Submission to the Transport Committee's inquiry on rail franchising

June 2016

1.0 Introduction

1.1 Balfour Beatty is a leading international infrastructure group. With 16,000 employees across the UK, we provide innovative and efficient infrastructure that underpins our daily lives, supports communities and enables economic growth.

1.2 Our rail business, Balfour Beatty Rail, is one of the leading rail infrastructure suppliers in the UK. From feasibility studies, planning and design through to construction and asset management, we provide multi-disciplinary rail infrastructure services across the lifecycle of rail assets. Our expertise covers electrification, track, power, civils, specialist rail plant and asset condition monitoring systems.

1.3 We welcome the Committee's call for evidence on its current rail franchising inquiry. In particular, we are keen to share our thoughts on better management of the effects of rail infrastructure works on rail franchisees, including through improved coordination with Network Rail and better management of major infrastructure projects

2.0 Managing interdependencies between franchises and infrastructure

2.1 Managing the complex interdependencies between passenger rail franchises and the infrastructure that train services run on is, in our view, one of the key challenges facing the Department for Transport (DfT) and Network Rail, especially when developments relating to High Speed 2 and the introduction of new fleets of trains to the network are taken into account. At the moment, and for the foreseeable future, little of the railway system is untouched by significant infrastructure change. Ambiguity relating to the scale of infrastructure improvements for example, electrification and developments relating to High Speed 2, have already recently resulted in delays to franchise competitions such as Transpennine Express and Northern. A key consequence of this is that the DfT has to agree to potentially expensive contractual changes made, out of necessity, during the life of franchises, increasing the long-term cost burden on DfT and, ultimately therefore, on the taxpayer.

2.2 A further consequence is the increased likelihood of direct awards, which results in passengers and the taxpayer missing out on the benefit of competition for longer.

2.3 We believe that this issue stems partly from the lack of a far-reaching vision for the national rail network which would not only result in better integration of the infrastructure improvement programme, rail franchising and other priorities, but would also take account of likely developments in other forms of transport and encompass future potential rail projects such as HS3, HS Scotland and so on. Balfour Beatty would welcome such a vision being set out.

3.0 Working with the supply chain

3.1 Balfour Beatty believes that the way to get better coordination and productivity from the supply chain is, ultimately, to provide greater visibility and certainty of the work that will come forward from Network Rail in the Control Periods. We agree with the conclusions of the Bowe Review[1] and HMT productivity plan[2] that this could include Network Rail / DfT committing to giving earlier and better visibility to the supply chain of the volume, timing and type of work anticipated, and entering into a dialogue to consider how the work can best be delivered. We hope that this is a recommendation that is acted upon.

3.2 In our view, and relating to the need for a longer-term strategic vision for the railway, it would also be worth examining whether the 5-year control periods are too short to provide the certainty required and whether extending them might result in economies of scale being reached within the organisation for the delivery of enhancements. Longer control periods would make it easier to address long-term integration and investment priorities at a more practical level in contrast to the current, occasionally piecemeal approach.

4.0 Schedule 8 disruption payment scheme

4.1 There is general scepticism within the industry, of the Schedule 8 disruption payment scheme, which outlines Network Rail's liability to make compensation payments to the TOCs under the track access agreements. All track access agreements contain a standard set of terms under the Schedule 8 which requires Network Rail to compensate TOCs for losses resulting from unscheduled line closures, whether or not the closure arises due to any fault on the part of Network Rail (Note: scheduled possessions for engineering work entitle TOCs to compensation under Schedule 4.) While the rationale behind the payments is clear in that they provide an incentive to repair damage as speedily as possible, they also drain money from an organisation which is already in debt. This could, in the long run, affect its ability to effect repairs efficiently.

4.2 Schedule 8 payments greatly increase the damage costs associated with repairing infrastructure. For example, in the case of Conarken Group Limited and Farrell Transport Limited v Network Rail Infrastructure Limited in 2011, HGV drivers damaged a railway bridge and overhead power cables in two separate incidents. Although the damage did not arise from any fault on the part of Network Rail, they were required to pay substantial compensation to train operating companies under Schedule 8. The case attracted much comment in that it demonstrated how damage costs can be multiplied by Schedule 8 payments. While it cost £5,000 to repair the cables, the Schedule 8 payments amounted to £1m.

4.3 The financial implications for Network Rail of 'acts of nature' are obvious and significant. In March 2012, for example, ScotRail received £2m in Schedule 8 payments in respect of disruption caused by heavy snow and freezing temperatures in two successive winters. If climate change increases the prevalence of extreme weather and related disruption, as it is predicted to, the issue of Schedule 8 payments will become increasingly pressing. Balfour Beatty believes that a more sophisticated way should be found of achieving the objectives of Schedule 8 without the more punitive elements. From our perspective, it is perverse for the infrastructure owner (and therefore contractor) to have to compensate the TOCs for disruption due to repair work being done to benefit them. Pricing in the Schedule 8 impact of delayed hand-back as risk to the contractor increases the cost of the job and potentially distorts the contracting market.

5.0 Improving coordination between Network Rail and the Train Operating Companies (TOCs)

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[1] DfT, *Report of the Bowe Review into the planning of Network Rail's Enhancements Programme 2014-2019*, Section 5

[2] HMT, *Fixing the foundations: Creating a more prosperous nation*, July 2015

5.1 Sir Peter Hendy has spoken about Network Rail focussing its attention on meeting ORR targets rather than on aligning effectively with the TOCs and freight companies. For example, he recently said:

"*...it does not surprise me that many people in Network Rail think the regulator is the customer....we've got over 300 regulatory targets, extending down to the condition of the clocks on station platforms*"[3].

In the same article, he calls for fresh thinking in which the passenger and freight train operating companies and their customers are placed ahead of regulatory box ticking exercises in the corporate mind.

5.2 Building on recommendations in the McNulty Review[4] that Network Rail and TOCs should be much more closely aligned; the July 2015 Budget Red Book[5], which sets out that Network Rail will devolve power to route manager directors; and more recently, the Shaw Report[6], which recommends further devolution from the centre of Network Rail to the route level; it is Balfour Beatty's view that achieving better coordination between Network Rail and the Train Operating Companies ultimately requires both to also have the same - or better aligned - performance targets. The situation at the moment sees franchise agreements containing a performance regime which can often contain different - and potentially conflicting - targets and metrics compared with Schedule 8.

It is our view that an effective regime, which sees Network Rail and the TOCs working effectively together for the benefit of customers should have aligned, rather than conflicting performance targets.

Other thoughts on this issue:

- There should be more alliancing between TOCs and Network Rail so that the disruption costs and benefits of renewal work come from the same budget;

- With greater route devolution, renewal costs could be compared more closely thereby enabling the benchmarking of best practice (i.e. the routes where TOCs and NR do coordinate and therefore where the supply chain is more productive could be more easily identified).

- Improving access and coordination between TOCS and Network Rail would lead to better productivity for construction works and therefore more rapid progress on schemes, less rework and improved worker safety.

Contact

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[3] Modern Railway, Peter Hendy interview, April 2016
[4] DfT, *Realising the Potential of GB Rail: Final Independent Report of the Rail Value for Money Study*, May 2011
[5] HMT, *The Budget Red Book*, July 2015, page 57-58
[6] DfT, *The Shaw Report: The future shape and financing of Network Rail*, March 2016