tssa

The Shaw Report
Zone 6.03
Sanctuary Buildings
Great Smith Street
London
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23rd December 2015

By email to: shaw.secretariat@shawreport.gsi.gov.uk

Dear Nicola,

RE: THE SHAW REPORT – THE FUTURE SHAPE AND FINANCING OF NETWORK RAIL THE SCOPE CONSULTATION

Please find enclosed the response of the Transport Salaried Staffs' Association (TSSA) to the above consultation.

TSSA welcomes the opportunity to contribute to your scoping consultation on the future shape and financing of Network Rail. We are an independent trade union with approximately 20,000 members throughout the United Kingdom and Republic of Ireland. Most of our members work in the UK rail industry in management, technical, professional, supervisory and administration functions. TSSA membership in Network Rail covers all of these functions and is the largest block of members that we have in any rail company, running into many thousands of employees.

TSSA policy is determined by our Annual Conference that comprises delegates from our Branches throughout the United Kingdom and Ireland and have first hand, working knowledge of the industry. Over the years many industry issues have been debated at length, most recently in May of this year at our annual delegates' conference.

Yours sincerely

Manuel Cortes
General Secretary

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TSSA RESPONSE TO THE SHAW REPORT – THE FUTURE SHAPE AND FINANCING OF NETWORK RAIL - THE SCOPE CONSULTATION

Introduction

TSSA is pleased to be able to contribute to this consultation and does so on the basis that the Union has a significant number of members who work in the UK rail industry, including within Network Rail and all of the TOCS, FOCs and infrastructure companies.

Within Network Rail our membership includes many thousands of members who work in a range of functions (eg, as managers, in technical, professional and supervisory roles as well as in administrative functions). TSSA has sole collective bargaining rights for managers within the company and is recognised for other groups that mirror our membership.

From the start it is worth stating our policy for a publicly owned and accountable railway that is run in the interests of passengers, tax payers and workers and not driven by the priority for profit found in private business. As we will draw attention to later, it was the obsession with making profit that led Railtrack to cut corners with its safety duties and which resulted in the Hatfield and Potters Bar disasters and the associated loss of life and injury.

Political opportunism

We would also add that we see an element of political opportunism in the government's reviews of Network Rail. Network Rail was re-classified to become a public sector company in 2014 which meant that its increasing debt was passed onto the public books.

Reacting to the Commons' Transport Select Committee enquiry into rail investment which asked about what happens after 2019, the Conservative led Coalition Government stated:

> "In response to the ONS's decision to reclassify Network Rail to the public sector, the Secretary of State, in July 2014, agreed a loan facility to replace Network Rail's previous borrowing arrangements, improving value for money to the taxpayer and placing a cap on how much Network Rail can add to public debt. This facility has been agreed with Network Rail to provide sufficient financing for delivery in Control Period 5 (2014-19).

> The loan facility will be reviewed by 2017, as set out in the Network Rail Framework Agreement. How Network Rail will be financed beyond 2019 will be determined as part of that review. The Government is always considering what provides best value for money to the taxpayer, but we have no current plans to restructure Network Rail's existing debt."[i]

Despite this stated intent, TSSA believes that the opportunity to find fault with the company because of the delays associated with the Northern Trans Pennine and Midland Mainline electrification projects has enabled the government to look to potentially privatise the UK national rail Infrastructure Manager in line with their political ideology and the austerity agenda that has seen so many other privatisations, including that of the 30 year concession to operate HS1.

We are also aware from MEP briefings in connection with the 4th Rail Package that the UK Conservative Government is heavily lobbying for support for the package that is currently considered to be a vehicle to introduce compulsory rail privatisation for passenger services.

Missed Opportunity

In terms of the Shaw Scoping Review, TSSA also wants to highlight the missed opportunity that it represents unless the comment about "implications elsewhere" in the Scoping Report's Introduction[ii] is taken forward.

The style of UK rail privatisation was one of fragmentation as British Rail was broken up into many different pieces, most of which required interaction with other rail companies (eg, Railtrack/Network Rail and the Train Operating Companies).

Yet, as the "Rebuilding Rail"[iii] report from June 2012 notes "since privatisation, the cost to the public purse of running the railways has risen by a factor of between two and three times." The authors of the report go onto highlight how "the most cautious view is that the public money going into the railways has increased from around £2.4 billion per year before privatisation (in the period 1990/91 to 1994/95), to approximately £5.4 billion per year in the period 2005/06 to 2009/10 (all at 2009/10 prices)." More recent research by the Office of Rail and Road[iv], published in August 2014, suggests that those levels of support remain at similar levels (£5,287 million for the period 2013-14).

