|  |  |
| --- | --- |
| DfT_BLK_SML_AW | From the Minister of Rail**Lord Hendy of Richmond Hill CBE**Great Minster House33 Horseferry RoadLondonSW1P 4DRTel: 0300 330 3000E-Mail: Lord.Hendy\_MOS@dft.gov.ukWeb site: www.gov.uk/dft |
|  |
| Our Ref: Your Ref:  |

 25 March 2025

Dear Lord Young,

Thank you for raising the debate on 13 March on plans for open access operators following the creation of Great British Railways.

As set out in the government consultation on delivering a *Railway Fit for Britain’s Future*, in the right place, open access can – and will continue to – open up new or underutilised markets and develop new commercially viable propositions. However, it is also true that open access passenger services can impact performance on the wider network and have significant costs to the taxpayer, including through revenue abstraction from existing services. So, it is right that in a future model, these trade-offs are considered when making access decisions.

As I set out in the debate, we are proposing fundamental reform to the access regime to fix a fragmented, broken system, characterised by conflicting and competing incentives, with no one party able to provide a whole-system view across both track and train. The creation of GBR as a directing mind seeks to resolve this, marking a significant shift from the model introduced in the 1990s – which has failed to deliver for passengers and taxpayers for years, and particularly since the pandemic. Our reforms will introduce a simpler legislative and contractual framework, which will finally enable decision-making on access to be strategic: led by what is the best use of the network at all times. Taking a strategic approach rather than the current patchwork one –where no one is ultimately accountable for the delivery of good outcomes –will also remove barriers to growth and increase stability and predictability; benefitting our important open access sector amongst others.

To be successful, it is of course essential that the new model provides sufficient safeguards to ensure fairness and protect the interests of all parties wishing to access GBR’s network, including open access passenger services and freight operators. Under the new model, the government is proposing a robust and independent role for the ORR which will continue to ensure fair and non-discriminatory access to the GBR-managed network through a strong appeals function, with rights, responsibilities and processes set out in legislation.

Subject to the outcome of the ongoing consultation, any railway undertaking, or other relevant railway body, will be able to take appeals to the ORR on decisions GBR makes. This includes, how it manages use of its network, on how it sets track access charges, as well as performance and incentives. A more extensive list of appealable decision points will be set out in legislation and will be available to any party when it considers itself to have been disadvantaged or discriminated against. When hearing an appeal on those grounds, the ORR would then consider whether GBR acted rationally and fairly, whether its decisions were in keeping with its statutory duties, polices and processes, and if GBR had met its contractual obligations.

You also asked me about competition regulation specifically. GBR will of course be subject to existing competition law, and we intend that ORR will remain as competition regulator for the rail sector. This means that any party that feels GBR is acting in a way that is is in breach of competition law may raise concerns with the ORR, as they can now.

As we continue to develop the reforms as part of the consultation, my officials are engaging with both the ORR and the CMA to ensure we design a process on appeals that is fit for purpose and sufficiently protects the interests of all operators on the network.

I hope this is helpful and provides reassurance that the Government is committed to using the rail network in the best interest of passengers and taxpayers, and that GBR will be robustly held to account, with clear routes for appeal in place for all operators. I will of course share further details on these matters as they become available in the course of the live consultation and policy development process.

I am copying this letter to all the Noble Lords who spoke in this debate and will place a copy of this letter in the Library of the House.

Yours sincerely,

**Lord Hendy of Richmond Hill CBE**

**MINISTER OF RAIL**