Which?

A railway that works for passengers

Which? evidence submission to the Williams Review

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1 Executive summary

Rail should have passengers at its heart, yet despite bearing the majority of the cost of running the railway,[1] passengers are not getting a decent service. The average fare per journey is over 20% higher in real terms than it was in 1994,[2, 3] yet punctuality across Great Britain sank to a 13-year low in 2018,[4, 5] and overcrowding has worsened on many parts of the network.[6] Events such as the timetabling crisis of May 2018 have highlighted the lack of accountability and transparency within the sector. It is not surprising that our bi-monthly survey of consumers has shown distrust of the rail industry growing over the past five years.[7]

Since Which? began campaigning for better rail services, we have achieved significant wins on behalf of passengers. We've issued a super-complaint, made the Consumer Rights Act apply to train companies, forced better compensation rights and successfully campaigned for the introduction of a Rail Ombudsman. We've gained over 100,000 supporters and shared thousands of passenger stories with government and the regulator to ensure passengers' voices are heard.

We welcome the Williams Review as an opportunity to achieve substantial and meaningful improvements for all rail passengers. We want to ensure that the review results in a railway that works for passengers. This report is the result of extensive primary and secondary research,[8] aimed at understanding both the rail industry and its passengers, supplemented by consultation with a wide range of stakeholders. It sets out our findings from this process and makes recommendations for reform, as well as some areas for further consideration.

The railway is not meeting passenger needs

The railway is failing to meet the needs of passengers. We know that passengers prioritise improvements in:

- Value for money from rail fares;
- Punctuality and reliability of the network; and
- Overcrowding on services.[9]

Of course, these priorities are closely interlinked and our research shows that punctuality and overcrowding are the second and third most mentioned factors after the cost of the ticket when it comes to defining 'value for money'.[10] But considering these priorities, it is difficult to argue that the status quo is working for passengers. Over the past ten years, rail fares have risen faster than wages. Since reaching its peak in 2012, punctuality performance has steadily fallen to a 13-year low in 2018 and overcrowding appears to have worsened on many parts of the network. We recognise that there has been unprecedented growth – with passenger numbers in Great Britain more than doubling in the past 20 years[11] – but this cannot be used as an excuse for consistently worsening performance.

A customer-focused railway must serve the needs of all passengers. Research tells us that disabled passengers have the same priorities for improvements for rail travel as other passengers,[12] but they often face additional barriers to accessing and using the network. And when things go wrong, passengers find it difficult to get compensation.[13]

Why the system isn't working for passengers

The difficulties faced by passengers are symptomatic of a complex system, reliant on interactions between different operators and organisations which aren't working. The separation of the fixed infrastructure (tracks) and operations (trains), in conjunction with the significant public subsidy provided by the Department for Transport (DfT), has led to a situation where the government is too involved in the day-to-day operations of the railways through the franchising process. Responsibilities that in other utilities would naturally sit with the regulator are undertaken by DfT and there are instances where the DfT has conflicting objectives when dealing with failing train operators. In the extreme, a lack of coordination between these different parties can lead to major disruption such as those experienced after the May 2018 timetable changes.

This unclear accountability is sometimes compounded by incentives which do not favour the passengers' interests. The regulator for the industry, the Office of Rail and Road (ORR) has a long list of objectives with no clear obligation or duty to the passenger or end user. Instead, the ORR is required to weigh up the interests of multiple parties instead of focussing solely on passenger outcomes.[14]

A passenger-focused railway

Our work has led us to three key areas to improve outcomes for passengers:

- **Clearer accountability to passengers** – A stronger more powerful regulator is needed to act in passengers' interests and greater localisation can bring transport decisions more closely in-line with local priorities.
- **Empowering passengers** – Ensuring consumers have stronger rights and know what compensation they are entitled to when things go wrong can act as incentives for industry to improve its performance for passengers.
- **Connected passengers and connected trains** – Technology can improve the passenger experience and monitor performance that reflects the experience of passengers not just industry targets.

These areas of focus have led us to develop a number of recommendations for the delivery of rail services in Great Britain. We recognise that problems in the rail sector have accumulated over many years, even decades but the sooner the industry addresses the issues that cause problems for passengers the better. Within each of the three themes listed above we have made a series of recommendations and have categorised them in the table below according to timescales for delivery.

