do believe clarity is needed on what the remedy would be, if for example there are issues with overcrowding due to reduced services from a failed introduction of rolling stock, faults with rolling stock or with different terms and conditions (from privatisation) across GBR impacting on the level of service provision in different areas.

Part 3: Miscellaneous provisions

Clause 59

61. We are yet to see the draft access and use policy, which is due to be consulted on. Subsections 4 and 5 enable GBR to replace or amend the document/s at any time with Clause 66 ensuring that consultation must take place, this should help to guarantee that there is transparency for open access and most importantly freight operators for whom the access and use policy can have large impacts on their business.

62. We welcome the streamlining of the access regime enabling GBR to be the decision maker of access on its own network with the ORR as the independent appeals body although it is not on the face of it, clear what powers the ORR would have to enforce any changes as their role will be to independently assess if the access decisions are legal. We do hold concerns for how the role of rail freight will be weighed against current and future planned GBR services and whether the rail freight target and the long-term rail strategy will be strong enough to encourage and support rail freight growth and enable access request for freight to be accepted. This again highlights some of the difficulties that GBR will face due to the partial renationalisation of the rail network.

63. Decisions on access are supposed to be based on the following wording, “*Whichever services offer the genuine best value proposition for the passenger, the public, and the taxpayer, according to the criteria in the duties, should gain access to the track.*”¹⁹. This leaves the question as to what the genuine **best value** is and will there be a national / regional difference. For example, the best use of the network for a specific region may be based as for an increase or future increase in GBR passenger services but this could then stop an access request for rail freight services which pass through a region providing wider economic and environmental benefits if the desires of a region / MSA and that of current and potential passengers is given more weight than a freight operator. This is a fact of the current limitations on capacity and the realities of intercity services mixing with regional passenger and freight services. A similar situation could be seen too with an MSA wishing to increase regional services whilst GBR wishes to increase intercity services with both services needing to use the same infrastructure which has limited capacity, again the best use for a region may be to increase regional services, particularly if the inter-city service does not stop in the region. GBR will have to find a balance and be able to demonstrate ‘best use’ to appease many stakeholders, Clause 60 will also play an important role in managing this balance and setting expectations.

Clause 60

64. Again, as there will be open access and privately operated rail freight services looking to access the network and utilising what capacity there is, it is not clear how the ORR as the independent regulator will be able to handle any appeals against GBR’s view of the best use of its infrastructure. As already stated, we would see the best approach being with passenger and freight services coming under GBR enabling GBR to take a whole network approach to allocating capacity to grow both passenger and freight services and to make decisions on where to prioritise investment to increase capacity.

65. We note that in the current draft of the Bill, GBR must have regard to the need to accommodate its own and other passenger and freight services as well as the maintenance of its infrastructure, we are concerned that rail freight may lose out in favour of GBR and future GBR services or with well financially backed open access operators putting in multiple access requests and competing with rail freight for capacity.

66. As GBR will be more focused on its own passenger services and with the government favouring discontinuous electrification, as was evidenced by the agreement to open East West rail with discontinuous electrification, and the pause the Midland Main Line electrification with the Rail Minister using the introduction of bi-mode trades as a justification for this decision²⁰. We are concerned that the current focus from government, which could be repeated by GBR, (especially as central government will be responsible for funding infrastructure improvements) will be heavily in favour of passenger services, despite the benefits that electrifying and developing the network for rail freight

¹⁹ <https://commonsbusiness.parliament.uk/Document/100027/Pdf?subType=Standard> P9 paragraph 42

²⁰ <https://committees.parliament.uk/oralevidence/16342/html/> Q316

would have on unlocking capacity for passenger as well as freight. This leaves the rail freight sector in an unfair situation, where it is dependent on GBR factoring in the potential for future rail freight services as well as requiring the government to invest in the infrastructure which could enable freight operators to run more efficient and environmentally friendly services.

Clause 62

67. Again, as we are not seeing the full nationalisation of the network under GBR, there will need to be a mechanism for rail freight operators to appeal any decisions on the working timetable which may harm their current or planned business, the current appeals process under subsection 7 only allows the ORR to rule whether GBR's decision was legal, this could inadvertently lead to rail potential future freight services being squeezed out if the rail freight growth target is not reviewed and increased above the level set by the previous Conservative government.

