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The Shaw Report
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Dear Nicola,

The future shape and financing of Network Rail – The Scope Consultation Document 2015

Merseytravel

Merseytravel is the Transport Advisory Body of the Liverpool City Region Combined Authority. Merseytravel manages the Merseyrail Electrics train operating franchise under devolved powers granted by the Department for Transport through a twenty five year long Concession Agreement which commenced in 2003. In addition to managing the Concession Agreement, Merseytravel acts on behalf of the Liverpool City Region Combined Authority as a funding body to enhance the rail network and service delivery. The Liverpool City Region is a member authority of Rail North and has been involved with and supported the specification and award of the recent Northern and Transpennine Franchises commencing in April 2016. The Combined Authority is also represented by Merseytravel as a partner member of Transport for the North.

We welcome the opportunity to respond to the consultation on the future shape and financing of Network Rail: the scope and congratulate the work undertaken so far in developing what is a wide reaching and detailed discussion document on a very complex and nationally significant matter.

Merseytravel response

A series of 29 questions have been posed by the scoping report on the shape and financing of Network Rail and rather than attempt to answer each of these in turn we have summarised the key themes and concerns that we would wish to highlight that span the majority of the areas covered by Network Rail's accountabilities and the questions.

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We have been engaged in the development of responses to this consultation by partner organisations in PTEG and Rail North and wish to express our support for the key issues and concerns raised by those bodies.

Network Rail's Structure

Network Rail's role and management arrangements as national infrastructure owner, operator, maintainer and infrastructure provider on a network basis has a significant and constraining effect in the context of devolution upon service provision and investment in rail infrastructure and stations. The future structure of Network Rail needs to consider not only structure, but equally the delegation of authority and accountability within the organisation and therefore the extent to which centralised control is both explicit and latent within the arrangements through which the management and other resources are tasked with delivery of their obligations.

Network Rail have a limited accountability under the present industry structure to democratic bodies outside of central government, such as the Department for Transport. The ability of Local and Combined Authorities to specify or to influence Network Rail's prioritisation of expenditure, resources or activities is very constrained. The partnership role of Rail North representing the Local and Combined Authorities in the specification and management of the TransPennine and Northern Rail franchises is a very positive step forward, but whilst this provides a much stronger influence over the delivery of the service requirements for those franchises, it is not a holistic solution without the ability to call Network Rail to account through a direct relationship when their activities or performance adversely affects service or enhancement delivery.

Consistent with devolution of accountability to regional government there needs to be a much greater alignment of Network Rail's accountability with the geo-political boundaries of the Local and Combined Authorities and hence any future structure should be commensurate with that aim. Accountability with a clear key stakeholder and customer focus whether in service performance or enhancement delivery needs closer alignment with funders and service recipients to provide clarity and influence upon specification and delivery of outputs; and in the prioritisation of resources needed to achieve those outputs. Greater delegation of accountability and decision making powers to the management teams within Network Rail should be consistent with wider political devolution and inform any re-structuring proposals. Any centralised influence and control limited to those activities which have a truly wide strategic or national/network impact.

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Consideration should be given to delegation of decision making and accountability to the lowest appropriate level of aggregation of arrangements consistent with delivery of obligations to the customer. There should be clear boundaries of responsibility for all Network Rail activities with as little duplication or overlap between the route and any centralised body. The competence and capabilities to support such as devolved approach would need to be reviewed and allocated dependent upon how these areas of responsibility are aligned.

Enhancement of the Rail network

There should be a much greater consideration of the benefits introduced into the railway network of "third party" enhancements which are largely solely capital funded by these bodies with very little direct return. The concept of enhancement delivery within Network Rail is not one whereby additional investment is seen as positive, but rather as an imposition upon Network Rail with their development and delivery of enhancements is shaped through the standard enhancement contracts whose primary purpose appears to be one of protecting Network Rail from any risk to itself or its undertakings in the delivery of such enhancements.

The present contracting and delivery arrangements have too great a focus upon the avoidance of risk in delivery falling to Network Rail, rather than a view that promotes and supports enhancement of the network and service provision. There is limited transparency and partnership with Network Rail effectively mandating the arrangements and allocation of risk to be followed through its investment framework, enhancement contracts and delivery arrangements. This leads to a greater complexity, cost and protracted delivery of an enhancement than really warranted. The imposition of fee funds on a fixed percentage basis through the enhancement contract framework essentially acts as a tax on enhancements with little connection to the risk likely to arise but which ties up scarce funding in the provision of a contingency that there is little to no transparency of accumulated value or utilisation with the burden of proof placed upon the funding partner in the event of any claim arising.

