



OFFICE *of the*
RAIL REGULATOR

**NEW SERVICE OPPORTUNITIES
FOR PASSENGERS**

**SUMMARY OF THE RESPONSES TO THE
CONSULTATION**

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New service opportunities for passengers – A summary of the responses to the consultation

Regulator's foreword

When I published my consultation document "New Service Opportunities for Passengers" at the end of September 1997, I indicated that I would be publishing a summary of the issues raised by consultees, my initial response to those representations and a programme of further analysis to be undertaken which would inform the final decisions regarding the relaxation of constraints on on-rail competition.

I have been impressed by the number, quality and range of the responses to the consultation. In general, the responses support the view that the current competition framework may be preventing the emergence of new services. Where the responses differ is in their assessment of the impact of such new services on the overall public interest. Some respondents believe that any detrimental effects, for example on the financial position of the Franchising Director and the PTEs or on network benefits, can be contained through application of my access and licensing powers. Others take the view that the effectiveness of these controls is uncertain and yet to be fully tested, and that the risks of relaxing current competition restrictions are therefore too great.

Even where responses support the initiation of Stage II of Moderation of Competition, they are looking for greater clarity about the way the regulatory framework will operate. Thus, for example, OPRAF has suggested the use of published criteria, perhaps based on its own planning criteria, as recently approved by the Secretary of State. In addition, I will want to explore further, with OPRAF, the effectiveness of current provisions in licences and franchise agreements to protect network benefits. Some of the current concerns - for example, about the more extensive use of 'book ahead' tickets - stem as much from restructuring itself as from on-rail competition. But I recognise the need to ensure that an extension of competition does not introduce further pressures which act to the disadvantage of passengers.

It is clear, therefore, that there are still a number of very important issues to resolve before taking final decisions on whether - and if so, on what basis - to initiate Stage II. Over the next three months my Office will explore these issues further, and discuss them with key interested parties. I want to be confident that, when I publish my final conclusions in March, they are soundly based and that the issues raised in this consultation have been properly addressed.

John Swift QC
Rail Regulator

December 1997

1. Introduction

This document is a summary of the 103 representations made in response to the Regulator's Consultation Document "New Service Opportunities for Passengers", which was issued at the beginning of October 1997. It also sets out the approach that the Regulator intends to follow over the next three months, in the light of these comments, before reaching final conclusions in March. The document contains three main sections:

- summary and more detailed compilation of the responses to the general policy issues raised in the Consultation Document;
- a summary and detailed compilation of responses to the Technical Appendix; and
- the next steps, including further analysis designed to examine a number of the issues raised.

Also included is:

- Annex A - a table of the responses, along with a broad indication of the way forward that they support; and
- Annex B - a list of respondents.

The full responses, excluding those where the respondent requested confidentiality, are available for viewing in the ORR Library. Appointments can be made by ringing the Librarian on 0171 282 2001.

Queries concerning this document should be addressed to:

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2. Summary of responses to the consultation Document

Overall, the representations show a significant weight of opinion in favour of relaxing the existing constraints on new competition, but, only if the Regulator is satisfied that adequate safeguards are available to prevent the emergence of the potential detriments. The majority of the representations including those from most Train Operating Companies (TOCs), OPRAF and Railtrack, acknowledge that the existing arrangements do constrain the development of new services which could be expected to generate benefits for passengers. Less than a quarter of the representations were against the relaxing of the constraints on new competition, although some of those in favour did support deferral of the next stage of Moderation of Competition (MoC) until such time as the industry had more experience in the private sector.

Virtually all representations supported the Regulator's concern regarding the potential disbenefits identified in the consultation document. Overall, respondents felt that the Regulator would be able to prevent the emergence of such detriments by means of licence compliance and access approval regimes. There was considerable support for the Regulator to pay close attention to the degree of revenue abstraction associated with individual proposals for access rights for new services.

A number of respondents raised the question of how increasing competition would fit in with promoting integrated public transport.