Timescale	Recommendation
Short < 2 years	**A stronger rail regulator with clear enforcement powers should be introduced to act in the passenger interest.**
	Passengers should have the same rights to compensation, no matter which train operating company they travel with. Delay Repay 15 should be rolled-out across all train operating companies as soon as possible.
	Automatic compensation should be introduced across the whole rail network, and it should be a condition in all future franchise agreements.
	The regulator should require train operating companies through their licence agreements to inform passengers about their rights when there is a delay or a cancellation. Wherever possible this should be on-board the train.
	Passenger Assist customers should have the right to claim redress if assistance was not provided as required and claiming compensation should be quick, easy and straightforward.
	It should be mandatory for all train operating companies to join the Rail Ombudsman scheme.
	Train operating companies should play an active role in raising passenger awareness of the Ombudsman, particularly when passengers have complaints.
	Train operating companies must improve their complaints handling processes and meet their licence obligations. The regulator should take firm action where it finds evidence of such breaches.
	The regulator should monitor passenger experience of all forms of smart ticketing, and report this annually.
	The government, the regulator and the industry should use inclusive design principles to improve the journey experience for all.
Medium 2-5 years	**The Rail Review should consider the transfer of commuter services from DfT appointed franchises to local transport authorities through the use of concession contracts.**
	Greater 'on-rail' competition should be facilitated for long-distance services through auctioning off capacity, allowing passengers to choose services which suit them.
	The rail industry should collect and publish a measure of customer punctuality which more closely resembles the passenger experience.
Long > 5 years	**In England, where appropriate government bodies are in place, the UK government should further devolve transport spending powers. This should include infrastructure budgets, as recommended by the National Infrastructure Commission.**

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2 The railway is not meeting passenger needs

Passenger expectations of the railway are not particularly surprising or complex. Transport Focus conducted research aimed at understanding passengers' priorities for improvements in rail services and the relative weighting passengers give to the different improvements.[15] The top five priority improvements all related to:

- Value for money from rail fares;
- Punctuality and reliability of the network; and
- Overcrowding on services.

Our own research of rail passengers shows that there are different motivations for, and uses of rail travel. Data from Which?'s annual survey of train operating companies (TOCs) was used to undertake a statistical segmentation analysis of 9,145 rail passengers, which identified five distinct types of rail passenger. These segments range from occasional users of rail that often purchase 'walk up and go' tickets, to frequent travellers who use the railways to commute for work. In some senses, it is obvious that there would be different purposes and experiences of rail, but our research highlights the needs to deeply understand those passengers and ensure that proposed changes represent the diversity needs of those passengers.[16]

The railway is failing to meet these needs. We acknowledge that there has been unprecedented growth – with passenger journeys in Great Britain more than doubling in the past 20 years[17] – and that there may be tensions between passenger expectations and meeting increased demand. But when punctuality has been falling since its peak in 2012, and overcrowding has been increasing in many of our cities, it is clear that the railway is not delivering for passengers.[18, 19]

Rail passenger segmentation

	Savvy leisure users	Rail dependents	On the day occasionals	Web-ticket tourers	Clued-up commuter
Average journey length					
Frequency of travel					
Season ticket use					
Purchasing at station					
Purchasing via website					
Railcard use					
Importance of connectivity for experience					
Importance of connectivity for work					
Importance of connectivity for contact					

Legend: 1 - low; 2 - avg-low; 3 - average; 4 - avg-high; 5 - high

Which? undertook a statistical segmentation of rail passengers, based on 9,145 respondents from its 2018 Train Satisfaction survey (fieldwork between the 11th and 30th October 2018).

Graphic shows the relationship between the segments and each input dimension. Inputs are summary constructs derived from responses to questions from the Train Satisfaction Survey.

For more information on the segmentation methodology and results please visit which.co.uk/rail-passenger-segmentation.

2.1 Poor value for money

Passengers consistently report low perceptions of value for money (46% satisfied),[20] and benchmarking studies suggest that value for money is perceived to be worse in rail than in comparable industries.[21] Populus, on behalf of Which? conducted our own online survey of 2,085 UK adults between 9 and 11 November 2018 which looked at passenger perceptions of value for money. The data was weighted to be representative of the UK population. The survey found the most frequently mentioned factors, by those who were dissatisfied with the value for money of their ticket, were the cost/expense (56%), followed by punctuality (19%) and overcrowding (18%).[22]

Rail passengers have experienced real terms price increases since privatisation. The average fare per journey is over 20% higher in real terms than it was in 1994.[23, 24] Last year's announcement on fare rises did not surprise passengers who were participating in a Which? online forum but there was frustration that there was no (perceived) improvement to the service for the added cost.

> "*I expect the prices to rise… but generally it is always more than the wage increase. I find it difficult to stomach when the level of service doesn't change…Why should we pay more for the same unimproved service, year in, year out?*"[25]

Over the past decade, average fares have risen faster than wages, with fares rising by 30% compared to averages wages rising by 17% over the same period.[26, 27] This has been partly due to macroeconomic factors related to the economic crash in 2008, partly attributed to government policy to shift the funding burden away from taxpayers and onto fare payers, but there is also evidence of financial inefficiency in the industry. Although there may be disagreement over the scale or source of this, results from previous reviews and studies benchmarking the financial performance of the railways in Great Britain compared to their European counterparts suggest that there are potentially significant efficiencies to be made within our system.[28, 29, 30, 31]

2.2 Delays, cancellations and unreliability

Which? conducted an online forum between 5 and 11 December 2018, with 36 rail passengers who had to have travelled by train at least three times in the last three month, The forum found that punctuality is one of the key factors by which passengers assess value for money.[32] It is seen as a basic element of the service that should be provided.

Punctuality and reliability have, however, been falling for the past six years since their peak in 2013, with some of the worst levels of performance outside of London. A comparison with other European countries suggests that the UK performs worse in terms of punctuality for regional and local services (which includes London commuter services) than other European countries, but long-distance services appear to perform better than average.