The "Rebuilding Rail" report has attributed much of the increasing costs to fundamental problems with the complex privatised railway structure and suggested that, as a minimum, £1.2 billion per year could be saved, "equating to an across-the-board cut in fares of 18% (or a substantially larger cut in fares that are price-regulated because of their social importance)."

Additionally, in an article in the November 2015 issue of the "Modern Railways" magazine,[v] there appears a chart that seeks to draw parallels between a year when British Rail (BR) was operating in a similar economic climate as that of today. Despite claims by the Rail Delivery Group to the contrary, what the magazine shows from their research in comparing 1988-89 with 2014-15 is that subsidy per passenger kilometre has more than doubled from 2.5p under BR to 6p in 2014-15.

Fundamentally behind the Shaw Review is the question of funding which is affected by the rail industry's fragmentation and consequent multiple interfaces. As such, we contend that instead of concentrating on Network Rail, the government should be reviewing the whole of the railway industry structure with the objective of simplifying and re-integrating the current system.

For clarity, TSSA's position that Network Rail should remain as a unified body within the public sector and ideally be a part of a national, integrated and publicly owned railway.

Railway Safety

At various points in the consultation document attention is drawn to the critical importance of railway safety. TSSA supports this repetition because many of the activities associated with operating, maintaining, renewing and enhancing (OMRE) the railways involve a high risk element that can have disastrous consequences. Paragraph 1.11 of the Scoping Review draws attention to the record of Britain's railways currently being the safest in Europe in 2014-15[vi] but this has required considerable effort and investment to achieve with Network Rail being the principal stakeholder as the infrastructure manager.

We have called Network Rail the principal stakeholder because it is on its railway that most heavy rail services operate whilst at the same time huge volumes of infrastructure engineering work also need to take place.

Despite the current situation, it is important to realise that vigilance and prioritisation are the key components of maintaining and improving the current safety levels. Just one incident can change the overall favourable situation that the British rail industry finds itself in, especially when so many different organisations seek access to Network Rail's infrastructure. For instance, earlier this year a mainline certified preserved steam engine operating a passenger charter train caused a SPAD (Signal Passed At Danger) at Wootton Bassett Junction, missing by a few minutes a GWR high speed train. Had that disaster come to pass, Britain's rail safety record would have looked very different.

Network Rail Structure

In highlighting the safety performance of Britain's railways we want to draw attention to the fact that it has taken a series of disasters and incidents to get to where we currently are. Our fear is that by privatising some or all of Network Rail, the principal rail stakeholder, there is potential to re-prioritise back to the situation that Railtrack found itself in.

a). The Railtrack Experience: the warning from history

Being a commercial, private company, Railtrack consistently emphasised making a profit for shareholders above that of maintaining sound industry safety standards around track maintenance. This led to the issue of rolling contact fatigue in the form of gauge corner cracking in the rails that the trains ran on and that was only dealt with after it was exposed by the Hatfield disaster in October 2000, a disaster which killed four people and injured 120. Subsequently, Railtrack had to implement emergency speed restrictions across the rail network as it found rolling contact fatigue at many sites and which necessitated a considerable programme of rail replacement work. What was worse was that the company knew about the situation at Hatfield before the train crash occurred.

Research at the time by the National Audit Office also highlighted the number of broken rails on the network increased, from 750 in 1995-96 to 937 in 1998-99, a 25 per cent increase.[vii]

In the same financial year as the Hatfield derailment Railtrack reported an after-tax loss of £314m for the year to 31st March 2001 whilst still declaring a dividend of £138m. The whole ethos of the directors of the company was about shareholder dividend with the chief executive justifying the 2001 pay out as "a signal to shareholders that better times were ahead." (REF)

Accused of negligent management of the track infrastructure asset, Railtrack also lacked adequate control of contractors and subcontractors. As part of the privatisation process, BR's track and signal maintenance (along with most of the experts in this area) had been outsourced with Railtrack expecting to make a 30% cost reduction but by 2003-04 the company was finding it 50% higher in real terms.[viii] The reason for this was that each Railtrack Zone (akin to a Network Rail Route) had locally renegotiated the RT1A maintenance contracts which allowed a large number of variations. Some were cost-plus, some had special performance regimes. Each of the contractors also looked for variations on the core contract so that they could charge Railtrack more and thus enhance their own profits.