Clause 63

68. Following the passage of the Passenger Railway Services Act 2024 we saw the private sector pivot to making multiple access requests for open access operations, in what appeared an attempt to secure long term access before GBR was established and harm its ability to take a whole network approach with a view to improving and increasing GBR services if capacity is already reserved for new open access operations. We welcomed the Secretary of State's letter²¹ in January 2025 steering the ORR away from approving multiple open access applications that extract from DfTO services and harm GBR and its potential to grow its own services in the future.

69. As rail freight will not be under GBR and Subsection 2 enables GBR to retain capacity for passenger services which it expects to run in the future, we are concerned that this could impact on the ability to grow rail freight and potentially cause conflict with rail freight operators looking to grow services. Whilst the clause is not intended to enable GBR to secure more capacity for its own services that it thinks would equate to 'best use'. We are concerned that there could be an instance where the 'best use' is judged to be a future GBR passenger service, when a rail freight service is looking to begin running sooner but due to the slow running speed of the service, in part due to a lack of electrification across the network, it is deemed a better use of capacity to hold it for a future passenger service.

Clause 64

70. We are awaiting detail on the charging scheme and of course do not expect the detail of such a scheme to be set in primary legislation; however, we welcome the inclusion of subsection 4 which confirms that GBR can set a lower charge where it considers it is appropriate, such as the promotion of new services. We would assume that this could work to encourage rail freight growth as per the

²¹ <https://assets.publishing.service.gov.uk/media/677bc388d119b345376654a4/dft-letter-sos-orr.pdf>

target.

71. It is sensible that subsection 5 stops GBR from charging itself for its use but clarifies that it must outline the costs of its services, as there will be other operators on the network being charged for access and use, it is important that GBR is transparent in its methodology for calculating the costs.

Clause 65

72. We understand the importance of a penalty scheme, however as GBR will be the infrastructure manager with funding from central government impacting on the standard of the railway, there could be instances where operators essentially receive a double penalty. For example, due to the lack of electrification of the rail freight network, there could be instances where delays are caused due to the need to swap freight locomotives along a route or with the breakdown of an ageing diesel locomotive which is being used in place of a more modern and reliable electric locomotive due to a lack of investment into the electrification of the network. This pattern could also be repeated where there hasn't been investment in increasing the loading gauge of the network which could open alternative routes that rail freight operators could utilise to increase services and provide alternative pathing when required to avoid delays.

Clause 66

73. We welcome the clarity from Subsection 2 that GBR must consult when issuing, revising or replacing the access and use policy, the infrastructure capacity planning documents, a working timetable or altering or replacing a charging scheme or performance scheme. It is important for transparency that GBR consults on any changes due to the impact they can have on a part nationalised network.

Clause 68

74. As we have outlined, the ORR will be looking at the legality of GBR decisions, whilst GBR will set its access and use policy and charging structures then it may be difficult for an appellant to win any case. Our main concern here, is down to rail freight being privatised still and our members having already faced a race to the bottom with regards to their terms and conditions. We would hope that the rail freight growth target is strong enough for there to be little to no need for freight operators to appeal decisions but again this does highlight the complications that are created by trying to balance the needs and wants of a mainly nationalised passenger railway sector with those of a privatised rail freight sector.

Clause 69 & 70

75. It is sensible to exempt GBR or a subsidiary of GBR from sections 17-22C of the Railways Act 1993 and remove the ORR's power on access, as GBR is the infrastructure manager and operator of the majority of passenger services and

should be best placed to assess access requests, with the caveat of having regard for the rail freight growth target and the public interest tests.

76. It is also sensible to exempt GBR from the provisions that would apply to its infrastructure under the 2016 regulations.

Clause 71

77. We welcome the clarity that this clause sets out regarding those with pre-existing agreements to access of GBR infrastructure and we note that the government has stated an intention to preserve existing Schedule 5 rights, with the power intended to be used to amend contracts to facilitate operational transition to the new system set by this Bill.

Clause 72 & 73

78. It is welcome that the Bill will enable the Secretary of State to make regulations to amend or make similar provisions to the 2016 regulations, this will ensure that the legislation governing the other infrastructure managers can be updated to ensure there is alignment across the network between GBR and non-GBR managed infrastructure.

79. We welcome the confirmation that the definition of GBR infrastructure can be amended along with disapplying charging regime in the 2016 regulations, this would be particularly important when HS1 comes back under GBR's control.

Clause 85

80. We understand that following Brexit, there is a requirement for the Secretary of State to amend Train Driver Licencing and Certificates Regulations 2010 (TDLCR) and related assimilated law through regulations. We saw this with SI 2022/85 which was required to enable UK and EU licences to be recognised for cross border services.