A key problem area identified is the vulnerability of the budgets of the primary funding bodies, OPRAF and the PTEs. The latter are concerned that they may have insufficient scope to protect the farebox revenue for which they take the risk, whilst OPRAF have suggested that access rights for new services should be considered against criteria similar to their own Planning Criteria recently approved by the Secretary of State. These issues will need to be resolved before Stage II could be initiated.

The responses to the specific questions asked in the consultation are summarised as follows:

Q1 Are there any new factors, not taken into account in 1994, which would argue against initiation of Stage II?

Many respondents, including 18 of the TOCs currently subject to Stage I of the Moderation of Competition rules, agree that there is little evidence to suggest that a second stage of MoC should not proceed in some form. It was generally recognised that Stage I constrained the

development of new services which would have been beneficial to passengers. However, many responses also acknowledge the risks of relaxing competition too much, and agree that the Regulator is right in "treading cautiously", to ensure that Stage II has the desired and intended effect.

However some respondents are not convinced that increased competition on the network would have a beneficial effect for the passenger. Their concerns are that:

- franchisees are under pressure from other forms of external competition, mainly from the car;
- the outcome of the Integrated Transport review is not yet known;
- Stage I of MoC has had only a short time to operate;
- the details for Stage II were established before there was clarification of the extent to which revenue risk would lie other than with the Train Operator. The PTEs have been mainly concerned with this problem (see Section 3 'subsidies' below);
- the competition regime is becoming excessively complex;
- competition could mean worsening of services on low user urban and rural routes;
- there could be an increase in "rule avoidance", where Train Operators spend more time finding ways around rules rather than focusing on passenger benefits;
- with the franchise process completing later than originally envisaged, the likely behaviour of TOCs under private ownership has not fully revealed itself; and
- Train Operators affected by major projects, such as the Channel Tunnel Rail Link and Thameslink 2000, should be focusing their management resources on minimising the impact of disruption on passengers - not on competition issues.

Q2 What types of services can be expected to emerge in Stage II and what are the most likely benefits and possible detriments for passengers?

Railtrack confirmed that there had been a number of access requests which could have brought additional benefits to passenger, but which were frustrated by the restrictions of Stage I.

A number of respondents, including Train Operators, Local Authorities and the public, identified actual services which might be possible should Stage II go ahead. These might include:

- new city to city services, using newly acquired high speed trains;
- new direct services on journeys which currently require one or more changes of train, or a journey via London;
- extensions to existing services;
- plugging gaps in core services - more early, late, off-peak and weekend trains;
- cross London links - North to South and East to West;
- niche markets not related to existing services; and
- the "linking together" of services to form longer through services.

Other potential benefits identified by respondents included:

- the introduction of more modern rolling stock on routes where services are currently provided by older trains; and
- more incentive for Railtrack to increase capacity by investing in the infrastructure.

The detriments identified were generally those already known by the Regulator and included in the consultation document. Most Train Operators agreed that comparison with bus deregulation is not appropriate when identifying detriments because the barriers to entry and exit are far more significant. Factors supporting this assertion include the restrictions imposed by the current regulatory regime of access agreements and licensing; cost, coupled with the lack of subsidy for new services; time constraints on acquiring rolling stock and purchasing access rights; and the overall loss making nature of the majority of rail services.

Q3 Is there any reason to believe that the incremental approach to the development of competition depicted in the Stage II mechanisms is an inappropriate way of extending competition to the railway sector?

It was generally considered that, if greater competition is to be introduced, then the incremental approach is the right way forward, encouraging innovation whilst still being a low risk strategy.

Q4 Are there additional measures which the Regulator should consider in order to protect passenger interests, including network benefits, during Stage II?

It was generally agreed by all respondents that the matter of protecting passengers interests should be one of the main priorities and should be subject to continuous review.

The Franchising Director has proposed that explicit criteria are adopted, by which the overall impact of proposals for new services are evaluated. These could resemble the Franchising Director's planning criteria which the Secretary of State has already approved for evaluating changes to passenger services supported by government.