In 2003-4, Network Rail took back in house the track and signal maintenance function which the Coalition Government's "Rail Value for Money Study"[ix] (in its final form known as the McNulty Report or "Realising the Potential of GB Rail") described as taking place to simplify interfaces and reduce transaction costs with a saving of over £400m per annum. £100m of that saving was down to reduced interface costs, presumably including the profit paid to former contractors as well as the time and cost associated with managing them.

Once Network Rail acquired the infrastructure, its deputy chairman at the time, Ian Coucher,[x] was clear about the failings of out-sourcing maintenance: the railway does not "lend itself to output-based specifications, which give people the freedom to decide how to do it and when they're going to do it. It makes it very difficult to change something if you are not quite sure what people are doing out in the field."

We feel that this is a warning that the Shaw Review should heed when considering the future structure of Network Rail, especially when contemplating breaking it up and privatising individual routes. It is also a cautionary tale about outsourcing maintenance again.

b). Solution to structural issues

In fact, in terms of structure, TSSA believes that the question that should be considered is what is the most efficient structure that delivers safety, operational integrity and future innovation for our railway infrastructure? The clear common sense answer to this question is to retain a nationally integrated system, owned and controlled in the public interest by a single publically accountable organisation.

Any solution that proposes to separate different parts of the rail infrastructure control by route or function will lead inevitably to less integration, higher cost, and extension of project programmes and with greater complexity will be likely to be less safe.

We would contend that the solution to making improvements on Network Rail's operation and maintenance of the rail infrastructure is to allow Network Rail to develop a structure that is stable and designed for the long term. The criticism TSSA would have of Network Rail's strategy has been the short or medium term focus on business change. Network Rail has had a tendency to contract out Engineering and other strategic decision making that it should carry out and own in house. Very significant efficiency and simplification could be possible if Network Rail had a structure to maintain and continually update its standards, policies, standard designs, research and development and innovation. The current approach is far more reactive with individual projects designed to resolve a specific problem but not a permanent and integrated solution that is applied nationally.

Qu 1. What are your views on the scope of Network Rail's functions?

The scope of Network Rail's functions are large but centred around its role as the Infrastructure Manager and as such the brief description at Paragraphs 3.8-3.11 provides some high level detail. Each of the activities it carries out are associated with its core role, including in the realms of, for instance, property ownership and exploitation.

In this last role, Network Rail is able to plan and deliver significant strategic projects around enhancing stations (eg, Birmingham New Street) and building freight interchanges, not to mention the chance to reinstate routes that have been disused as population densities change and environmental factors come to the fore (eg, the Scottish Borders Railway opened in September 2015 which connects the city of Edinburgh with Galashiels and Tweedbank or the Ebbw Vale Line in South Wales, re-opened in 2008). Without the land, the cost of such projects would significantly increase, especially in big cities, limiting rail expansion at a time of massive additional demand.

We would also question the statement at paragraph 3.11 because Network Rail does not outsource its operational function in the same way as it does its renewal and enhancement activities. Operationally, Network Rail regulates the railway as described in the first bullet point under paragraph 3.8 and for some of this activity it may work in conjunction with the respective train operator (eg, station management and customer services, although apart from on Managed Stations, these are TOC activities mandated through the relevant franchise agreement. Interestingly, station management at major stations also appears in the last bullet point of Paragraph 3.9).

Qu 2. Have we failed to mention any specific and important factors?

a). Network Rail as a key industry leader.

Of particular concern to us is the failure to identify Network Rail as a (the?) key leader in the rail industry. Reference is made to innovation but leadership comes in many forms, including through functions such as operations as well as planning and timetabling rail services. Network Rail is often the organisation that brings some control to complex interactions (eg, renewal contractors and train operators) and between the different railway interests (eg, the competing demands of TOCS and FOCs). As a principal leader, the company also acts as the deliverer of projects that transcend individual operators too fixed on their own interests, drawing different groups together (eg, station refurbishment).

We would add that without the leadership role performed by Network Rail, the element of coordination within the railways would largely be lost.

b). System operation

These comments overlap with the concept of system operation described at paragraph 3.12 and which has been the subject of a recent ORR consultation. In that consultation, parallels were drawn with network industries like gas, electricity transmission and air traffic control to illustrate the split between operation, maintenance and sales but our argument is that into this mix the railways also impose a complex web of existing structural, physical, interface and relationship issues, not to mention how different, sometimes competing, parties are incentivised in different ways, with commercial organisations seeking to extract their profit.

