ASLEF Response to the Department for Transport's Reforming Rail Franchising Consultation October 2010

1. The Associated Society of Locomotive Engineers and Firemen (ASLEF) is the UK's largest train driver's union representing approximately 18,000 members in train operating companies and freight companies as well as London Underground and light rail systems.

2. The union asserts that a key aim of investment in the railways has to be cultivating a modal shift from air to rail and from car to train in line with Coalition's Programme for Government commitment to make the transport sector greener, more sustainable and reduce carbon dioxide emissions. An increase in rail capacity is strongly linked to a decrease in car journeys undertaken with the result that there is less carbon emissions. Decisions on the reform of rail franchising must therefore be determined by what will best deliver these outcomes.

3. ASLEF is happy to contribute to this consultation on Reforming Rail Franchising. We believe that the franchising system as currently constituted has evolved into a system which benefits only to a small cartel of multinational transport corporations to the cost of passengers, staff and taxpayers. It's worth pointing out that the four main industry players the Go Ahead Group, First Group, Stagecoach and National Express have only been around for 25 years and all came into the rail industry via the bus industry. In contrast ASLEF has 130 years direct experience of the railways.

4. The union takes the view that current franchising system has turned Britain's railways into a risk free venture in which profit can be made with little or no improvement to services due to localised monopolies, revenue protection and subsidies. Should a company have any concern over potential losses from a franchise we have seen cases where an operator can simply walk away leaving the taxpayer to pick up a large bill. ASLEF is therefore in no doubt that there needs to be fundamental changes to the structure of the railway but feels that many of those suggested within the consultation would take the industry completely in the wrong direction exacerbating the problems rather than resolving them; a bit like rearranging the furniture rather than addressing the weak foundations of the house.

5. A brief examination of the history of the railway post-privatisation demonstrates that most of the fundamental failings have been caused by companies prioritising profit over safety and service. From the failures of Railtrack, Connex and most recently National Express East Coast, cost cutting has led to disastrous (and in Railtrack's case fatal) consequences. In each case, it has been the state that has had to step in to ensure that the British rail network continues whether permanently in Network Rail's case, or temporarily in the case of Connex and National Express East Coast.

It is for this reason that ASLEF has major concerns over the underlying theme of the document which is greater freedom and control to the franchise winners.

6. ASLEF believes the franchise system as a whole is fundamentally flawed and that changes to the length of franchises would, in fact, have a neutral effect on the industry. It could however be disastrous if the Department for Transport do not bring in measures to ensure that the franchise is providing a quality service. One of the principle benefits of privatisation was alleged to be improvement due to competition. This was a fallacy on the rail network as companies have monopolies on routes. If, for instance, you live in Scotland, you are unlikely to have any option other than to use Scotrail services for most routes. The only pretence of competition comes at the point of refranchising or for passengers to use other transport options such as their car, which we must avoid. Any 15 year franchise has the potential to lead to unproductive monopolies without any incentive to produce a good service.

7. The union notes research on franchises by KPMG which found that ‘our comparative analysis of UK train operating companies (TOCs) has provided no conclusive evidence of the impact of contract length on performance across the sample of operators that were studied’. It also suggests that longer term franchises might lead to ‘increased financial risk’ affecting the agreement because bidders cannot foresee changes in economic circumstances. It would therefore be essential to have agreed break points where the quality of service is assessed and if unsatisfactorily the franchise be removed without compensation.

8. ASLEF has reservations as to the impact of longer franchises could also have a negative effect on the rail freight industry. As previously stated, should a company receive a longer monopoly on a route, the sense of ownership of the track may become further ingrained. This may well have a detrimental effect on Freight Operating Companies’ access to routes and in turn reduce the amount of freight that is transported by rail. It is essential that this does not happen as rail fright reduces carbon emissions, reduces road congestion and is beneficial to the economy. It is therefore of paramount importance that access for freight is a fundamental part of any franchise agreement.

9. We note the emphasis on “devolving more decisions to the professionals who run our railways.” We would point out that those who run privately owned franchises have a greater obligation to their shareholders than they do to passengers, staff and the taxpayer. At this point it is essential to remember that commercial success and quality of service to not always run hand in hand. Less state regulation on franchises will lead to cost cutting and profit seeking rather than service provision and improvement. ASLEF would question how giving more flexibility to franchises gives them more incentives other than through cutting their own costs by cutting services.

10. The union is concerned that services deemed unprofitable which are today considered statutory as part of the franchise agreement may under the new system be cast aside if not profitable and therefore deemed expendable. Those using such services will therefore lose out on essential services in the name of financial incentive rather than quality public transport provision.

11. The consultation’s statement that longer franchises will give operators more control over their cost base including wage bills is of great concern to ASLEF. The

statement that “longer franchises will give operators the opportunity to tackle these costs, as well as modernise working practises” appears to give franchises free rein to enter into a race to the bottom regarding pay and terms and conditions for staff. Whilst the document barely makes mention of the staff that run the railway, it claims that the focus of the new approach must be centred on better quality services for passengers. This is reasonable, but the Government must not forget the strength of the link between quality staff and quality services. It is only with quality staff who are content, well trained and work reasonable hours that a rail network can improve. Any race to the bottom on this issue may have bigger implications than simply a poorer service. In the rail industry as much as any, overworked or poorly trained staff can have disastrous effects on health and safety and can ultimately cost lives.

