

HULL TRAINS – HARROGATE SERVICES LONDON TRAVELWATCH RESPONSE

I would be grateful if you would accept this late submission in relation to this application. The delay is partly because of limited staff availability for matters of this nature, and partly because our comments arise largely from the likely consequences of the totality of the East Coast Main Line access applications now before you, rather than the details of this specific application.

On the specifics of this application, London TravelWatch welcomes the intention that, if granted, the trains should serve Stevenage.

However a general point relating to all open access applications is the question of revenue abstraction through the ORCATS mechanism. This results in a potential transfer of funds from the franchised operator – and thus in the East Coast case the DfT and its available funds to spend on rail services generally – to the open access company.

We – along with GNER and others – raised this in connection with the original Grand Central application. We accepted that the ORR decision went against us, and we considered that the matter was now dealt with. Subsequent applications by both Hull Trains and Grand Central for marginal additions to their quantum of paths did not cause us concern, as any increase in the sums involved would be small.

We believe that the situation has now changed, as the number of East Coast open access applications being made in response to ORR's request for expressions of interest may represent a major increase in the funds at risk. This is partly because of the number of paths being sought, and partly because of the number of stations on the main line at which the open access operators are proposing to call.

Also, we understand that National Express East Coast (NEEC) have a clause in their contract with DfT which enables them to renegotiate the terms if they are not granted the track access rights needed to implement their SLC2 timetable. If the open access applications currently being considered are granted at the expense of paths needed by NEEC for SLC2, then we would expect this clause to be invoked and for their premium payments to be reduced. Thus, whereas in the Grand Central / GNER case the actual likelihood of loss to DfT was a matter of speculation, it would now appear to be a certainty.

We also understand that if an operator believes that the operation of ORCATS on a particular flow is not a fair reflection of the traffic being carried by the different operators, they have a right of appeal to have the allocation changed. However given the clause in the National Express contract, it would appear that they would have no incentive to pursue this course.

Given these new circumstances, we believe that ORR should re-open its consideration of this matter.

We recognise that ORR applies a “not primarily abstractive” test to all open access applications. However it seems to us that an application could pass that test because the new revenue generated is greater than the abstracted revenue, but that the total of abstracted revenues – either for a single open access operator or for several such operators combined – could still amount to a significant sum.

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London TravelWatch is the operating name for the London Transport Users Committee