We see a need for coordination to be identified as a key component of ideas about system operation, alongside the requirement for collaboration and effective leadership, believing that it belongs squarely in the lap of the publicly owned infrastructure manager that is separate from competing commercial demands.

c). Meeting efficiency targets: Regular reorganisation and the impact on staff

Another aspect that we feel the review fails to pick up on is the impact on staff, the most important resource that any company can utilise.

There is a danger that people with no knowledge of Network Rail will view it as a publicly owned monolith that takes years to turn around and now is an opportune time to change all that.

Yet, in reality the company has been constantly re-organising to meet demanding performance and efficiency targets with the ORR's Final Determination[xi] setting budgets that are below the expectation in Network Rail's Strategic Business Plan. The cuts in CP5 amount to some £1.8 billion and come on top of similar settlements in CP4 and CP3 with the impact that significant numbers of jobs have been lost – or will be lost in the future.

In the background is the government's Rail Command Paper[xii] from March 2012 that sets out proposed efficiencies, most of which fell on Network Rail putting at risk 6,300 jobs in maintenance, signalling and operations. TSSA has certainly been in the forefront of dealing with the effects of frequent re-organisations that have seen many trained and experienced employees paid off whilst others are re-deployed to await the next restructuring.

This process of constant change has a demoralising impact on workers and has received no recognition in the consultation document who will have to endure even more uncertainty.

TSSA is part of the TUC's Action for Rail Campaign which commissioned research under the title of "The impact of efficiency savings on Network Rail staff, performance and safety" and involved frontline staff at Network Rail and its contractors. The findings of this study were that:

- Safety has become secondary to meeting targets and budgetary demands.

- In the context of headcount reductions and restructuring, staff are having to take on multiple roles, affecting their ability to deliver a safe and efficient service.

- Staff shortages have led to the promotion of a culture of putting jobs off until ‘tomorrow’ because adequate resources are not available.

- Teams working on renewing tracks are smaller, and jobs need to be completed in a shorter amount of time.

- There has been a move to ‘fault-centred’ maintenance, which has resulted in a reduction of regular equipment inspections.

- There is an endemic culture of long-hours, and the increasing use of private contractors by Network Rail has led to a growing number of workers being employed on zero-hours contracts.

- Participants expressed that the railways are heading for a crisis in skills, with an aging workforce. Training was said to have been ‘watered down and devalued’ amounting to no more than competences.

Consequently, TSSA is calling for an urgent and detailed review of the impacts of the cuts on Network Rail, and how the ORR and the company determine efficiency savings. This call becomes even louder now that Network Rail is the subject of further scrutiny that could see it broken up and privatised with the potential for the danger that that imposes with a return to Railtrack priorities.

d). The experience and knowledge of staff

TSSA would draw attention to the absence of engagement by the Shaw Review with the employees of Network Rail. We feel that this is an opportunity that the Review is missing because it would both enable employees to share their detailed experience and expertise in how the company operates and how it could or should be improved (and in what context, eg, ownership, integration, cost reduction). In our experience, those people who work for a firm are quite often only too aware of the practical issues that high level reviews can miss.

e). Findings of the Bowe Review

There are several references in the consultation document to the Bowe Review and from our perspective full recognition needs to be given to the recommendations of that report and especially that the alleged failings of Network Rail are not allowed to cloud issues identified with unclear organisational responsibilities with the Department for Transport or the Office of Rail and Road. In fact, Bowe concluded “that there is no single cause which led to the increases against cost estimates and the delivery delays now apparent in CP5. Instead, a number of factors can be identified."[xiii]

Bowe,[xiv] in discussing planning aspects of Network Rail, warns that the reclassification of Network Rail "fundamentally increases the oversight required in assuring the affordability of rail infrastructure investment." Bowe points out that, with regard to CP5, "the ORR's role, in hindsight, is 'unclear'". Bowe also recommended at Paragraph 1.7 that "'the role of the ORR in respect of enhancements planning should be reviewed." Indeed, Bowe should further investigate to what extent the role and responsibilities of the ORR could be further reduced in respect of these infrastructure projects.

The Bowe Review also confirms our belief that the demand for efficiency savings from Network Rail acted at least as a distraction to the company at a time when the scale and complexity of the CP5 programme was being put together.[xv]

Additionally, we have been advised that in some cases Network Rail was asked to plan schemes for inclusion in CP5 but the information they received to determine the scope was sometimes no more than a sentence on an email. It is also a factor that for some schemes as much as 50% of costs are simply not known with any precision at the planning stage and only become clearer closer to implementation.

f). Control Periods

We believe that industry funding, including for Network Rail, should be considered on a 15-20 year basis with 5 year intervals to enable better long term, strategic planning and assist the provision and structuring of financing.

