Public Accounts Committee Inquiry into Rail Franchising in the UK

April 2018

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 appreciates the opportunity to respond to this inquiry into rail franchising, focusing on 2 of the UK's rail franchises - East Coast and Thameslink, Southern and Great Northern - and highlight some of the issues that we feel are important.

3. It was with frustration but no great surprise that we learnt, in February 2018, that the Virgin East Coast franchise would end in the very near future. The East Coast railway franchise was reprivatised in 2014 and awarded to Virgin Trains East Coast, but 3 years later they had already reported losses on the line. The Transport Secretary explained that Stagecoach had got its numbers wrong and overbid for the franchise but he insisted that the operator will be held to all of its contractual obligations in full. However, Stagecoach had pledged to invest about £140m on improving services and was expected to pay £3.3bn in premiums to the government, and they will no longer be doing that. And although the operators say they have incurred losses of £200m, they have escaped paying hundreds of millions more, which they would have been liable for if the franchise were not brought to an early end. The Transport Secretary is adamant that they have not been bailed out, but it is ASLEF's view that in reality, they have.

4. The failure of VTEC raises the question of whether the bidding process was properly managed. This is the third time in 11 years that a commercial franchise has collapsed because it is unable to meet its financial commitments and the government has had to intervene. The Transport Secretary has said that the VTEC franchise deal was "over ambitious" in what they thought they could deliver, but the DfT should have realised this and not just accepted the highest bid. ASLEF made the point at the time that bids are frequently accepted with the knowledge they will probably fail. Train companies are encouraged to overbid because the highest bidders generally win and

the government doesn't properly scrutinise unrealistic bids. At the time, GNER's bid was a third higher than its rivals' but they only ended up paying £22m of the £1.3bn premium they were contracted to pay the DfT. The DfT did not learn from this mistake, and National Express won the contract to run the franchise with a bid of £1.4bn even though rail analysts said it was too much. Predictably, by 2009 NXEC too announced they would default on the franchise because they'd run out of cash. When operators are forced to hand back the keys and the process of refranchising begins, it is ultimately the taxpayer who incurs the cost. Franchisees bid too much and the public sector pick up the pieces. And now risk sharing mechanisms for franchises, that reduce potential losses for train operators, have been introduced to transfer even more financial risk to the taxpayer. Private companies are essentially being told that if they don't make as much money as they'd expected, the taxpayer will top up their profits.

5. The East Coast line was profitable when it was nationalised and run by publically owned Directly Operated Railways (DOR) and ASLEF campaigned against it being reprivatised: In the 5 years between 2009 and 2015 DOR successfully returned over £1bn in premiums and several million in profits to the Treasury, kept fares down and achieved high levels of passenger satisfaction. DOR paid 235m to the government in the last year it was running the route and was one of only two companies to make a net contribution to government coffers over the last two years, paying in more than it received in subsidy or indirect grants. There was absolutely no good reason to reprivatise the route after 5 years of successful state control. At the time 23,000 people signed a 'We Own It' petition demanding that the east coast service stay in public ownership and this year nearly 30,000 people signed a similar petition calling on the Transport Secretary to bring the line back into public ownership. The Transport Secretary has refused to listen to unions or passengers and we believe that this is solely for his own political and ideological reasons rather than for the benefit of rail passengers and the railways. It is a decision that has now – predictably – backfired. Going forward, the Transport Secretary has suggested that Stagecoach could continue to operate trains on a "short-term, not-for-profit" basis, although it is unclear why commercial companies Stagecoach and Virgin would agree to continue to operate the franchise on a not-for-profit basis. Alternatively, he has said that the franchise could be directly operated by the DfT through an Operator of Last Resort. It is regretful that DOR, which had experience of successfully running the line, was unnecessarily privatised by the Conservative government in November 2015.

6. Clearly, the failures on the East Coast route are not just down to the operators. They show the profiteering of private companies that operate our railway system but also the structural failings of the franchise system, and they are not unique to the East Coast franchise. The government's decision-making process is not objective or stringent enough. Martin Griffiths, CEO, Stagecoach

Group PLC has given a number of reasons for VTEC's problems on the East Coast route, including Network Rail's failure to deliver network upgrades on schedule, the delay in the delivery of new trains, economic downturns, Brexit, the general election, terrorism and low fuel prices. While it is impossible to predict and forecast for every eventuality, if bids were more realistic and cautious, instead of just planning for continuous growth, the companies would have been far better protected. Another problem seems to be that the government pushes for ambitious improvements such as increased capacity and more and faster train services and this has led to unrealistic contractual demands and unachievable promises being made. The resulting problems and delays have had a knock on effect on the train operators, and companies appear to be aware of this so we are seeing fewer and fewer potential operators interested in bidding for franchises.