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Proportion of trains arriving on time over the past 10 years [33, 34]

Proportion of
trains arriving
on time

Financial year
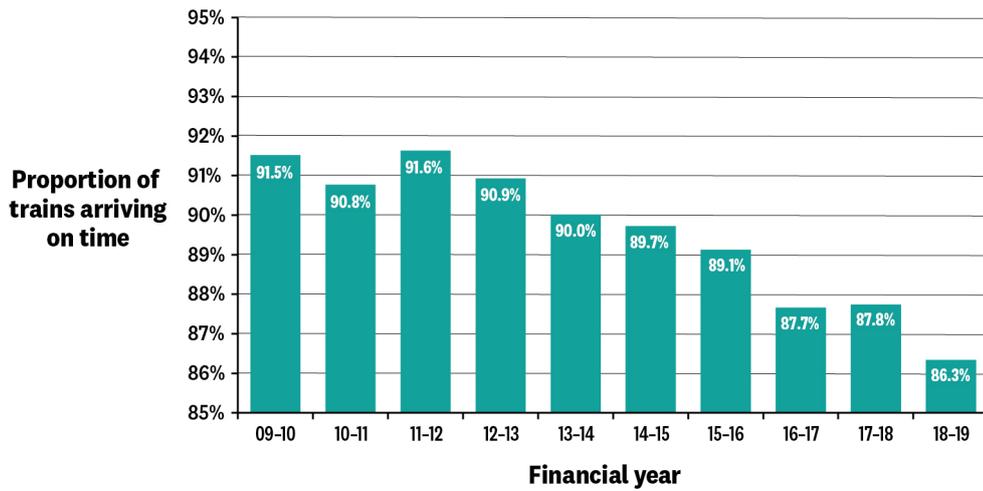
Specific events like the timetable disruption of May 2018 can have a significant impact on passengers. In their investigation of the disruption, the ORR highlighted the breakdown in on-time performance following the timetable change on 20 May 2018. The table below shows the periodic performance of the two companies investigated, each period represents four weeks and the timetable change occurred towards the end of Rail Industry Period 2 (there are 13 periods of four weeks in a financial year).[35]

Proportion of trains arriving on time (within 5 mins at destination)[36]

■ **Govia Thameslink Railway** ■ **Northern**

Proportion of
trains arriving
on time

Period
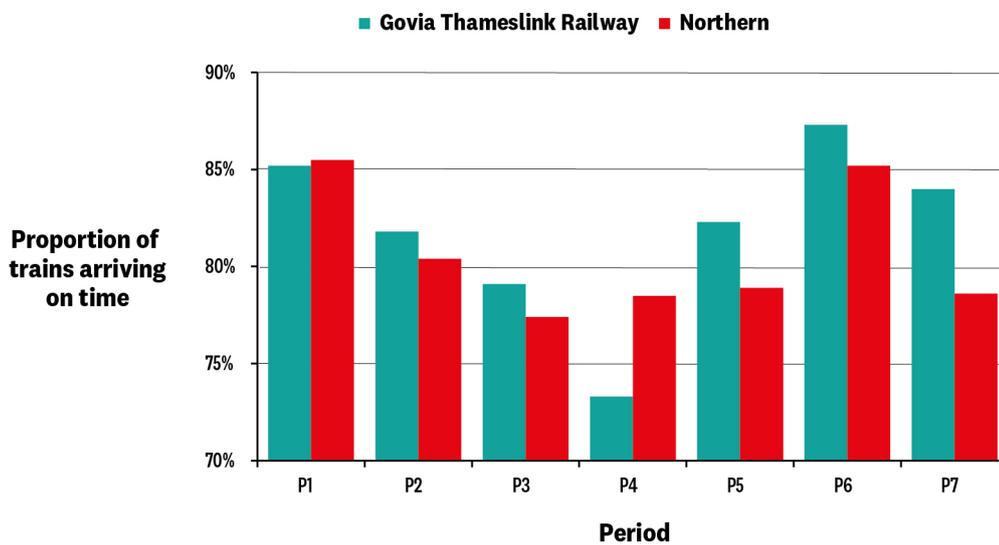
2.3 Overcrowding

Since 1994, demand for rail services in Great Britain has more than doubled and has grown more quickly than in any other European country.[37] At the same time there has been significant investment in the rail network. However, overcrowding does appear to be getting worse in particular places on the network. In 2017, overcrowding on trains was worst in Cambridge, London and Manchester in the morning one hour peak (08:00 – 08:59) and significantly reduced in the hours before and after this peak.[38] Over the past seven years for which data is available, overcrowding has increased in four of the five cities with the highest levels of overcrowding.[39] Limitations of the data (both in collection and quality) make it difficult to conclude how strong these trends are, but the introduction of smart ticketing should provide the opportunity to collect more regular and accurate data.

> "If I get on a train and I cannot get a seat then I find that I wasted money on my tickets and this is really infuriating. I paid to get on a train journey home and relax and not stand up for the entire journey."