81. We would note however, that it is important that TDLCR does not diverge too far from the EU standards due to the importance of international services and the role of SI 2022/85 in facilitating cross-border services.

82. We have shown the value in consulting with and working with the train drivers themselves to update aspects covering competency, medicals, route and traction knowledge. Beyond TDLCR we have demonstrated the importance of working with drivers to develop and design the cab environment of new rolling stock to ensure that when it enters service it is fit for purpose, such as with the Class 345 used on the Elizabeth Line and the new Class 398 tram train that is being introduced on South Wales Metro.

83. We have also demonstrated the importance of working with drivers to update rail industry standards to ensure that the standards stay up to date with developments in science and understanding of testing, such as with

improvements to colour blind testing for drivers²². We are also proud of our work with industry and the government to lower the driving age for mainline drivers to bring it in line with London Underground and comparable European countries.

84. With the importance of listening to and working with drivers, we would expect that subsection 6 (a) would naturally involve ASLEF and we would further expect that the Secretary of State would have regard to the views raised by those representing train drivers to avoid any changes to the TDLCR which could have a negative impact on the role and those already in post. It may be worthwhile to update subsection 6 to read that the “Secretary of State must consult and regard to the views raised by -” this would further ensure that the views raised are truly taken into consideration before any changes are made.
85. We hold concerns with the wording of subsection 2 (d) and (f), we see 2 (d) as having the potential of placing a barrier to new joiners to the driving grade, as this could see fees being imposed on those seeking to acquire a license or even a certificate. Due to the failures of privatisation which saw franchise operators fail to employ the right level of drivers, we have a shortage of drivers across the network, this has led to an over reliance on rest day working being used to enable operators to deliver the services that they are timetabled to run.
86. The government has taken the positive step of lowering the driving age on the mainline to 18, bringing it in alignment with the London Underground and other European nations. We are concerned that it is counterproductive to, on the one hand, lower the driving age, and then on the other introduce fees for those looking to obtain a licence. This could limit any younger applicants looking to join the driving grade, whilst place a barrier upon any other worker looking to move into the driving grade if they do not have the necessary funds to pay the fees.
87. We are further concerned that the fees could be used for those obtaining a certificate. Licenses outline that someone can drive on the mainline whilst certificates outline what they are trained to drive and over which routes. This again could be counterproductive and place barriers upon drivers and employers in obtaining certificates for different rolling stock. If GBR is to benefit from the scale that bringing back together the franchised operators would bring, it wouldn't be sensible to be imposing fees on drivers to obtain certificates.

Clause 86

88. We understand the insistence to ratify the Cape Town Convention and the Luxembourg Protocol, however we are concerned with the current state of rolling stock procurement in Great Britain and how ratifying these two, without first looking to alter how rolling stock is procured could exacerbate the current situation, where large sums are extracted from the network in private shareholder profits. In Great Britain, ROSCOs are still extracting large profits

²² <https://www.rssb.co.uk/about-rssb/insights-and-news/news/rssb-research-identifies-better-colour-vision-testing-for-drivers>

from the leasing of rolling stock, some of which was procured during public ownership under British Rail and in operation before privatisation, then sold to the newly created ROSCOs to then be leased by the franchises and some of which is still in operation over 30 years later when the current government undertakes a partial re-nationalisation of the railways.

89. In our report 'A vision for Public Financing of Scotland's Railways' we highlighted how a different approach to rolling stock procurement could be taken, such as utilising green bonds to secure investment which enables the public ownership of new rolling stock. In Scotland alone, the use of green bonds could save £362m and result in savings for passengers, with 25%²³ of tickets (prior to the scrapping of peak fares) going to ROSCOs, servicing shareholder dividends rather than being reinvested in the rail network. Liverpool City Region Combined Authority has recently shown how public ownership of rolling stock can be achieved with the procurement of their fleet of Class 777s.
90. GBR owning and procuring its own rolling stock utilising green bonds such as is done by EUROFIMA on the continent, could support the Industrial Strategy and help to encourage growth across multiple sectors and reinvigorate rolling stock manufacturing in the UK. This could lead to a capability to produce rolling stock for GBR and other operators in the UK whilst also having the potential to produce rolling stock for operators in other nations enabling the export of rolling stock as was seen under British Rail. If the UK was able to design, produce and manufacture its own rolling stock at scale, we could see some benefit to ratifying the Cape Town Convention and the Luxembourg Protocol to ensure that rolling stock manufactured in the UK and exported is protected.

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²³ <https://www.leasinglife.com/features/who-owns-the-trains-roskos-and-repatriated-profits/>