Other areas identified by respondents, where the Regulator may need to consider additional measures, include:

- ensuring that Railtrack allocates timetable slots on a fair basis, which is not detrimental to current usage and flows;
- considering the effect of spare slots being allocated on a "first come first served" basis. This could disadvantage passengers - for example, customers may not benefit from new services in areas adjacent to a key location, such as an airport, which will attract services competing in journey time and cost. Where capacity is limited other, possibly more beneficial, service enhancements may be lost;
- ensuring that a TOC does not lose the slots that it already has, and operates, to a competitor;
- ensuring that any competing operator is subject to the same requirements and penalties as the incumbent operator to ensure consistency of service;
- ensuring that, where major investment is planned and rolling stock is ordered, then new predatory services should be restricted;
- requiring that access bids should be subject to consultation over related network benefits; and
- ensuring the current timetabling process is sufficiently robust.

Q5 Are licence compliance powers sufficient to prevent a reduction in network benefits, and can commercial pressures be relied upon to maintain the right balance between dedicated tickets and flexibility?

Licence powers and commercial pressures are considered by respondents sufficient to achieve the right balance. However, it was considered important that the Regulator ensured that the market retain two key features - the continuance of the "walk on" service and a comprehensive rail network.

The subject of dedicated tickets arose frequently in responses. A number of respondents, both TOCs and Local Authorities, said that the increasing cost and complexity of ticket retailing has the effect of discouraging passenger usage of the network. More dedicated products may increase that complexity and reduce the number of passengers.

Other network benefits may be affected by an increasing trend towards dedicated tickets. For example, an incumbent TOC may have less of an incentive to assist a competitor who sells dedicated tickets and whose service "fails". It was suggested that the Regulator give thought to introducing contracts for handling passengers who hold dedicated tickets for another TOCs train that does not run for whatever reason.

Another view is that the lead operator could be greatly disadvantaged when competing against new services, by not being able to introduce their own dedicated tickets (as a consequence of the Ticketing and Settlement Agreement rules).

One respondent suggested that independent customer research should be undertaken to establish customers stated preference and their actual behaviour when offered non-flexible tickets, before deciding whether dedicated tickets were good or bad for the passenger.

Q6 In particular, is it desirable to retain a link between the approval of access rights and the degree of farebox revenue abstraction?

It was considered essential that the Regulator remains mindful of the possibility of other operators seeking new access rights that are essentially abstractive. The general consensus was that the Regulator should not be making subjective decisions on the degrees of abstraction, but there were differing views on whether the onus of proof should lie with the incumbent or the new entrant, in terms of estimating the degree of farebox revenue that would be abstracted by increased competition on specific routes.

Additionally, there were requests for clearer specification of the parameters that might be used in the Regulator's decision making process as to whether a new service is primarily abstractive. Railtrack suggested that, to the passenger's benefit, the Regulator should err on the side of approving access rights unless there is an overwhelming argument put up against them.

Q7 Is it feasible to use Access Condition D and licence compliance as a means of deterring the use of access rights in an anti-competitive manner, and the emergence of anti-competitive practices? Would amendment to Access Condition D make this more effective?

Some consider that amendment of Access Condition D would be a retrograde step, and would add an additional constraint in an already complex process. However, there was suggestion that the Regulator may need to consider strengthening and amplifying some licence conditions.

Train Operators concluded that Railtrack alone should not be left to make commercial decisions - a statement to which Railtrack agreed. The Regulator was also advised to consider:

- stronger protections against predatory pathing;
- more rigorous monitoring of competitive behaviour; and
- reviewing any unused rights of train operators.

Q8 How can the system of nominations and approvals be managed so as to minimise uncertainty as to the timing and scope of introduction of new services?

The most favoured option is unified commencement - at the start of the Autumn/Winter 1999 timetable. The slight delay would allow all operators more opportunity to prepare for the introduction of Stage II. However, it was emphasised that the Regulator must satisfy himself that the arrangements in place between Railtrack and Train Operators to bid for, and process, timetable bids are sufficiently robust to handle the extra volume and complexity of bids which may arise, in a timely and transparent manner. This will require proper and full resourcing.