> "If I don't get a seat then I immediately think it's poor value for money…".[40]

Our consumer research has shown that overcrowding is one of the main factors that is associated with poor value for money. Whilst overcrowding is defined differently between passengers (with some defining it as when a lot of passengers are standing whilst others consider a service to be overcrowded when no seats are available) most people in our qualitative research thought that the price they pay for their ticket includes the purchase of a seat.[41]

2.4 Inaccessibility

A passenger-focused railway must serve the needs of all customers. Yet fewer than half the stations in England have step-free access,[42] ticket machines are not completely accessible for all passengers,[43] and passengers with hidden disabilities can find it particularly difficult to get the help and assistance they need.[44]

The quality and provision of information for travel planning can be poor. Inadequate pre-travel information can deter disabled people from using public transport if they are unable to ascertain the accessibility of a station.[45] Sourcing information in advance becomes even more important, with 50% of visually impaired passengers reporting they could not rely on audio announcements on trains or at station platforms.[46]

The availability and competency of front-line staff to assist disabled passengers is crucial to ensuring rail is accessible. For example:

- 28% of requests for Passenger Assist, the national scheme to help passengers get the assistance they need on their journey, are for a ramp that requires trained staff to deploy it.[47]
- Many passengers require help to purchase tickets. The Royal National Institute of Blind People found that 58% of individuals with a visual impairment felt it was impossible to use a ticket machine.[48]

Yet 89% of stations are without staff at some or all times of the day even though trains are operating,[49] meaning support may not be available when required.

> *"My main station is very small just a cabin and a ticket machine for when it's not manned. At which time I cannot use it because then there is nobody to help me use the ramp, or call through to the next station after say 7pm. So I mostly take the bus into Birmingham and catch the train from the New St Terminus. This may add 25 mins to my journey. However it's still both quicker and more convenient for me to do this, than use a smaller station."*
>
> Male passenger, additional support needs.[50]

Some mystery shoppers with hidden disabilities felt 'judged' or 'slighted' because their disabilities were not obvious or visible to the member of staff they were requesting assistance from.[51] And nearly two-thirds of passengers surveyed would have been unable to complete their journey without Passenger Assist, yet nearly one in five (19%) did not receive all the assistance they booked and 12% received none of the assistance they booked.[52]

> *"I travel with a wheelchair user who at times can be abandoned on the platform causing delays and hence missed appointments or forking out a lot of money for alternative travel to avoid this hassle. Having to wait on the platform for someone to appear with a ramp is also stressful and doesn't always occur without repeated prompting of staff."*[53]
>
> Male passenger, travels with someone with additional support needs.

The proportion of those receiving booked assistance varies by franchise. In 2018 Arriva Trains Wales, East Midlands Trains and Northern each provided 73% of all booked assistance – so one in four passengers did not receive the assistance they had booked. Virgin Trains West Coast was the best performer providing 87% of all booked assistance – but this still leaves significant numbers of passengers without the help they need.[54]

And problems are not limited to lack of staff; technology designed to help individuals is too often broken. For example, 46% of those with a hearing impairment stated that there was a lack of working hearing loop systems, affecting their ability to communicate with staff.[55]

2.5 Poor complaints handling and inadequate compensation

When things go wrong, train companies need to handle complaints effectively and efficiently and provide passengers with quick and easy access to compensation. This is far from the case at present.

The 2018 Consumer Action Monitor found that transport is the fourth most complained about sector after retail, energy and telecoms with 4.6 million complaints.[56] Fewer than 3 in 10 passengers are satisfied with the outcome of their complaint.[57] This also varies by train firm, with 18% of Northern passengers satisfied with the outcome of their complaint compared to 47% of CrossCountry passengers.[58]

Even though there are requirements on train firms to have an effective complaints procedure, 12 out of 24 train companies failed to meet their regulatory requirements in responding to complaints in a timely fashion.[59]

Passengers have a right to claim compensation if their train is delayed or cancelled, but many passengers do not claim the compensation they are entitled to. Our super-complaint in 2015 raised concerns about low passenger awareness and the process being too complicated. Even after our super-complaint, fewer than half of passengers who can claim Delay Repay 30 (DR30) do so and a quarter of passengers are unaware that they are entitled to claim.[60] Our annual rail passenger

survey found a third (32%) of journeys weren't claimed for because it was too much effort and for one in seven (15%) it was because it would be too difficult or time consuming.[61] We examined the online claims forms of 24 train operators and found that some operators required almost two and a half times the amount of information than others for passengers to submit a claim for delayed or cancelled services.[62]

Users of Passenger Assist have no automatic right to redress if the service required is not provided by TOCs. In addition their right to claim for reasonable consequential losses caused by the failure to provide the service is not sufficiently clear or straight forward.

3 Why the system isn't working for passengers

The difficulties faced by passengers is the result of a complex system, with multiple interactions and dependencies, which is no longer working. In this chapter, we explore the two main areas that we believe have contributed to that breakdown which are:

- The incentives for different organisations which fail to account properly for passengers; and
- The lack accountability which dilutes the effectiveness of regulation.

