ASLEF Response to the Department for Transport Greater Anglia Franchise Consultation – April 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. The union has 130 years direct experience of the railways.

2. While the union's policy is full renationalisation of the railway we recognise that the industry is where it is in 2010. A return to the past is unlikely to happen. As such our response will present a critique of the industry as currently structured including the franchising system's failings and we will offer our comments on how the present arrangements can be improved with reference to our planned employee bid.

3. The union would point out that in less than 15 years the UK government's rail policy has evolved from a tendency to distance itself from an increasingly irrelevant and expensive anachronism to a commitment to fund and expand a critical part of the country's social and economic infrastructure. This is a view shared across the country's political parties.

4. As the union representing nearly 900 train drivers on the Greater Anglia franchise we are disappointed not to be formally consulted in the current process. The Department for Transport should surely acknowledge that trade unions have views on the running of franchises which are as important and valid as those of passengers or train operating companies. We would urge the DfT to review this position for future consultations.

The current franchising system

5. To use a much utilised phrase within the prevailing policy lexicon ASLEF does not believe that the current franchising system is ‘fit for purpose.’ The rail franchising system in operation in 2010 is an entirely different entity from that administered by the Office of Passenger Rail Franchising (OPRAF) as determined by the 1993 Railways Act or the subsequent regime run by the Strategic Rail Authority (SRA).

6. Under OPRAF franchising was, in fact, a relatively simple system in which the Department for Transport determined services, costs and premiums. The SRA established by the 2000 Transport Act complicated the system considerably with a process of expressions of interest, an indicative bid created by army of advisors and an abundance of documents following which shortlisted bidders were invited to submit the whole thing again as a

‘best and final offer’. In short, franchising had become a very expensive business.

7. Following the abolition of the SRA in 2004 and franchise procurement being determined by the DfT the system has become infinitely more labyrinthine and expensive with the practical result that the only organisations capable of bidding are multinational bus companies or overseas state railways who can demonstrate in minute detail their experience of railway administration. Entrants to the industry can only come in through open access channels, which themselves erode the value to the taxpayer of franchises.

8. The Department for Transport’s introduction of the European Foundation for Quality Management (EFQM) framework for assessing bids was intended to bring a more rational and scientific approach to the current two stage process of expressions of interest - now the accreditation questionnaire (AQ) - and the final short-listing. Our view as a union is that it has, in fact, created an out of control monster.

9. The union’s contention is that the costs and complexities of the current franchising system, particularly the EFQM written and RADAR analysed AQ, do not make it a level playing field. It has become an exclusive oligarchy open only to corporate interests with the deepest of pockets.

Longer franchises

10. ASLEF 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. Nonetheless should the DfT recommend longer franchise we would advocate robust breakpoints to ensure that TOCs are meeting their obligations although we would caution against the inevitable additional costs associated with this.

Financial information and funding requirements

11. 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 requires detailed information on bidders’ 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 East Coast mainline franchise holders GNER and National Express have been able to minimise financial liabilities following defaulting on their franchise obligations.

12. 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.

13. 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. Surely this is uncompetitive?

14. 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 or industrial relations to name but a few issues are of little significance in terms of the total score available.

15. 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.

16. Indeed the successful franchisee will prevail in terms of both the financial and the deliverability assessment. The deliverability assessment is judged on the capability of the bidder to run franchise operations and human resources. ASLEF would contend that the capability to run the franchise already exists; the franchise, thanks to the staff, already runs itself. So the question is why should bidders prove they can run something which already runs?

17. Likewise the health and safety case for the franchise already exists. It is inherited by the successful bidder. The franchising system is fundamentally flawed in that bidders spend millions of pounds on safety plans and operational plans when they already exist. ASLEF furthermore believes that the real test of bids should be on the question of timetabling.

Again the base case timetable runs itself. Bidders should be judged on the enhancements and dynamism they bring to the service.

18. Will the DfT therefore reconfigure the awarding of points towards the total score for overall assessment of franchise bidders to ensure more broadly based and innovative criteria are used?

19. ASLEF would conclude this section by pointing out that evidence demonstrates quite clearly that a properly scrutinised balance sheet or indeed all the other financial requirements above offer no guarantee whatsoever as to the financial viability of the franchisee.

Employee and Passenger representative involvement in public procurement

20. PFI tenders in the public sector have a facility whereby they can be measured against a public sector comparator. In addition the relevant trade unions are notified as to the shortlisted companies although are not provided with specific details of their bids. Will the DfT consider introducing a public sector comparator for rail franchises as it exists for PFI tendering in the public sector and will the Department countenance a role for employee and passenger representatives in the franchising process?

Revenue Protection

21. ASLEF believes that Revenue Protection payments to the new franchise must be radically reformed and should not continue along the lines of the current model. 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.

22. 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 make 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. ASLEF would be greatly concerned for there to be a collapse in industrial relations prior to the Olympics where the provision of good services is essential. Surely risk must be on the side of those who make profit and not the taxpayer.

Travel Facilities

23. ASLEF is calling for consideration to the extension of safeguarded staff travel facilities to non-safeguarded staff to be contained within the franchise specification. For too long we have operated a railway that has an inequitable two-tier workforce which leads to division, a sense of exclusion and frustration for those employees who don’t have the additional benefits.