Additionally, Train Operators and Railtrack should be encouraged by the Regulator to maintain a close dialogue and cooperate during the initial period of Stage II to ensure the least disruption to passengers.

3. Other issues arising from the consultation document

A number of relevant issues, not directly related to the questions asked in the consultation, arose in the responses. These have been summarised below.

Consultation

Many Local Authorities and the CRUCC asked to be consulted on new service proposals arising as a result of Stage II. At present only the affected Train Operators, PTE, and OPRAF are consulted.

Current commitment and service

It was suggested that the Regulator should ensure that Train Operators have delivered their franchise plans and commitments before allowing them to introduce competitive services outside of their franchise area. It was also suggested that ORR apply an additional criterion when assessing whether new access rights should be granted to an incoming operator: "Does the applicants track record of train operations and/or customer service on their own 'patch' suggest that any new services will be of a quality to add value to the network?"

Government's Integrated Transport policy

A large number of responses from Local Authorities queried the relationship between this consultation on relaxation of the current moderation of competition arrangements, and the DETR's current consultation on Integrated Transport. There were concerns that competition, by its nature, will conflict with integration; but there was also recognition that the current Stage I rules restrict the introduction of new services which would enhance integration.

Information

It was suggested that an Internet available document could be maintained to show the nominations, current and pending approvals and their potential impact on the competitive headroom of each operator.

London Underground

London Transport expressed concern that increased competition on routes into London might affect Underground services at London interchanges, creating unmanageable and unacceptable passenger flows and safety problems.

ORCATS

A number of Train Operators pointed out that the consultation made no reference to ORCATS (Operational Research Computerised Allocation of Tickets to Services). This is the current means of allocating revenue between different operators on a route using modelling concepts and a limited number of passenger surveys. It was suggested that changes in ORCATS could mitigate some of the current weaknesses: in particular the value of regular clock face departures should be recognised, with consequential down valuing of occasional off pattern services, coupled with recognising the actual split of passenger journeys between operators. Railtrack and ATOC also suggested that the Regulator review the revenue allocation method of ORCATS to ensure it was not generating perverse incentives which restrict the development of services that would benefit passengers. In principle such a review could be part of the general review of the Ticketing and Settlement Agreement, which identifies the mechanisms by which farebox revenues are divided between train operators.

Passenger service requirements

The issue of Passenger Service Requirements (PSRs) was mentioned in a number of responses. PSRs are the minimum service levels which franchisees are required to provide, as set out by OPRAF in advance of franchise bidding. Train Operators are concerned that their current PSR commitments may restrict their ability to respond to a significant increase in competition. Additionally, if a train operator decides to introduce new services on a route in response to competition, they may also consider service reductions on other routes, down to PSR levels, both to protect their overall financial position and to release resources.

Rolling Stock

The availability of rolling stock was recognised by a number of respondents to be a key factor in restricting the introduction of new services. Deployment of newer vehicles may be subject to lengthy safety case processes. One TOC stated that they would not wish to be in competition with a train operator who was using rolling stock that they had been obliged to replace through the terms of their franchise.

Strategic Rail Authority

The impact that the introduction of a Strategic Rail Authority might have on the role of the Regulator and the Franchising Director was queried in a few responses. This issue is linked with the outcome of the Integrated Transport Review.

Subsidies

The ability to continue to fund socially desirable services is a major concern to both OPRAF and the PTEs. OPRAF are concerned that reducing the level of protection enjoyed by franchisees may lead to reduced value for money for the Taxpayer, which in turn could lead to the withdrawal of socially desirable services at a time when increase use of public transport is being promoted elsewhere. OPRAF have proposed that the Regulator should adopt planning criteria similar to their own, by which new service proposals could be evaluated.