3.1 The wrong incentives for passenger needs

Rail should have passengers at its heart, but the current industry structure and regulation does not incentivise the industry to focus on what matters to passengers above all else. Some of the reasons behind this include:

- **The ORR's range of potentially conflicting duties:** In its response to Which?'s 2015 super-complaint,[63] the ORR noted:

  '*We have a number of duties that we have to weigh when exercising our functions. The protection of the interests of consumers has to be balanced against other duties such as the need to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance, and to have regard to the funds available to the Secretary of State.*'

- **The mismatch between the relatively short time horizons inherent in current franchise arrangements and the longer time horizon of industry assets.** Investment infrastructure and new capacity is by nature costly and provides a payoff over time. The relatively short franchise contracts and bidding process potentially give TOCs an incentive to hold off proposing improvements until franchise competitions have begun.

- **The fact that government policy is often inconsistent**, for example, the government seeks to 'encourage a flourishing, competitive passenger rail market',[64] but also tightly controls franchises and the services they provide, limiting the scope for innovation.

3.2 Unclear accountability and ineffective regulation

The successful delivery of rail services depends upon the actions of and interactions between different parties. Clear governance and accountability is required to ensure action is taken by the appropriate organisations when things go wrong. Two key characteristics of the rail industry in Great Britain are worth highlighting:

- **The split between track and train management.** This 'vertical separation' means that although the key customer relationship is with the train operating company, the actual customer experience on any journey is the result of the interactions between multiple operators and organisations. For example, Network Rail manages the track, signalling systems, large hub stations and most train companies lease their rolling stock from a leasing company. Major events like the introduction of a new timetable highlight the importance of coordination amongst these different parties and how, when errors occur, there can be complex causes.

- **Significant levels of public funding into the network.** This leads central government to expect more direct control than in other regulated sectors. In sectors such as water and energy, independent economic regulators with a duty to protect consumers' interests have greater responsibility over a range of decisions that affect those consumers than does the ORR in respect of rail.

The manifestation of these characteristics is that:

- **The government is too involved in the day-to-day running of the railways.** The DfT effectively organises the railways through its detailed service arrangements which can, for example, go down to the detail of specifying catering provisions. Focusing on the operational details of the railways may be at the expense of developing longer-term strategic aims.
- **Regulatory responsibilities are split between the government and the regulator.** In terms of the infrastructure, the regulator sets track access charges, agrees investment plans, monitors the performance of Network Rail and ensures that it adheres to its licence arrangements. In contrast, the performance of train operators is largely controlled by the government through their franchise arrangements and prescriptive contracts allocate most of the network capacity. Both the DfT and the ORR have a role in ensuring access for all, as a result, train companies need to report to both in relation to the quality of services they provide disabled passengers.
- **The government has conflicting objectives when dealing with underperforming TOCs.** Many passengers rely on a single TOC for their commute into work or a similar journey for which there is not a realistic alternative. In these circumstances, passengers rely on the DfT's performance management to enforce a reasonable level of service. The DfT has the powers to remove a franchise for poor performance, but it has only once removed a contract for performance reasons (Connex South Central),[65] with the other failures due to financial considerations. In early 2017, after persistently poor performance on the Thameslink, Southern and Greater Northern (TSGN) franchise, the DfT agreed to a settlement worth £12.4m with the franchise owner Govia Thameslink Railway Ltd (GTR) which covered a period until September 2018, which in effect meant GTR paying in advance for poor performance over that remaining period and removed any credible threat from DfT about action for further poor performance.[66]
- **The regulator has a set of unclear duties and objectives.** By our count, the regulator currently has 22 duties, some of which appear to be duplications. The duties do not set a clear primary duty to passengers and other end users.
- **Shared responsibility for ensuring accessibility.** There is no clear accountability for driving up standards.

The disruption following the May 2018 timetable changes is a prime example of how unclear accountabilities can lead to problems. The House of Commons Transport Select Committee report on the crisis published in December 2018 stated that the governance and decision making structures overseen by the Secretary of State and DfT were not adequate. They also suggested that 'a more confident, independent and effective regulator may have been able to avert the crisis.'[67]

4 A passenger-focused railway

To get the best outcome for all passengers, the rail industry needs passenger-focused incentives, clear allocation of responsibility for decisions and operations, and straightforward accountability when things go wrong. These should all contribute to a service that passengers can rely on, that provides value for money, is accessible to all and which provides compensation easily and quickly when things go wrong.

Here we set out our recommendations for reform, under three themes:

- **Clearer accountability to passengers** – A stronger more powerful regulator is needed to act in passengers' interests. Greater localisation can bring transport decisions more closely in-line with local priorities.
- **Empowering passengers** – Ensuring consumers have stronger rights and know what compensation they are entitled to when things go wrong can act as incentives for industry to improve its performance for passengers.
- **Connected passengers and connected trains** – Technology can improve the passenger experience and monitor performance that reflects the experience of passengers not just industry targets.