12. ASLEF agrees that government financed revenue support has a negative impact on the industry. Private profits must be balanced with financial risk. To underwrite this profit with taxpayer’s money simply prevents good service provision and management.

13. One of the supposed purposes of rail privatisation of was to increase the efficiency of services as a result of the financial and commercial risks undertaken by the winner of the franchise. The idea was that the service had to run well or the company would lose revenue leading to financial loss. However these basic rules of the market do not apply to the railway as currently constituted. Franchises who do not meet their revenue targets are eligible for tax payer subsidy. Typically, if revenue falls below 94% of the target, the tax payer provides 80% of the shortfall. This means that the public subsidise failure and the incentive for running a good service simply disappears.

14. The revenue protection arrangements also have a negative impact on industrial relations. A consequence is that there is little incentive for a company to promote positive union dialogue when they can claim lost revenue from strike action back from the taxpayer. This scenario subverts the natural order of industrial relations and makes it entirely and absurdly possible for a franchise to make a profit as a result of strike action. During a strike period, a company can save money through the lower costs of not running services and lower wages whilst claiming for the loss of ticket sales. Surely risk must be on the side of those who make profit and not the taxpayer.

15. There are many changes that ASLEF would like to see within a new franchising process. Firstly the Government should ensure a fair system for the provision of travel facilities should be created. ASLEF would like to see a commitment to extending safeguarded staff travel facilities to non-safeguarded staff to be contained within franchise specifications.

16. The union would contend that it is inexcusable for two drivers with exactly the same role, salary and job description to have such a significant disparity in their travel facilities. It is also seems inconsistent for non-safeguarded to have greater facilities across the whole of Europe than they enjoy in the country where they supply such a vital service. A French driver can travel for free around the whole of the UK by rail but a British driver cannot.

17. New franchises also have a responsibility to maintain the Railway Pension Scheme. Therefore ASLEF calls upon all future franchise agreements to ensure that the winning bidder will be responsible for eradicating any deficit established within the respective Railways Pension Scheme

18. It is essential that the franchising system is opened up to ensure that bids can be made by different groups other than the current narrow group of multinational transport companies. ASLEF would ask the DfT to amend the bidding system for franchises to allow bids from different ownership options models such as employee owned or mutual models. The present system prohibits the development of new and more innovative models for running franchises.

19. ASLEF appreciates that the franchising system has been designed in an attempt to give security to taxpayers although we believe the raising of the bar in this regard has, in fact, blocked innovation. The accreditation questionnaire bidders are required to complete requires detailed information on balance sheets in order to demonstrate their viability as a business entity. However the union has to ask how robust this process is when, in the last three years, both GNER and National Express have been able to minimise financial liabilities following defaulting on their franchise obligations.

20. Clearly new hurdles need to be erected to protect the public and ensure the franchise holder takes some genuine risk. In the case of National Express, the Special Purpose Vehicle corporate structure allowed the parent group to avoid liabilities of its subsidiary. A system has to be designed whereby risk is substantially transferred to the franchisee rather than the can't-lose-financially of the existing cap and collar revenue protection arrangements.

21. The 2006 East Coast franchise accreditation questionnaire, for example, stated that '70-80% of the total score available is awarded for demonstrating a proven track record of service delivery and financial management.' The union would also ask how a bidder with no record of service delivery or financial management can enter the process. Such a system surely blocks the development of new organisational models

22. ASLEF would ask why so much emphasis is given to what has proved to be questionable financial probity when other matters such as human resources, stakeholder relations, sustainability or industrial relations to name but a few issues are of little significance in terms of the total score available. We urge the DfT to broaden the eligibility assessment to include issues such as human resources or sustainability. Asking bidders to focus on these areas will improve employee outcomes which will in turn improve passenger outcomes.

23. In fact, the stakeholder engagement plan all bidders are required to complete carries virtually no weight when it comes to the final assessment of eligibility. ASLEF would argue that deliverability should be assessed on the basis of those bids which make a difference rather than those which say they will run what already exists.

24. The rail network is essential to creating a new robust green economy in the United Kingdom. It is of paramount importance that we promote the growth of rail in order to reduce carbon emissions and take the strain off of our already congested roads.

By allowing the free market to dictate transport decisions rather than the needs of the passenger, we will not attract passengers on to rail but in fact may put them back on the roads. It is therefore essential that the current franchising system is radically changed, but not to put more power back in the hands of those only accountable to shareholders, but those accountable to staff, passengers and the taxpayer. Public services provided by private companies require more regulation, not less. In the case of a service as important as rail, this is truer still.

Conclusion

25. ASLEF welcomes the opportunity to contribute to this consultation on Reforming Rail Franchising. We acknowledge the DfT's aim that franchising should deliver 'better quality services for passengers.' Better quality services for passengers will be delivered by the rail industry's employees. We would therefore argue that franchises must place greater emphasis in meeting the needs of the staff in order to ensure they meet the needs of passengers.

26. The union is concerned that services deemed unprofitable which are today considered statutory as part of the franchise agreement may under the new system be cast aside if not profitable and therefore deemed expendable. We believe such a step would undermine the social fabric of the railway.

Keith Norman
General Secretary
ASLEF
9 Arkwright Road
London NW3 6AB
14th October 2010