The relationship with external investors such as Local and Combined Authorities is very much one under which such funders are seen as "third party" and hence not a core accountability or focus. As well as the standard enhancement contracts, delivery is greatly influenced by Network Rail's procurement and investment framework. Whilst these arrangements seek to standardise approaches and promote consistency, the solutions tends towards greater aggregation of processes and supply in the name of efficiency. These arrangements may be more suitable to largely repetitive renewals with a very high capital value, such as track and signalling works but they create an inhibitive framework for bodies such as Transport Authorities who wish to enhance the infrastructure at a local level with much smaller and lower level capital projects.

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Network Rail's approach of awarding extremely large value and content framework contracts to a limited number of suppliers within geographical boundaries for particular services may provide economies of scale and reduce the procurement burden for very substantial programmes of work, but the evidence that this provides benefit for very diverse smaller capital value enhancements is limited. The use of fixed, pre-determined cost rates and approaches can tend to lock in inefficiencies and discourage competitive behaviour to deliver the most cost-effective value for money solutions. Delivery of "third party", much lower value capital schemes under these arrangements is at risk of a lower level of priority and a higher perceived risk when set against much larger and potentially profitable programmes of work by contractors.

The application of the GRIP development process as a principle is a strength but there needs to be an improved flexibility for delivery teams at a local level, with agreement of funders, to apply the requirements more appropriately. The application by rote of all of the development stages and option selection is unnecessary where solutions and desired requirements can be established at an early stage, particularly for simple enhancements. The cost of early development is hugely disproportionate to the value derived in these circumstances and adds cost and time into timescales, all of which are at the funder's expense without any transference of risk.

There is a skewed and inappropriate focus and over-emphasis on economies of scale and standardised remotely and opaquely led processes in the context of delivering local enhancement priorities. The flexibility of response, development of targeted solutions and clear understanding of customer needs can be suffocated in such an environment, particularly in an inward looking risk adverse environment. The inherent inflexibility, high cost rates, enhancement fees and risk adversity evident in Network Rail's investment delivery suggests that different solutions need to be developed to ensure affordability, particularly in the wider context of scarce funding and the need to ensure the most efficient return for the taxpayer.

The proposition that more could be made of Crossrail type funding models, whereby developer contributions are levered in presents a difficulty in that we have a planning system that is becoming more liberalised so the ability to do this through planning tools such as planning gain CIL is hampered – and this is an issue that goes beyond the scope of Network Rail as a body and firmly into government policy.

In addition, Network Rail's largely inward looking commercial property arrangements that operate on a national basis tend to focus only on development of those locations likely to provide the greatest revenue stream, particularly for their major stations portfolio. This policy hence ignores and inhibits the development of those stations which present a perceived lower level of return but which have a significant role in the cities and communities that they serve.

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The emerging proposals to allow Network Rail to sell off assets to access funding need consultation and agreement with the cities and Local Authorities, particularly where those proposals may extend to station and land portfolios that may have a limited implication for Network Rail, but a very significant impact on the areas that they sit.

There is a disconnect between Network Rail's planning, funding and development processes with those funding requirements for other key funding sources for local and combined authorities such as the Local Growth Fund. There should be some attempt to align the planning arrangements for any transport led funding, particularly that sponsored by central government so as to avoid focus upon a short-term view of priorities and the need for centralised funding to be sought in often very short timeframes against under-developed and poorly defined capital schemes.

Merseytravel would also highlight that there is a longstanding issue in relation to funding of enhancements of the Liverpool City Region network, particularly that of the Merseyrail third rail network. Since the devolution of the powers to contract and manage the delivery of rail services, Merseytravel has been excluded from the rail industry control period planning process and the determination of the High Level Output Specification. This position has arisen due to a mistaken belief arising in that in devolving the powers to manage the rail services, responsibility to fund and to develop the rail network on Merseyside was transferred to Merseytravel. Our position is that this belief is fallacious and despite representations to both the Department for Transport and Network Rail, the situation is unresolved. In the absence of any specific undertaking or agreement with Merseytravel in respect of enhancement funding this is a specific area of concern that we would wish to see addressed within this review.

We would like to thank you once again for the opportunity to consult on the report and welcome further opportunity for engagement as the full report is developed further.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Frank Rogers', with a stylized flourish at the end.

Frank Rogers
Interim Chief Executive