Qu 3. What are your views on these accountability arrangements and their effectiveness?

Our response in this area begins by expressing a disappointment that Figure 7 does not reflect the new operating model released in November 2015 but actually uses the one from April 2014. In this respect, it is hard to comment and amounts to inadequate consultation.

We also note the move towards devolution within Network Rail (as opposed to political devolution external to the company) and the ambition expressed in Paragraphs 3.16-3.18 in connection with greater responsibilities being given to the route. TSSA is concerned that what the company is already doing in devolving responsibility is as a prelude to route privatisation, especially as the government are encouraging the process of decentralisation (Paragraph 3.17). In reality, the strength of the devolved model within an integrated company is that locally it can respond to differing circumstances whilst retaining the economy that comes from being able to call on a central support. It would appear that the lessons of Railtrack may not have been heeded.

Paragraph 3.25-26 and Figure 8 discusses the funding arrangements currently in place for Network Rail and goes onto pick up on the Chancellor's announcement in the Summer Budget 2015 that he intends to change the way tax payer money is channelled into the railway industry. In the absence of other details, the effect of directing public money through the train operating companies will be to effectively make Network Rail accountable to the TOCs alone and allow them to potentially exert their commercial interests at the expense of the development of the wider railway, including the freight sector.

Until recently, the government has been at pains to stress how the alliancing model between Network Rail and particular TOCs (eg, in Scotland and Wessex) should not be used to exclude groups but the fear is that that is just what could happen if the TOCs are now given power over the infrastructure manager. TSSA has certainly had feedback from members working in alliances that it can become a situation of the TOC dog wagging the Network Rail tail. The other fear from this arrangement is that other stakeholder groups could be completely ignored by the all powerful TOC interest. On this basis, we see this funding arrangement, as currently presented, a recipe for trouble and a further prelude to the increasing commercialisation of the infrastructure manager.

Paragraphs 3.27-3.33 discuss accountability though governance. Taking the example of Deutsche Bahn where the supervisory board includes representatives from government and employees (through trade unions), TSSA calls for recognition to be given to the valuable skills, knowledge and expertise of the Network Rail's workforce because this is key to the successful running of the railways and as such a formal role should be given to the trade unions.

Similarly, whilst Transport Focus produces its excellent National Rail Passenger Survey twice a year, it has no formal relationship with Network Rail and we would see this as an omission that needs to be rectified.

Paragraph 3.28 describes how the Rail Delivery Group (RDG) is a cross industry leadership group that offers ongoing oversight to Network Rail. The trouble with the RDG is that its focus is quite often only on the benefits of a privately operated railway and so its perspective can be clouded by this view. We would also point out that despite requests from the TUC in 2013, the trade unions still do not have a seat on the Board of the RDG – or any formal engagement – even though their work streams include developing a strategic vision for 'People.'

<u>Qu 6. Should direct customer pressure on Network Rail be strengthened? If so, how might this be achieved?</u>

We suggest the case for direct customer pressure on Network Rail should be exerted by allowing passengers, through Transport Focus, a seat on the Network Rail Board. We do not see a need to change customer interfaces with TOCs or FOCs.

Qu 8. Is there a case for changing the route structure and what are the advantages and disadvantages of different approaches to disaggregating the network, for example on the basis of:

▪ physical, political or economic geographies?

▪ service type, e.g. commuter services, inter-city services and regional services?

The current **geographical route structure** of Network Rail follows on from years of practice and has served its purpose well. From time to time there have been amendments (eg, all of Wales forming one route in 2011) but largely there appears to be no need to change.

We would see a great number of difficulties in organising **routes along service types**, principally because of the way that most routes cater for a range of services, especially outside London. British Rail attempted to sectorise the railways in the early 1990s along the lines suggested in the second bullet point but this was on the basis that the particular division (eg InterCity, Regional Railways) both operated the trains and carried out all the roles now assigned to Network Rail. On this basis, we would argue that the only way to efficiently consider the option of service type is to review the whole railway network and not just Network Rail. There is also a question of economies that would be lost by dividing routes along service type

Qu 14. What are the strengths and weaknesses of Network Rail's current approach to delivering enhancements?