4.1 Clearer accountability to passengers

Recommendations:

1. A stronger rail regulator with clear enforcement powers should be introduced to act in the passenger interest. The regulator should:
   a. Set, and-monitor and publish performance standards (including punctuality, reliability and accessibility);
   b. Ensure operators meet their timetable commitments;
   c. Set the compensation framework for passengers;
   d. Oversee the Rail Ombudsman (instead of the Rail Delivery Group); and
   e. Have a primary duty to further the interests of passengers and other end users of rail.
2. In England, where appropriate government bodies are in place, the UK government should further devolve transport spending powers. This should include infrastructure budgets, as recommended by the National Infrastructure Commission.[68]
3. The Rail Review should consider the transfer of commuter services from DfT appointed franchises to local transport authorities through the use of concession contracts.

4.1.1 A stronger, more powerful regulator to act for the passenger interest

In other regulated utilities, the regulator is entrusted to manage a lot of the operational decision-making, with the relevant government department focused on longer-term policy goals and strategy. Although we recognise that the pressure to do this is greater in rail given the high degree of public subsidy, DfT is currently too involved in day-to-day issues which would be better transferred to a regulator with a strong consumer focus and enforcement powers. A stronger regulator has been called for since the McNulty Review in 2011,[69] and the House of Commons Transport Committee recommended that enforcement and monitoring of franchises to an independent body or regulator.[70]

In order to ensure that the rail regulator has the passenger interest at heart, Which? believes the rail regulator's duties should be reformed and simplified with clear priorities. These changes include:

- Adding a primary duty to further the interests of rail passengers and other end users.
- Removing the duty to balance the interests of rail users with those of industry or the government.
- Retaining a duty to have regard to the funds available to the government.

The regulator should set, monitor and publish enforce minimum standards on areas including punctuality, reliability, and accessibility. We want the regulator to set high standards, undertake regular monitoring and reporting, and take enforcement action when these standards are not met. It should also ensure that the train operating companies provide the level of capacity agreed during the timetabling process.

These measures should drive up standards. But for those occasions when things do go wrong, the regulator should develop and monitor a passenger compensation framework. When there is a need for alternative dispute resolution (ADR), it should be the responsibility of the regulator as the competent authority to oversee the Rail Ombudsman and ensure that it meets the ADR principles.[71, 72]

Given the level of public subsidy in the rail network and how it is distributed across the country,[73] Which? does not believe that it would be appropriate for the regulator to commission rail services. Clearly, there would be financial implications of some of these proposals for train companies who may or may not receive public funding. The regulator would need to react to problems in a clear, transparent and predictable way to help the commissioning bodies and service providers assess the risks when procuring these services.

4.1.2 Bringing transport decisions closer to local communities

Within the UK, transport is now a devolved matter and the Scottish, Welsh and Northern Irish governments are accountable for the railways in their countries. Transport bodies also exist throughout England which have varying degrees of powers; this includes sub-national bodies such as Transport for the North and regional/city level transport authorities such as Passenger Transport Executives (PTEs).

As we have identified, the DfT is heavily involved in the day-to-day running of the railways. When transport decisions are made remotely from the communities they affect, accountability is reduced. Greater localisation of rail services offers benefits such as:

- Bringing transport decisions closer to local communities and providing direct accountability via local authority transport bodies.
- Aligning transport policy with broader local economic policies such as housing and local planning.
- Integrating with broader local infrastructure policy.
- Making transport part of local spending and investment plans to allow more flexible decisions such as substituting rail for other modes of transport like buses or trams.
- Giving local transport bodies full control over fares and revenue policies (such as daily fare gaps).

Transport for London (TfL), established in 2000 as part of the Greater London Authority Act 1999 is the most extensive and well-established example of localisation. It gives the Mayor of London powers over transport planning and investment and the setting of fares for all modes of transport that come under the TfL umbrella, including TfL Rail (soon to be Crossrail) and London Overground. This has brought benefits for passengers including:

- Direct accountability to voters;
- An integrated smart-ticketing system that now extends to national rail services; and
- Improved performance of London Overground (see below).

Support for greater localisation can be found in the McNulty Review of 2011 which recommended that 'there be greater localism, with more involvement in England of local authorities and/or Passenger Transport Executives.'[74] The DfT's 2012 consultation on rail decentralisation (made up of local authorities, business and user groups) reported that 70% of respondents expressed support for the principle of decentralisation.[75] Where appropriate government bodies are in place, we believe the UK government should further devolve transport spending powers. This should include infrastructure budgets, as recommended by the National Infrastructure Commission.[76]

On commuter routes – where choice of operator is limited for many passengers – the benefits of competition are lower than on longer distance and leisure journeys. Commuter routes are where the worst overcrowding is to be found and where delays have the greatest impact. The concession model offers an alternative to franchising whereby local transport authorities directly contract with private firms to operate rail services on their behalf. This removes the revenue risk from operators who are commissioned to provide a given level service with a focus on reliability and punctuality. There are two examples where this already works well:

- **London Overground** is operated by Arriva and let as a long-term concession by TfL. Since London Overground took over from the Silverlink franchise in 2007 there have been improvements in customer satisfaction (satisfaction rose from 73% to 92% between 2007 and 2011)[77] and reliability.[78, 79]
- **Merseyrail** is run as a 50/50 joint venture company between Serco and Abellio and appointed by MerseyTravel, an executive agency of the Liverpool City Region Combined Authority. It is currently run as a 25-year concession lasting until 2028. Merseyrail has one of the highest passenger satisfaction rates of any route.[80] MerseyTravel is accountable to the Liverpool City Region Combined which has a Transport Committee.