7. Who the Transport Secretary decides to entrust with the East Coast franchise next will have wider implications. Already his recent decision to trust Virgin Trains and Stagecoach with a direct award to continue operating the Intercity West Coast franchise, and to shortlist Stagecoach for the East Midlands franchise, is sending out all of the wrong messages. And if other operators are not enjoying the level of revenue growth they had anticipated, they will be watching to see how the DfT handle this latest case. When NXEC was struggling financially the Transport Secretary at the time, Lord Adonis, rejected its request for a reduction in the premium owed to the government and its offer to buy out its contract for over £100 million, in case it led other companies to try to renegotiate their contractual payments. If the current Transport Secretary is more obliging, it could encourage other franchisees to try to renegotiate their contracts. The fact that Bernadette Kelly, Permanent Secretary at the DfT, has said that Stagecoach will even be eligible to rebid for the East Coast franchise gives them every possibility of bidding for a new contract on terms that are better for their stakeholders.

8. In February 2018 a Survation poll for the campaign group We Own It revealed that the majority of the UK public think the government should bring the East Coast line back into public ownership and 76% think that public ownership is a good idea for the railways. As a union ASLEF campaigns for a national, integrated and publically owned network to replace the current system. We keep seeing, time and again, that rail privatisation fails to deliver. We are opposed to private train operators taking money out of the industry in the form of dividends to shareholders instead of reinvesting their profits in the network, and it is our view that there should be as little private sector involvement as possible in our network.

9. VTEC have already submitted claims for compensation worth £73m (and this amount continues to grow) for losses in revenue incurred as a result of Network Rail's failure to meet performance targets on track and signalling infrastructure: This exemplifies how fundamentally flawed the

privatised system is. Indeed, problems of route congestion and the unreliability of infrastructure are common across the railway network and instead of compensating private companies for losses to their profits, high levels of investment in our infrastructure are required.

10. Many of the observations we have made above about the VTEC franchise are equally relevant to other franchises. ASLEF has concerns not only about the DfT's decision-making around awarding franchises but also about its management of bidding processes in terms of whether bids are cautious enough and whether contractual obligations are realistic and achievable. As a union we condemn the DfT's handling of problems and willingness to bail out companies at the expense of taxpayers, and we consider that decisions are often made for political and ideological reasons (reprivatisation of franchises, siding with companies, etc) rather than in the interests of rail passengers and the railways. We see many common issues in the East Coast and Thameslink, Southern and Great Northern franchise.

11. In January 2018 the National Audit Office (NAO) reported that between July 2015, when Govia Thameslink Railway Ltd started operating the full franchise, and March 2017, around 7.7% of planned services were either cancelled or delayed by over 30 minutes, compared to 2.8% on the rest of the network. The Transport Secretary tried blaming "militant unions" for the "vast majority" of disruption to passengers on Southern Rail, using the Gibb Report to back up his argument, but this report does not include any statistics to support his claim and when Channel 4 Factcheck contacted Mr Gibb, he confirmed that his assertion about the unions was "a personal judgement." Indeed, the NAO estimate that 60% of cancellations were a result of train crew shortages, however the company doesn't employ enough drivers to run all its scheduled services so this was down to the shortfall in staff as well as industrial action. In November-December 2016 the number of trains arriving at their destination within five minutes of their scheduled arrival time fell to 62% and then data produced by Network Rail and GTR indicates that 38% of the service cancellations were related to the availability of drivers and other train crew.

12. The reality is that the DfT did not seek sufficient assurance that GTR would have enough train drivers when it took on the franchise – in fact when GTR won the bid, rivals were told that their bid had "too many drivers" – and driver shortages persist to be a problem. The DfT also accepted GTR's driver only operation plan but did not fully evaluate the possible effects on passengers of industrial action, nor did it ask GTR to.

13. For ASLEF, going on strike is an action of last resort, but GTR's franchise contract is different to most because fare revenue goes to the DfT, meaning that GTR may have less incentive to avoid strikes than other operators. Also industrial action is also defined in their contract as a 'force

majeure' event, meaning that the operator cannot be held responsible for the resulting poor performance. The reason for ASLEF's strike action on Southern Rail resulted from the company's decision to withdraw safety trained guards from its trains without consulting staff or negotiating with their trade union reps. The company broke agreements with the union that make sure train drivers can do their job safely and tried to impose changes through bullying and intimidation instead of consulting with us. It is deeply regrettable to ASLEF that although passengers experienced disruption to services and inconvenience throughout this 18-month dispute, the government made the decision to support GTR throughout, with total disregard for passengers. This was a political and ideological decision, the purpose of which was to attempt to break the trade unions and make financial savings, and it is the travelling public and taxpayers who have paid the price. In February 2016 Peter Wilkinson, director of rail passenger services at the DfT, got up at a public meeting in Croydon hosted by Gavin Barwell MP, and said he was looking forward to 'punch ups' with unions over his plans to force through changes to rosters. 'We have got to break them,' he said. 'They can't afford to spend too long on strike and I will push them into that place. They will have to decide if they want to give a good service or get the hell out of my industry.'