24. It is inexcusable that two drivers with exactly the same role, salary and job description can 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.

25. The travel facilities given to industry employees here in the UK are inferior those elsewhere in Europe. The extension of travel facilities would

therefore offer a significant benefit to staff at a limited cost to the Train Operating Companies. It would create a harmonious, content workforce and most importantly, would give non safe guarded staff the facilities they deserve. ASLEF would suggest the franchise specification stipulate that bidders outline how they would facilitate such an extension.

Terms and Conditions

26. Since the creation of the greater Anglia Franchise following the merger of Anglia Trains, First Great Eastern and the west Anglia part of the WAGN operation, our drivers have operated under one employer running the same lines but with three different T&Cs for six years. This has been unacceptable to ASLEF and led to a great deal of industrial unrest including industrial action.

27. It is simply not right that members with the same employer, job and qualifications do not have harmonised T&Cs after six years of talks. It is therefore essential that any new TOC taking the franchise is committed the harmonisation of staff T&Cs as well as recognising that this will have a cost implication.

28. ASLEF believe that the three separate pension funds within the Greater Anglia franchise must now be merged. There are several advantages of

merging the sections within the Franchise. The first benefit is that work associated with the scheme is not repeated as it is at present, there would be one valuation, one set of accounts, one investment strategy and one contribution rate etc.

29. The GE and Anglia Sections are run by pension committees and there is a cost to the scheme in running these and it means that different decisions can be taken on various issues where as a common approach may be more beneficial.

30. One large section may be more stable with the member experience being averaged out over a larger population; and it would mean the members are all treated the same when it comes to paying contributions for the same benefits.

31. Whilst the merger of the schemes would lead to a great deal of work, this should not effect the decision to merge the funds as the advantages and numerous and long term.

Cab conditions and Driver Only Operation (DOO Look Back)

32. The improvement of rolling stock is essential for the rail network. Whilst ASLEF fully support increased comfort for passengers, it is essential that

the comfort of those operating the train is also considered. Improved cab ergonomics is not only important for the comfort of the driver but is also a health and safety issue. Poor seating or an excessively hot cab can affect a driver's performance. Franchise agreements have no maximum temperature for carriages. This is not only uncomfortable for passengers but can be dangerous for drivers. We therefore call on the DfT to make is a requirement of the bid to commit funds to improved cab conditions for drivers.

33. ASLEF also believe that the successful bidder must provide funding to eradicate the outdated DOO Look Back method of train dispatch. It is not right that in the 21st century train drivers are still expected to put their heads out of windows and look down the train. The introduction of appropriate station and cab equipment which has been accepted elsewhere in the industry and in fact within the current Greater Anglia Franchise in certain area's, must be addressed to improve the Health & Safety of employees and the travelling public.

Security

34. Security is of paramount importance to ASLEF with regard to both our members and the travelling public. The union has many concerns over the use of agency security firms. Many employees of such firms are poorly

paid and have little training as they are employed not directly by the franchise holder but an agency with little interest in quality of service. Security is far too important to be seen as an area where savings can be made. The union therefore believes that any winning bid should contain a commitment to directly employed security staff.

35. ASLEF members have consistently pointed out that it is those who travel without tickets who are most likely to pose a risk to staff and the public. It is therefore important that more revenue protection officers are employed to ensure that those who try to travel without the appropriate ticket are not allowed on the system. This would not only increase revenue from tickets but also security. Revenue Protection officers often create no extra expense as they usually pay for themselves through increased fare revenue.

Crossrail

36. Crossrail will obviously have a major impact on the Greater Anglia franchise with some services such as those between Liverpool Street and Shenfield being transferred to the new line. However, as explained in the consultation it is still unclear the date of any transfer of services and which services may become part of Crossrail. It is therefore essential that the

TOC, DfT and stakeholders including trade unions consult and discuss any possible changes that could affect the franchise in the future.

Freight

37. As acknowledged by the consultation, “Greater Anglia route has significant freight use providing access to eighteen freight terminals forwarding or receiving traffic, including the Port of Felixstowe.” The expansion of Felixstowe means that the capacity of rail freight must increase and be considered by any bid for the franchise. ASLEF welcomes the W10 clearance that has taken place on the cross-country route and the capacity work that has taken place. There is still much to be done however and the union believes that 26 new paths per day will be the minimum that will be required. Anglia, perhaps more than any other part of the country is reliant on freight and ensuring that as much of this is able to go on to rail as possible has significant benefits. We must therefore ensure the capacity meets demand so less freight goes back on to congested and polluting roads.

Conclusion

38. As outlined above we don’t believe the current franchising system delivers anything like the correct balance of risk between private and public; the fall out from National Express on the East Coast shows the balance lies with the latter. It also demonstrates that however rigorous the assessment of bidders’ balance is intended to be it has failed the taxpayer twice in three years on the East Coast mainline.

39. To deliver for taxpayers and rail industry employees, the franchising system needs to be dramatically overhauled, with a broader approach to assessment including industrial relations and wider stakeholder engagement.

40. We would additionally ask that the franchise specify how bidders propose to harmonise the disparities in terms and conditions of train drivers across the franchise and formally address the inconsistencies in the pension fund arrangements.

Keith Norman
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