TSSA would question the cost of reliance upon contractors, especially those involved with track engineering, because many of them operate subsidiary companies fully engaged in working exclusively for Network Rail. We could see an argument to employ a firm to carry out a one-off project but in practice the style of contracts that Network Rail currently utilises for plain line and Switch and Crossing renewals and enhancements awards regular work to named suppliers.[xvi] In a similar way to bringing maintenance back in house, our belief is that money could be saved if the work (and staff) of these contractors was actually a part of the structure of Network Rail and especially as that might lead to economies.

A further factor in the way that Network Rail manages its contractors in this area is that every so many years a review takes place which amends boundaries and changes the name of suppliers but in practice means that highly experienced railway engineering staff end up being transferred from one employer to another as the deck chairs are re-arranged. The disruption this causes to highly skilled and professional staff acts as a distraction at the very least and can mean that some are lost to the industry. Whilst accepting the need to search for better ways of doing things, we would argue that the logic is for Network Rail to carry out its renewal and enhancement work in house and only use contractors for those genuinely occasional needs as this would cut costs and retain the skills in the industry.

Qu 17. What would be the most important structural features of any future infrastructure provider?

As with Network Rail now, that it remains publicly owned and integrated at route and centre and in that way able to achieve economies whilst continuing to operate a free of the profit priority taking the place of safety.

Qu 20. What criteria should be used to assess structural options under consideration? How, if at all, should these criteria be prioritised?

The principles that we see as forming the basis of structural options is that of maintaining Network Rail as an integrated organisation within the public sector and allowance is made for the government and/or the company to continue to fund maintenance and expansion including through borrowing as necessary and the exploration of revenue raising options.

Financing and funding of the company

Qu 22. How should financial risk be managed in Britain's rail infrastructure in the future?

TSSA is opposed to either a full or partial privatisation of Network Rail, believing that the company and its assets remain a national strategic asset that should remain in the public sector. The consultation document suggests options around full or partial privatisation and/or the involvement of private sector capital and investment in particular schemes. Our concerns with these approaches are as follows:

a). In a privatised Network Rail whose debt is no longer underwritten by the state we see a major disincentive for potential equity investors. If the government were to underwrite the debt, how is that different to what effectively occurs now in which case privatisation is unnecessary? There could also be the situation that investors could potentially simply walk away from a project to cut their losses which would leave the government having to step in like it has had to do with several TOC franchises. There is also the consequence of higher fares and cuts to services and other investment as a way to service shareholder returns.

b). Partial privatisation raises the same issues as full privatisation in common with which is the major concern of having a fragmented industry with the continuation of the increased costs on the many industry interfaces.

The creation of yet more industry interfaces will cause more problems and higher costs. Not only the "Rebuilding Rail" report, but also Jupe[xvii] has argued that in railway privatisation, industry interfaces are a prime driver of industry costs and "arose as many profit-seeking companies were involved in the supply chain each aiming to squeeze profits from its contribution."

Additionally, Jupe argues that there are other major cash leakages from the industry in the form of interest payments and dividends. Any form of privatisation based on Network Rail's planned structure of devolving major operating activities to eight route sectors, and perhaps combined with some supporting service organisations, would bring in more industry interfaces increasing overall costs and complexity and will not deliver value for money; and indeed a further fragmented industry may have potentially serious implications for safety.

We also note that McNulty[xviii] points out that there have been "many barriers to efficiency under the privatised structure… including the extent of the fragmentation of structures and interfaces…" Prior to this (at page 284) McNulty also noted that studies "…in the rail sector, privatisation does not appear to have led to cost reductions…"

c). With either a full or partial privatisation of Network Rail, the risk also arises of a repeat performance of the collapse of Railtrack as described elsewhere in this response with its priorities for shareholder dividend, threats to safety standards and increased costs and disruption.

d). The government has been pursuing a policy of moving the financial burden from the tax payer to the passenger via the fare box. On this basis, full or partial privatization will result in higher fares for passengers because Network Rail will no longer be a not for dividend organization. New cash leakages to shareholders will have to be paid for by either higher fares or a higher taxpayer contribution.

e). The suggestion is made in the consultation document about the possible use of Special Purpose Vehicles (SPVs) in order to allow the creation of external infrastructure companies or joint ventures on their own or in conjunction with Network Rail. We would argue that this poses substantial concerns and risks repeating the uncertainties, disruptions and additional costs for passengers witnessed by the failure of a number of rail franchisee operators such as GNER or Connex SouthEastern. Although these SPVs concerned rail franchisees, it nevertheless illustrates how relatively easy it is for the management of parent companies of ailing SPVs to simply wind-up the SPV and leave the industry without incurring large liabilities with the result that the government, as the "operator of last resort," has to intervene to keep the trains running. In addition, using SPVs, joint ventures or PPP schemes merely adds to the cost and complexity of operating, what should be a fully integrated service.