Most PTEs, like the Train Operators, are in a position where their farebox revenues are at risk, but unlike the train operators, have no opportunity to protect that revenue, nor is there any process by which they can ensure that the Train Operators secure the revenue on their behalf. A number of PTEs suggested that because they are exposed to potential loss of revenue, they should also be able to nominate flows for protection or be in a position to veto new service proposals that are likely to abstract their revenues.

4. Summary of responses to the technical appendix

Overall the representations give extensive support for the technical aspects of the policies and procedures which have been consulted upon. In the event that it is decided to initiate Stage II in March 1998, the results of this part of the consultation suggest that Stage II should proceed within the framework and using the criteria specified in the Technical Appendix to the Consultation Document.

The responses to the specific questions asked in the Technical Appendix are summarised as follows:

Q1 The Regulator would like to know if you consider this "colour coding" useful to determine the status of a flow.

Most Train Operators thought this method of describing the status of a flow was useful, and should be adopted for Stage II.

Q2 Train Operators and Railtrack are asked to comment on the Regulator's preference for Option (b) (in Stage II Timing issues) and to identify any alternative or supporting activities which they believe would minimise the scale of the timing problems outlined in the above paragraphs.

It is generally agreed that the Regulator's proposal Option (b) - introducing new services in Autumn/Winter 1999 - is the earliest realistic date. However the Regulator was advised to:

- give clear, explicit guidelines as to how this will be applied;
- establish the process for resolving complex scenarios - such as if two operators were bidding for access rights on a package of flows where granting either operator rights would not breach the competitive threshold but granting rights to both would;
- ensure that the timetabling process is capable of coping with the new regime;
- ensure that there is not the opportunity for a predatory TOC to challenge a refusal by the Regulator to approve track access amendments during the period up to the Autumn 1999 timetable;

- consider the difference in approach to changing timetables - London commuter TOC changes generally occur in the Summer timetable when activity is less, but for the Regional/InterCity TOCs changes occur in the Winter timetable as the holiday season gives significant revenue opportunities;
- ensure that Railtrack do not have access to sensitive market-related data and passenger demand forecasting; and
- consider proposals for introducing services that are not included in the Timetable on their merits.

Q3 The Regulator would like to take account of the views of any party who believes that the approval of a lower materiality threshold would influence the ability to operate or the economic viability of specific services, either existing or proposed. Incumbent operators who would be in a position to bid for a lower threshold are also requested to comment on the degree to which rejection of such a bid might affect their franchise and the practicality of the proposed method for dealing with threshold proposals.

The general opinion from TOCs who did not have a lower threshold during Stage I was that the Materiality Threshold should be the same for all TOCs. The reason for this was that TOCs with lower thresholds should not have extra protection whilst at the same time seeking to provide competing services.

Some of the TOCs who did have a lower threshold in Stage I, recognised that there may be little advantage in them having the same lower threshold for Stage II, but others believed that, without a lower materiality threshold, an unacceptably large proportion of their business would be at risk.

Q4 Consultees are requested to comment on the adoption of 80% as the percentage for defining pre-existing competition.

Most TOCS agreed that the use of 80% to determine whether a flow is subject to pre-existing competition is generally acceptable.

However, there were these additional suggestions:

- where competition with other modes is very direct, then this element should be considered;

- there should be "partially contested flows" - flows where the dominant operator receives between 80%-90% - where an element counts towards the competitive threshold; and
- the rule that a flow will be either contestable or contested for all operators should be reviewed - especially when this applies to flows where one train operator "competes" against a train operator who takes more than 80% of the revenue, but who cannot nominate this flow as a pre-existing contested flow.

Q5 [Regarding the Treatment of Common Ownership] the Regulator would welcome views from any potentially affected party, particularly where those views identify the scale of constraints created by this proposed policy.

The TOCS currently under common ownership were relatively unconcerned about the Regulator's proposed policy.

It was suggested that TOCs under common ownership have the advantage of knowing their sister franchise operator's nomination strategy and therefore may receive an unfair advantage over other TOCs. It was also pointed out that there would be no guarantee that the franchises would remain in common ownership - therefore the Regulator would need to consider now what would happen in such circumstances.