There is therefore a case for commuter services to be transferred from DfT appointed franchises to local transport authorities such as through the use of concession contracts. This has previously been proposed by Richard Brown in his review of franchising in 2013:

> 'I recommend that further franchises are devolved to local control, by which I mean, where appropriate, the relevant Passenger Transport Executives (PTEs) or Integrated Transport Authorities (ITAs), in the regions, and that further devolution of services within London is actively considered.'[81]

The latter recommendation has also been a long-standing ambition for TfL which submitted a business case to the Secretary of State in 2016 for the transfer of some rail services from the DfT.[82] These proposals were consulted on in a joint TfL/DfT prospectus and 74% of local authorities,[83] businesses and user groups supported the transfer of inner suburban services to TfL.[84]

4.2 Empowering passengers to demand better

Recommendations:
4. Passengers should have the same rights to compensation, no matter who they travel with. Delay Repay 15 should be rolled-out across all train operating companies as soon as possible.
5. Automatic compensation should be introduced across the whole rail network, and it should be a condition in all future franchise agreements.
6. The regulator should require train operating companies through their licence agreements to inform passengers about their rights when there is a delay or a cancellation. Wherever possible this should be on-board the train.
7. Passenger Assist customers should have the right to claim redress if assistance was not provided as required and claiming compensation should be quick, easy and straightforward.
8. It should be mandatory for all train operating companies to join the Rail Ombudsman scheme.
9. Train operating companies should play an active role in raising passenger awareness of the Ombudsman, particularly when passengers have complaints.
10. Train operating companies must improve their complaints handling processes and meet their licence obligations.
    The regulator should take firm action where it finds evidence of such breaches.
11. Greater 'on-rail' competition should be facilitated for long-distance services through auctioning off of capacity, allowing passengers to choose services which suit them.

4.2.1 Improved consumer rights and experience

Which? has been advocating for a number of years for rail passengers to have improved consumer rights. Strong consumer rights act as incentives for industry to improve its performance for passengers.

Which? has had previous successes in improving awareness of compensation through our super-complaint in 2015, ensuring that the Consumer Rights Act was applied to rail in 2016 and campaigning for the introduction of a Rail Ombudsman, which was launched in 2018. Despite these successes we believe that there is further to go.

Three years after the government introduced the right for rail passengers to receive compensation if their train is delayed for over 15 minutes, only 50% of TOCs have introduced Delay Repay 15 (DR15).[85] Of those eligible for DR30 or DR15, only 39% and 15% of passengers respectively claim.[86] Twenty-six per cent of eligible passengers were not aware that they were entitled to claim and the process for claiming is viewed by some passengers as complicated and time consuming.[87]

We reviewed the online compensation forms for 24 TOCs and found the amount of information required to submit a claim varied considerably – from 10 to 22 pieces of information. This lack of consistency highlights the variations in the customer experience. Which? therefore continues to argue that, to ensure passengers get the compensation they are entitled to, automatic compensation should be rolled out across the rail network.

Until automatic compensation is rolled out across the network, train operators must inform passengers of their rights to claim compensation and how to do it. TOCs are already required to provide appropriate, accurate and timely information to enable passengers to plan and make their journeys and in the contracts we reviewed there was a requirement to use reasonable endeavours to make passengers aware of their rights to compensation. However, a Rail Delivery Group (RDG) survey showed that only a fifth (21%) of passengers had received information either on board a train or at the station regarding compensation.[88] This is despite it being the main way in

which passengers first found out they were eligible for compensation (19% of passengers).[89] Which? believes that train operators should have more prescriptive obligations within their licence conditions to provide information about compensation when a delay exceeds the threshold for passengers to claim compensation. This obligation exists in aviation. And when compensation can be made automatic, it should be automatic. This would ensure that those passengers receive what they are rightfully owed.

Redress also needs to be available for passengers if their booked assistance is not received. The ORR's own research shows that although around two-thirds of passengers surveyed would have been unable to complete their journey without Passenger Assist, nearly one in five (19%) did not receive all the assistance they booked and in addition 12% received none of the assistance they booked.[90] Customers using Passenger Assist should have an automatic right to redress if the assistance they have booked is not provided. Drawing on the experience from compensation relating to punctuality, passengers need to be made aware of their right to receive this, and for the claiming process to be quick, easy and straightforward.

When compensation is not forthcoming, and passengers have grievances in how their complaints have been treated, access to an ombudsman is important to ensure consumers are getting a fair deal. Which? campaigned for the introduction of the Rail Ombudsman which was launched in November 2018. We believe the success of the new scheme will be reliant on:

- how well the scheme is communicated to passengers;
- the simplicity of the complaints journey; and
- effectiveness of the scheme at resolving complaints.