f). We would draw out how financially unsuccessful many areas of the public sector have been where PFI/PPP schemes have been introduced, including in the NHS and London Underground. In the latter case the use of PPP schemes for upgrading the infrastructure of the London Tube led the House of Commons Transport Select Committee (TSC)[xix] to note that there were many failures in the contractual scheme with Metrolink which were "pretty much useless." Amongst claims of massive over spending , poor project management and cost control, the TSC heard from the Secretary of State for Transport that Metronet's failure had "'let down Tube travellers, London Underground and taxpayers."

g). The consultation document also refers to introducing capital from infrastructure companies, train operating companies and local authorities and a devolved route structure in Network Rail could facilitate this. We would, however, point to the risks associated with this approach because it would be inappropriate for eight separate divisions to potentially have varying degrees of forms of investment, different methods and levels of funding or even legal and structural forms of ownership. There is also a question of investment firms being attracted to maximum returns which would suggest that the most attractive schemes would win out over those that are simply necessary for the development of the railway. We would also suggest that such an array of factors will hamper, restrict and lead to considerable practical problems with obtaining, servicing and monitoring the debt levels. In addition, there will be associated issues that are concerned with ensuring controls over these debt levels and allocating the overall cost of debt to these devolved sectors.

Qu 23. Do you have any views on how Britain's railway infrastructure should be funded in the future, regardless of corporate structure?

See response to Question 20.

Qu 24. What positive case studies are there (e.g. international examples in the railway sector, other sectors internationally/in the UK), where more affordable and sustainable funding and financing structures have been implemented, with or without private sector capital input? And how do you think the lessons learnt could be applicable to Britain's railway infrastructure?

A new Act in France creates a public railway group with three indissociable components, SNCF Réseau, SNCF Mobilités and SNCF EPIC. The rational for this approach is that an integrated railway group enhances service regularity. This approach enables greater track and train coordination, and improves live traffic management.

SNCF Réseau is a single infrastructure manager whose responsibilities include non-discriminatory access to the network, managing rail traffic, maintenance work and engineering projects. Under this model, infrastructure is reunified to enhance network safety.

SNCF has a strategic framework contract with the State for the entire public railway group. Among other things, this contract ensures that the resources allocated to the public railway group are commensurate with the objectives set out.

SNCF EPIC will have responsibility for social unity and cohesion of the system, as well has providing unified management of real estate and land development.

Importantly SNCF say this reintegration and unification of railway functions will slow down the increase in debt, although there is also recognition that the debt will continue to increase.

In Germany, the government plans to invest €28bn in the railways between 2015 and 2019. An additional €8bn per year is available for investment by regional rail services, and this increases annually by 1.8 per cent. This is a total of 36bn, which it is important to note is all funded by the state.

<u>Qu 25. What are your views on the enabling factors facilitating a sustainable and affordable capital structure for Britain's railway infrastructure? What factors would be required specifically for private sector capital introduction?</u>

With the establishment of the National Infrastructure Commission (NIC) as a means of enabling "strategic decision making to build effective and efficient infrastructure" for the country we could see the opportunity for a state investment bank to invest in Network Rail's infrastructure. The role and remit of the National Investment Bank could be extended to invest directly in key infrastructure projects – especially if this bank was awarded more extensive borrowing facilities and was granted access to substantially more capital for investment in railway projects.

Despite this idea, for the reasons given above in relation to a move away from public ownership, we oppose the use of the NIC as a means to support any further privatisation of the industry.

Risks and implementation

<u>Qu 29. Do these feel like the right concerns? Has anything been missed that it is vital to consider at this stage?</u>

a). Throughout the report there has been no recognition given to what Network Rail has achieved since 2002 and the demise of Railtrack.

There has also been no recognition to what a unified organisation can achieve. At various points in this response we have called for the structure and management of the railway industry to be based on a unified and integrated model within the public sector.

b). By way of comparison, the state owned British Rail was described as "perhaps the most financially successful railway in Europe." Government subsidy was 15% of revenue in 1994, making BR "the least subsidized railway system in Europe."[xx] Overall state subsidy[xxi] was 0.16% of Gross Domestic Product (GDP) compared to the European average of 0.52% (Harris and Godward, 1997, p. 52). British Rail in the early 1990s, despite a chronic shortage of investment funding, was remarkably cost-efficient by international standards. Labour productivity (defined as train-kilometers per employee) "rose by 17% between 1987 and 1994…and was the highest in Europe."

c). Network Rail is currently considering the sale or contracting out of some of its infrastructure assets. Electrification assets potentially including Substations, distribution cables, overhead line structures, contact wire and conductor rail. This would be an unmitigated disaster and an unforgivable waste of tax payer's money.