Q6 [Regarding the Competitive Threshold] the Regulator would welcome representations that enhance understanding of the likely impact of this policy or present alternative solutions to the problems raised by this issue.

Responses generally accepted that setting the Competitive Threshold at 20% is consistent with the aim of introducing competition to some routes and equalising the levels of competition faced by all Train Operators.

Q7 The Regulator would welcome any representation concerning the criteria for approval of alternative station nominations.

It was generally considered by respondents, including Train Operators and Local Authorities, that the existing Alternative Termini protection is unhelpful to passengers - some new direct services may be introduced on flows which are currently being protected under the Alternative Termini arrangements for Stage I. The Regulator was advised to provide more guidance of what constitutes an "alternative terminal" under Stage II. Also, consideration should be given to nominations which are necessary to deter new services which would primarily abstract revenue.

Q8 The Regulator would welcome views from operators as to the suitability of special nominations as an alternative to lower thresholds.

Reaction to this proposal differs - a few TOCs affected would prefer lower materiality thresholds, but others would prefer special nominations because of the impact lowering the materiality threshold can have on the contestable pot.

It was generally agreed that special nominations should apply only to special circumstances, such as where an operator has made a significant investment to the benefit of passengers, and deserves some assurance that he will receive a return on that investment.

Q9 The Regulator would welcome any representations from operators who may be inclined to make through-flow nominations, particularly representations regarding the criteria for approval of such nominations or the practicality of the proposed mechanism for making those nominations.

Most TOCs would prefer the Regulator not to encourage through flow nominations, as they prevent the introduction of new direct services and their benefits are limited.

Q10 Representations are requested regarding the suitability of the 1996/97 data and of any special circumstances of which the Regulator should be aware.

It was generally agreed that the use of 1996/97 farebox revenue data is sensible. Some TOCS raised concerns over treatment of the revenue raised through the sale of zonal tickets within PTE area, as this could affect whether a flow is material or not. Similarly, there were requests for recognition of Travelcard income resulting from service enhancements in 1996 and revenue from significant train service changes made in 1997. It was pointed out that when Stage II starts, the 1996/97 data will be three years out of date. The preparation of the 1996/97 data has now been jointly commissioned by ORR and OPRAF and will be available to all Train Operators by mid-January 1998.

Q11 Representations are requested regarding the use of EXCEL 5.0 as the preferred nomination format and of any special circumstances of which the Regulator should be aware.

Those making nominations agreed that the use of Excel 5.0 is acceptable. Some TOCs have requested that hard copies are also submitted to ensure there is no risk of data corruption or tampering during the transfer to and from ORR.

5. *Next Steps*

The timetable for considering the implementation of Stage II includes:

- a seminar in early 1998 for the PTE/PTA's, designed to address the concerns of those bodies by making clear to them the mechanisms by which their interests can be protected, and where appropriate developing new mechanisms;
- a programme of analysis and research designed to explore and quantify the significance of the issues raised by the consultation process (See Section 6); followed by:
- inviting TOCs to submit draft proposals for lower materiality thresholds and through flow nominations by 31 January 1998 which, if approved, would need to be included in any Stage II Initiation Notice (any such proposals to be consulted on before the policy statement is published); and
- publication of a policy statement setting out final decisions regarding implementation of Stage II in March and, if required, the issue of Stage II Initiation Notices.

In the event that the Regulator decides to initiate Stage II, he will also issue a document which:

- sets out the detailed framework within which Stage II of MoC will operate;
- sets out the procedures which train operators will be required to adopt in making nominations for protections under the Stage II arrangements; and
- sets out the criteria against which such nominations will be evaluated.

Full implementation, including processing of relevant nominations and the incorporation of new train services into the national timetable would then follow, with the earliest date for the commencement of new timetabled competitive services being September 1999.

6. Further analysis of the potential effects of increased on-rail competition

This programme of analysis has been compiled in response to the issues raised by respondents to the consultation. The results will inform judgements regarding the degree to which competition restrictions might be relaxed. Each issue and associated analysis identified includes a brief description of what the objective of the analysis is, and an indication as to whether it will be carried out in-house by the ORR or by external consultants. The list includes some analysis that is already underway.