14. The resolution to the dispute with ASLEF means that there will be a second safety-trained person on every train covered by the agreement except in exceptional circumstances. That person will have all the relevant safety competence – including the skills to evacuate passengers in an emergency. For ASLEF this resolution is not a template for Britain's railway in the 21st century, but it was accepted by our drivers on Southern Railways and we will continue to campaign for more investment in railway infrastructure and rolling stock, not downgrades and cuts. The dispute between GTR and the RMT, however, is ongoing, and passengers will obviously continue to experience disruptions to services until they are able to reach an agreement.

15. The DfT have announced that GTR will be fined for poor performance and a settlement has been agreed whereby the operator will fund a £13.4m spending programme to improve service on the line, however it was ASLEF's view that the government should have gone further and the company should have been stripped of the franchise. The DfT's Permanent Secretary stated in her evidence to the Public Accounts Committee that the option of cancelling GTR's contract was considered, but – astonishingly in view of the company's track record and failures – the DfT decided that securing a penalty from GTR and then enforcing the contract was the most appropriate course of action. The DfT also expects to pay GTR for the additional costs, potentially amounting to tens of millions of pounds a year, resulting from changes to the franchise contract.

16. Unsurprisingly, the aforementioned NAO report showed that between September 2014 and

September 2017 the Thameslink, Southern and Great Northern rail franchise had not delivered value for money. The head of the NAO, Amvas Morse, said "Over the last three years long-suffering passengers on the Thameslink franchise have experienced the worst performance on the rail network. Some of the problems could have been avoided if the Department had taken more care to consider passengers in its design of the franchise." ASLEF welcomed the NAO's acknowledgement of the areas where the DfT had got it wrong and had made decisions that resulted in high levels of disruption for passengers. Although industrial action was one of the causes of delays and cancellations identified in the report, other causes included the reliability of some train fleets, Network Rail's management of the rail network, and failures of infrastructure including track and signalling. Similarly, in a report in 2016 Chris Gibb found that there was no single factor responsible for GTR's performance. He recognised other factors aside the industrial action including the Thameslink upgrade works, GTR extending driver-only operation of trains, the procurement of new trains, too few drivers, management changes, Network Rail's strained budget, rapid passenger growth and a timetable that strained the system.

17. Indeed, all elements of the system were strained, stations and services were overcrowded and GTR were trying to run too many trains on unreliable infrastructure. GTR's contract contained unrealistic contractual obligations that the company and Network Rail couldn't meet, and the DfT should have been more realistic in its demands. The DfT contracted GTR to deliver increased services, despite concerns being raised by Network Rail about whether the network could support the demands of the proposed timetables reliably. The service disruptions that resulted from the subsequent over-congestion on the lines meant that small delays had much bigger knock-on effects and Network Rail did not have enough access to be able to carry out necessary maintenance and improvement work around scheduled services. The DfT has had to review the franchise contract and alter the train services requirements, but if there were better collaboration across the rail industry, and clarity over how the rail network should operate, this could have been avoided. The Permanent Secretary has indicated that the DfT have strengthened their processes for ensuring that Network Rail is fully involved in testing bidders' proposals during the franchising process, which is a move ASLEF welcomes. Much better coordination is needed between Network Rail and operators on a day to day basis, to improve performance and efficiency. There is a lack of communication between Network Rail and train operators that results from the lack of alignment between control periods and franchising schedules and more successful collaboration would be mutually beneficial. As a union ASLEF would like to see new ways of incentivizing collaboration to be explored, that don't rely on the use of financial incentives.

18. Another obvious problem is that the time that the GTR franchise was awarded, the DfT and Network Rail did not have a good enough understanding of the underlying condition of the

network. Between July 2015 and March 2017, 13% of all cancellations and delays to services of over 30 minutes have been due to failures of track and other Network Rail assets such as signalling systems. In 2016, Network Rail estimated that an investment of up to around £900m of maintenance and renewal work was needed to achieve the resilience needed to run the new services on the Thameslink network reliably, in addition to the £300 programme of infrastructure investments the government has already planned as part of the major Thameslink upgrade programme. ASLEF has commented elsewhere on the impact of cost, delivery and budget overruns on the delivery of Network Rail's projects, and how delays have a knock-on effect on other projects and on passenger and freight services. Clearly, it is in the interests of both taxpayers and passengers to ensure that Network Rail has the access and funding necessary to be able to improve its performance and deliver projects on time, and it is also right that going forward, plans and forecasts should be more closely scrutinised.

19. Using the examples of VTEC and GTR we have highlighted above some of the contradictions and flaws of the rail franchise system that are just as relevant to other routes on the UK's railway network. We have also highlighted some of our concerns about the DfT's handling of the way franchises are awarded and managed. ASLEF's policy is that a unified single publically owned national railway would offer the best value to passengers and the taxpayer and, accordingly, we campaign against the franchise system and for the renationalisation of our railways.

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