ASLEF Response to the Intercity East Coast Rail Franchise Inquiry

1. The Associated Society of Locomotive Engineers and Firemen (ASLEF) is the UK's largest train driver's union representing approximately 20,000 members in train operating companies and freight companies as well as London Underground and light rail systems.

2. ASLEF believes that all the evidence shows that rail privatisation has been a failure. Much of this is not just the profiteering of the private companies that run the operators, but the structural failings of the franchise system. Perhaps no other franchise demonstrates this as well as the continuous failures of the East Coast Mainline.

3. The reason that this franchise has failed three times is due to these structural failings. In essence, there is little disincentive for companies to overbid. Every single time a franchise on the East Coast has failed, commentators and those within the industry had pointed to overbidding at the time the franchise was awarded. Yet astonishingly, the same mistakes have continued to be made.

4. The first East Coast franchise to fail was GNER. GNER were the first franchise holder after privatisation. They were awarded the franchise once again in March 2005, for a further seven years, with a three-year extension based on targets being met. The new agreement started on 1 May 2005. GNER committed to pay a £1.3 billion premium to the Department for Transport over ten years. By comparison, in the last years of its previous franchise, GNER had paid £22 million. GNER's bid was a third higher than its rival bidders.

5. Such was the jump in proposed premiums, GNER's Chief Executive Christopher Garnett explained that, "We were surprised when we did the

sums and found where we got. We thought, bloody hell, it is a lot of money. The surprise is that we are so far ahead of everyone else. But all we are doing is projecting forward the revenue growth we have had for the last nine years. If you raise quality, you get people coming from the air and the car back to the train."

6. Yet despite the surprise at the huge increase in premiums being promised, alarm bells did not ring. An undisclosed rival bidder at the time commented, "I have had a team of analysts working on this all day and I still can't make GNER's figures stack up."

7. However, for GNER, there was little concern over the issue of overbidding. When asked whether GNER could have bid less and still won, Mr Garnett said: "That's a Phd in hindsight. I would rather overbid and win than underbid and lose."

8. Perhaps one of the major reasons for this is the protection offered to franchises if revenue is smaller than anticipated. The franchise agreement at the time meant that if revenues fell to less than 94% of the target, the deficit was shared 20% to GNER and 80% to the government. Between 94% and 98% it was shared 50:50.

9. So whilst hindsight is a wonderful thing, there was clear evidence of an overbid at the time the franchise was awarded. It was therefore no surprise at all when GNER was unable to make the contracted payments and in December 2006 the government announced it was stripping the franchise from GNER and would put it up for re-tender, with GNER running the franchise on a fixed fee management contract in the interim. The bid required revenue growth of 10% over 2006. It achieved 3%.

10. The DfT had clearly not learned lessons from the debacle and awarded the franchise to National Express in August 2007. The company agreed to pay the government £1.4bn to run the East Coast main line, again with rail analysts saying it had paid too much for the franchise.

11. It wasn’t long until this prediction became a reality. By 2009, National Express East Coast (NXEC) was struggling due to lower than expected revenue growth. Instead of projected increases in revenue from the franchise, in the first half of 2009 NXEC ticket sales income decreased by 1%. In April 2009 National Express confirmed that it was pursuing talks with the government over possible financial assistance with the franchise, either through a reduction in the premium due, or other assistance.

12. Part of its attempt to renegotiate involved offering to buy out its contract for over £100 million. However, Lord Adonis, Transport Secretary, rejected this fearing other companies would try to renegotiate themselves out of future contractual payments to the government. The terms of its franchise meant National Express would not lose more than £72m if it walked away. Again this shows why firms feel the ability to overbid without too much concern. The potential losses are very limited. In July 2009 it was announced that National Express planned to default on the franchise, having failed to renegotiate the contractual terms of operation, with National Express stating that it would not provide any further financial support necessary to ensure NXEC remained solvent. This meant NXEC would run out of cash by the end of 2009. As a result, the Department for Transport announced it would establish a publicly owned company to take over the franchise.

13. When the franchise was brought in house and run by government owned Directly Operated Railways, it returned over £1bn to the treasury and got record performance statistics. The decision to privatise it was completely without reason or merit. It was therefore in many ways remarkable but predictable that the latest Stagecoach and Virgin franchise has again admitted that they overbid and that is why the franchise is once again, ending early due to a failure to meet contractual terms.

14. Tinkering with the franchise system is not the solution. Its whole fundamental structure causes these issues. Of course the DfT have an interest in giving the franchise to those who offer the highest return to the treasury. But if the

promise is so high, it leads to the keys being handed back and another expensive refranchising process, then this just increases the costs to the DfT. The risk is disproportionality on the taxpayer.

15. Franchising has never worked for the taxpayer and passenger. Now even potential bidders are shying away from it due to its complexities. Recent franchise competitions have had far fewer bids. Many believe the government plan to remove even more risk from operators. Chief Executive of Stagecoach, Martin Griffiths, has recently explained, "While the train operating company will still bear some revenue risk on most new franchises awarded by the Department for Transport, we anticipate that its exposure to revenue risk will be significantly less than on franchises awarded in the last few years, such as the Virgin Trains East Coast franchise." This will make these issues even more frequent.

16. When DOR took over the franchise after National Express defaulted, £1bn was returned to the DfT and the operator was a great success. It is therefore highly disappointing that DOR, which still exists to potentially take on failed franchises, has been privatised. Why fundamentally change something that worked so well?

17. ASLEF's believes that the proposed East Coast Partnership, is in essence, a re-announcement of deep alliancing that was announced as a cover for ending the East Coast Franchise early. Nothing, other than an end to the broken franchising system will prevent failures such as the East Coast franchises, whilst also getting anywhere close to offering value for money to the taxpayer and passenger.

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