ASLEF Response to the ORR "The Rolling Stock Leasing Market Investigation Order 2009" Consultation – February 2015

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

2. ASLEF welcomes any orders that will make the ROSCO market better value to the taxpayer and passengers. However the entire market is broken and any changes within the current market structure will not solve the problem of spiralling costs.

3. The creation of the ROSCO market is where problems were born. By selling publically owned rolling stock to three private companies, the government of the time was creating a captive market with very little competition. In essence the newly created Train Operating Companies were, and continue to be, unable to function without trains. Just three ROSCOs are able to supply trains. This leads to higher prices and a situation where ROSCOs can make low risk profits and maintain huge sums of money in assets on the balance sheet.

4. Therefore ASLEF fundamentally rejects the way rolling stock is owned and leased in the UK. It should also be remembered that the ideological decisions around rail privatisation and the haste in which publically owned rolling stock was sold meant that private companies got these assets very cheaply at a cost to the taxpayer.

5. In 1993 the BR passenger fleet had a book value of about £2 billion. Yet the government only received £1.8 million in receipts from their sale, meaning the taxpayer lost out on £200 million. Beyond this, the National Audit Office calculated that at the time of privatisation the value of the companies' future cash flows, under continuing public ownership, would have been £2.9 billion. The value obtained by the government (sale proceeds, risks transferred and possible tax receipts) was considered to be only 'up to £2.2 billion'. In short, before the leasing even began, ROSCOs were able to buy public assets on the cheap and profiteer out of them due to political dogma. This is clearly demonstrated by the Public Accounts Committee report from 1998 which stated, "We note that the timing of the sale of the ROSCOs and its sequence in the overall rail privatisation programme was a key factor in the loss of value to the taxpayer as demonstrated by the much greater price achieved for them by the new owners shortly after privatisation."

6. While these are clearly historic mistakes, they continue to lead to increased costs to passengers and the taxpayer and demonstrate that wholesale change is needed. Meanwhile, the current structure of our railway continues to keep rolling stock leasing prices far too high. The biggest obstacle to value is the franchise system.

7. TOCs currently hand over just shy of £1.5 billion a year to ROSCOs. This is about 18% of their total costs. Yet investment from these private companies has not been sufficient. ROSCOs are still only very slowly replacing old stock, let alone actually increasing the trains available to keep up with new demand. In fact, research by TAS consultancy shows that of the investment made by ROSCOs between 1997 and 2006, only 10% was spent on increasing capacity.

8. That isn’t to say that ROSCOs are undertaking dramatic programs of rolling stock renewal. The average age of rolling stock continues to creep up and is now 18.5 years compared to 15 years in 2007/08.

9. We therefore see large sums taken from the industry to lease stock that continues to age and fails to meet capacity requirements. This is clearly demonstrated by the fact that procurement for the Intercity Express and Thameslink rolling stock programmes are being undertaken by the Department for Transport. As stated in the House of Commons Committee of Public Accounts report on procuring new trains, “The Department told us that it had been reluctant to intervene and manage the procurements but that it had decided to do so because of the massive scale and complexity of both procurements, which it considered were larger than any single train operating company or rolling stock company could undertake.” This is a familiar story in terms of privatisation of public services. Private companies are more than happy to meet their responsibilities when it comes to the routine and profitable duties. As soon as more is required, it is the public sector that has to come in and fill the gaps.

10. Much of this is due to the short termism created by the franchise system. TOCs will only ever lease rolling stock for a maximum of the length of their franchise, or sometimes a shorter period. ASLEF understands that this is why part of the 2009 order was to award longer franchises. This demonstrates that the ORR believes short termism increases costs. Yet even with longer franchises (something that itself reduces the extremely small amount of competition in the TOC world) franchising prevents real long term planning for rolling stock. As with any leased asset, the longer the contract, the smaller the cost. Therefore the very nature of franchising is increasing costs and therefore profit for ROSCOs.

11. The ORR in its GB rail industry financial information 2012-13 report states that, “There are also other costs which are only partially controllable by

train operators, for example, rolling stock leasing costs where train operators have only limited choice about what trains they can operate.” This surely means that rolling stock is a captive market that will inevitably lead to near monopoly businesses which can exploit their customers.

12. The negative effect of franchising and the short termism it creates is perfectly demonstrated by the transfer of rolling stock from TransPennine Express (TPE) to Chiltern Trains. TPE’s franchise was due to end in April 2015 and its rolling stock lease also ended on this date. Their franchise was extended to February 2016. Chiltern meanwhile sought new rolling stock to run an extra service to Oxford. It was able to offer a 5 year lease deal for some of the trains that were being used by TPE with the Porterbrook ROSCO. As a private company, this was clearly a preferred option for Porterbrook compared to a short term lease extension required by TPE and therefore TPE lost the rolling stock. We therefore see that rather than rolling stock allocation being determined by need, it is simply determined by where in the franchise cycle a TOC is and the profitability to the Rolling Stock Company.

13. ASLEF therefore feels that the recommendation of the Competition Commissions 2009 report and the Rolling Stock Leasing Market Investigation Order 2009 simply do not go far enough. The market must be taken out of rolling stock holdings, as there is simply not a fair and competitive market to be had there. This is why we continue to pay more money to ROSCOs for aging stock. Only by having long term, joint up thinking and procurement will we solve the chronic shortage of rolling stock and the extortionate costs of leasing. Until we do this we will continue to have one of the most expensive railways in Europe, with the highest fares and enormous public subsidies.

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