Issue 1: The degree to which the development of new services has been constrained during Stage I of Moderation of Competition.

This is an internal exercise to collate a list of proposals which have been unable to proceed under Stage I rules, but could proceed if Stage II is implemented. This project will in part help to quantify the likelihood and probable routes/calling patterns of the most likely new services.

Issue 2: The degree to which the cost and non-availability of rolling stock will encourage train operators to withdraw trains from less profitable non-PSR services.

External consultants have been commissioned to analyse the likely attitude of TOCs to rolling stock deployment, and the availability of stock suitable for new competition by both franchisees and others. The degree to which rolling stock for new services can only be, or are likely to be, found only by their removal from existing less profitable services will be an important input to the overall assessment of the impact of relaxing the current constraints on competition.

Issue 3: Whether increasing the potential for on-rail competition will undermine the existence of network benefits, and in particular whether it will lead to an increase in the number of dedicated tickets and a loss of walk-on and through tickets.

This analysis will consider the degree to which increasing the scope for on-rail competition will lead to an increase in the number of dedicated tickets, and whether or not such an increase is likely to have a detrimental effect on the preservation of Network Benefits - in particular the availability of walk-on fares and through tickets. This work will consider the degree to which the continued availability of network benefits can be achieved by means of licence conditions. In addition to collating information regarding the volume/number of instances of dedicated tickets on existing services which have face a degree of existing on-rail competition, this analysis will attempt to quantify train operators attitudes to the use of dedicated tickets.

Issue 4: The degree to which increasing levels of on-rail competition will lead to a loss of franchise value, and thereby, a reduction in the ability of the Franchising Director and the Passenger Transport Executives to fund socially desirable services.

This analysis will consist of a number of stages. The first will be an internal exercise to collect and analyse data on particular routes where the franchisees are known to have been competing. This exercise will be limited by the degree of actual competition that has occurred. The second stage will be an attempt to assess the impact of the Stage II framework on each franchise. It will test the effect of competition within a standard framework to put boundaries on the scale of risk. It will take account of the likelihood of new competition in different scenarios. The third stage will be to consider the degree to which new competition would bring new competitive effects to incumbent operators. It will build upon the first two stages and will incorporate current thinking on the treatment of access charges and the type of new service proposals that might be approved.

This analysis will provide useful input to the consideration of the effect of relaxing the current constraints on competition on franchise values and the knock on effect on overall subsidy requirements, social cost benefit and service provision on heavily subsidised routes. This will probably be taken forward as an external project, working to a remit that will be agreed with OPRAF.

Issue 5: The likely effectiveness of using licence conditions, the access regime, and OPRAF style planning criteria to prevent the potential detriments of on-rail competition.

This analysis will investigate the potential for using various mechanisms to prevent the emergence of new services and practices that are not in the public interest.

Other activities

PTE Seminar: The Passenger Transport Executives have raised legitimate concerns regarding their ability to preserve their ability to protect their interests. The Regulator's office will hold a seminar (in early 1998) to develop appropriate criteria and procedures to protect the interests of PTEs.

Summarising the Findings of the Research Programme: Beginning in February 1997, the office will begin to pull together all of the results from the above with a view to providing an overall analysis of the desirability of initiating Stage II of MoC.

Annex A: Table of Responses

A total of 103 responses were received in reply to the consultation document. These have been categorised into those that overall were in favour of Stage II going ahead, albeit with some concerns, those who would like to see Stage II deferred until the current arrangements have "bedded in" and those who do not wish to see Stage II implemented.

A number of responses simply offered views on issues that are not directly related to Stage II, such as how and where new services could be introduced, or how problems arising from competition were resolved in other countries. Although these views are of interest they do not directly relate to the questions raised in the consultation, and so have been categorised as "Other Response" for this exercise.