Consider at present that Network Rail has as many as 100 connection points to the nation grid to the company's own substation network. Any work that has to done to these interfaces with the national grid assets requires complex and time consuming contractual negotiations, very significant additional costs and uncertainty of achieving agreement for engineering solutions as Network Rail does not own or control these assets but are dependent on them to run the railway. If the Network Rails electrical distribution network is transferred in part or whole to a third party we will be multiplying that complexity, cost and restriction by the thousands or millions of additional third party interfaces.

An example in this area is with London Underground which in 2013 terminated the failed PFI contract with Powerlink for the operation and maintenance of its high-voltage electrical power network at a cost to the tax payer of approximately £160 million. A repeat of this failure would be inevitable if the same thing was attempted on Network Rail infrastructure assets.

Conclusion

In conclusion, we have tried to transmit a series of concerns through our response and not the least of these is our opposition to privatisation being seen as the only game in town, despite the known safety fears that we have described. Our response seeks to highlight the role of Network Rail employees who have been overlooked and their experience of a company regularly trying to change itself to meet new demands. At the same time, Network Rail has been hamstrung by demands for greater efficiency which have now seemingly begun to affect how it performs but without recognition to how other organisations, including government, have contributed to that situation.

We look forward to your response in due course.

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[i] See: Recommendation 25 at: http://www.publications.parliament.uk/pa/cm201415/cmselect/cmtran/1118/111805.htm)

[ii] See final paragraph of third paragraph, Page 4, Scoping Report

[iii] "Rebuilding Rail" published by Transport for Quality of Life" in June 2012 and available at: https://www.tssa.org.uk/en/campaigns/better-rail/better-rail-resources/rebuilding-rail-report.cfm

[iv] "2013-14 Annual Statistical Release: Rail Finance" published by Office of Rail Regulation on 21st August 2014 and available at: http://orr.gov.uk/__data/assets/pdf_file/0007/14497/rail-finance-statistical-release-2013-14.pdf

[v] See Page 33, Modern Railways, November 2015

[vi] See Office of Rail and Road (July 2015): Health and Safety Report 2014-15 http://orr.gov.uk/__data/assets/pdf_file/0007/18556/health-safetyreport-2015.pdf

[vii] See page 6, "Ensuring that Railtrack maintains and renews the railway network" National Audit Office (2000)

[viii] Railway Gazette: "UK brings infrastructure maintenance back in-house" at: http://www.railwaygazette.com/news/single-view/view/uk-brings-infrastructure-maintenance-back-in-house.html

[ix] See Section 3.2, Page 23 of the Study, published in 2010

[x] See: http://www.railwaygazette.com/news/single-view/view/uk-brings-infrastructure-maintenance-back-in-house.html

[xi] See: http://orr.gov.uk/publications/reports/final-determination

[xii] See: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/4216/reforming-our-railways.pdf

[xiii] See Bowe Report, Paragraph 4.3, Page 19 at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479561/bowe-print-version.pdf

[xiv] See Bowe Report, Paragraph 4.38, Page 26 at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479561/bowe-print-version.pdf

[xv] See Bowe Review, Paragraph 1.4, Page 6 at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/479561/bowe-print-version.pdf

[xvi] See: http://www.railtechnologymagazine.com/Rail-News/multi-million-pound-track-and-sc-renewals-contracts-announced

[xvii] Jupe R (2012), 'Evolutionary change? An evaluation of the McNulty report on rail', Public Money & Management, 32:3, p.178.

[xviii] McNulty Report, Page 286, "Realising the Potential of GB Rail" at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/4204/realising-the-potential-of-gb-rail.pdf

[xix] House of Commons Transport Committee, The London Underground and the Public–Private Partnership Agreements, Second Report of Session 2007–08, Para 63, 25th January 2008. http://www.publications.parliament.uk/pa/cm200708/cmselect/cmtran/45/45.pdf

[xx] Shaoul, J (2004), 'Railpolitik: The Financial Realities of Operating Britain's National Railways', Public Money & Management, 24:1, pp27-36. p. 29

[xxi] Although this low level of state funding is far from supportive or beneficial for a modern and efficient industry, it does at least illustrate the relatively efficient state of BR – given its with minimal resources and funding.