	No. of Responses	Yes to Stage II	Defer Stage II	No to Stage II	Other Response
Train Operators	20*	14		1	1
Railtrack	1	1	-	-	-
OPRAF	1	1	-	-	-
PTEs	6	3	2	1	-
CRUCC / LRPC	2	1	-	1	-
ATOC	1	-	1	-	-
Local Authorities	28	19	-	6	3
Rail Lobby Groups	13	7	-	3	3
Academics and Consultants	8	4	-	1	3
Public	18	1	-	6	11
Other	5	3	-	1	1
TOTAL	103	54	7	20	22

* Includes collective responses from National Express Group (on behalf of Central, Gatwick Express, MML, Silverlink and ScotRail), Virgin (on behalf of West Coast and Cross Country) and Prism (on behalf of Cardiff Valleys, LTS, Wales and West and WAGN).

Annex B: List of Respondents

Train Operating Companies

Central Trains	Prism Rail PLC
Connex South Central	Regional Railways North East
Connex South Eastern*	Renaissance Trains Ltd*
DSW Rail	ScotRail
GB Railways Group*	South West Trains*
Great Eastern Railways	Thames Trains*
Great North Eastern Railways*	Thameslink
Great Western Trains	Virgin Trains*
London & Continental Railways Ltd*	West Cheshire Metro*
National Express	* Response made in confidence
North Western Trains*	

Other Rail Companies & Bodies

Association of Train Operating Companies (ATOC)
Central Rail Users' Consultative Committee (CRUCC)
London Regional Passengers Committee (LRPC)
London Transport
Office of Passenger Rail Franchising (OPRAF)
Railtrack

Local Authorities

Association of Transport Coordinating Officers (ATCO)	Neath Port Talbot County Borough Council
Bedfordshire County Council	Norfolk Rail Policy Group
Birmingham City Council	North East Lincolnshire Council
Borough of Eastleigh	North Kesteven District Council
Caerphilly County Borough Council	North Yorkshire County Council
Cardiff County Council	Nottinghamshire County Council
Chorley Borough Council	Plymouth City Council
Cornwall County Council	Slough Borough Council
Cumbria County Council	Staffordshire County Council
Devon County Council	Surrey County Council
East Sussex County Council	Tendring District Council
Hampshire County Council	Wansbeck District Council
Hereford and Worcester County Council	West Sussex County Council
Hyndburn Borough Council	Weymouth and Portland Borough Council

PTA/PTE

Centro (Birmingham)

Merseytravel (Liverpool)

Metro (Leeds)

Nexus (Tyne and Wear)

South Yorkshire PTE (Sheffield)

Strathclyde Passenger Transport (Glasgow)

Rail Groups

Bedford Commuters Association

Capital Transport Campaign

East Suffolk Travellers Association

Glamorgan Rail Users Federation

Railway Development Society

Save Our Railways

Shrewsbury - Wolverhampton Rail Users'
Association

South Hampshire Rail Users' Group

The Railway Forum

Transport 2000 - Staffordshire

Transport 2000 South West / The Railway
Development Society

West Midland Regional Rail Forum

West Wiltshire Rail Users Group

Westcoast 250

Academics and Consultants

Carlson Wagonlit Travel

Mr D Starkie, Economics Plus Ltd

Mr M J Brookes, Planning Consultant

Mr R Sexton, Nottingham Trent University

Prof W P Bradshaw, University of Oxford

TCI Operational Research

The Institution of Civil Engineers

Dr N G Harris, The Railway Consultancy

Public

Mr Rhys ab Elis

Mr L M Griffiths

Mr G W Penn

Mr C G Wildish

Mr D Box

Mr S Hicks

Mr D C Prout

Mr J Witham

Mr D Croot

Mr P J Lynch

Mr C Rodway

Mr B Doe

Mr D Moulder

Mr A Shaw

Mr N Ellis

Mr W Paxton

Mr E D J Walters

Others

Consumers' Association

National Union of Rail, Maritime and Transport
Workers

The National Council of Women

The Nikko Bank