TOCs should also have an active role in raising awareness of passengers about the Ombudsman, particularly when they have a complaint and we would expect the presence and role of the Ombudsman to be flagged to passengers more than once during the complaint process.[91] To make it a success, the ADR scheme needs to fulfil three roles, the resolution of individual complaints, improve complaint handling by firms and reduce the causes of complaints.[92] However, the new Ombudsman scheme should only be viewed as a last resort to improvements to individual TOCs first-tier complaints handling practices, so that passengers can receive effective redress as quickly as possible.

4.2.2 Increased competition to give passengers choice

In large parts of the rail network, on-rail competition is neither practical or desirable given the nature of the traffic and the frequency of services. As highlighted by the Competition and Markets Authority (CMA) in 2016, these conditions are not the same for long-distance services where services are less frequent and the demand is more discretionary.[93] In these conditions, it is less valuable to have prescriptive, contractual timetabling requirements and 'on-rail' competition can be effective in inducing price competition.

Currently, 'on-rail' competition only occurs in the UK where franchises overlap or on the East Coast Mainline, where two open access operators (OAOs) – Grand Central and Hull Trains – offer an alternative to the current franchise owner London North Eastern Railway (LNER). The CMA's findings highlight that where 'on-rail' competition exists through OAOs, it has led to competition on price, but also increased levels of service which is shown through higher rates of passenger satisfaction on these OAOs compared to the East Coast mainline franchise owner over the past six years.[94, 95]

Ultimately, long-distance services face stronger competition from other modes of transport (road, aviation) than other parts of the network and therefore their demand is more discretionary. Allowing passengers to choose services and providers that suit them can give a stronger incentive for train operators to be efficient and innovate which is shown by the domestic and international evidence that the CMA discuss. Which? therefore agrees that introducing more competition for long-distance services, potentially by extending the use of OAOs or by auctioning slots, should be introduced on the three inter-city routes rather than the current franchising mechanism.[96]

4.3 Connected passengers and connected trains

Recommendations:
12. The rail industry should collect and publish a measure of customer punctuality which more closely resembles the passenger experience.
13. The regulator should monitor passenger experience of all forms of smart ticketing, and report this annually.
14. The government, the regulator and the industry should use inclusive design principles to improve the journey experience for all, including:
    a. When developing apps and other digital tools to help disabled passengers access relevant information and assistance to plan and undertake their journey.
    b. Ensure information is available in a variety of formats to meet the needs of all passengers.

4.3.1 Measure what matters for passengers

The Rail Review evidence paper 'The user experience of the railway in Great Britain' states that:

> *'The Department for Transport and the rail industry as a whole recognises that more frequent, granular and relevant customer insight needs to be gathered if it is to help industry adopt a more proactive approach to improving the end-to-end journey experience, and identify and address problems much more quickly.'*[97]

One way to improve the focus on passenger outcomes would be to monitor the passenger experience directly using new technology. Rail statistics tell us a lot about performance and give a good sense of the passenger experience, but miss key aspects. Two examples illustrate the current limitations:

- It is unclear how many people are on each train and how many passengers experienced delays. The busiest trains might be the most, or the least frequently delayed.
- Current measures of train punctuality do not account for those who miss connections. Here the impact of a small delay in train punctuality could result in a significant impact on a passenger's journey.

There are examples of train operators recognising the need to have a better understanding of the passenger experience which we could learn from:

Case 1: SBB Customer Punctuality[98]

SBB is the national public train operator and infrastructure manager in Switzerland. Since 2008 SBB has measured a form of customer punctuality. This included understanding the number of passengers who were delayed, the number of passengers that made connections and using that to understand the proportion of customers who arrived on time.

SBB does this by collecting data from 53 key stations, understanding passenger flows from passenger counts and ticket surveys overlaying planned journeys with realised train punctuality.

Case 2: TfW Passenger Time Lost[99]

Transport for Wales has introduced a new punctuality measure within its new Operator and Development Partner agreement with KeolisAmey. The measure has been called Passenger Time Lost (PTL) which weights the train punctuality data by the expected passenger usage of different service routes.

Progress has been made on punctuality measures in Great Britain and from April 2019 Network Rail will be reporting the proportion of trains arriving to the minute at every station on the timetable,[100] and some of the more recent franchise agreements have a target of 90% of trains arriving at their final destination within a minute of the timetable. This is a step in the right direction, but to show that passengers are really at the forefront of the industry's priorities, a more accurate reflection of passenger punctuality should be measured and published. This punctuality measure could utilise existing methodologies highlighted in the two case studies, or could utilise new technology and smartphones for a richer, more accurate dataset.

4.3.2 Smart-ticketing

Smart ticketing – essentially non-paper-based ticketing – has had multiple iterations since the introduction of Oyster cards over a decade ago and now includes:

- Mobile phone barcode (via email or an app);
- Mobile phone smart cards;
- Contactless payments (bank card or via mobile); and
- Chip technology smart cards (such as Oyster).

Smart tickets can offer significant benefits for passengers such as the convenience of a single ticket and, in app form, the potential to integrate with other smart data such as live travel information and availability of seats.[101] It can reduce ticket queues which can be a significant pain point for passengers. It also presents an opportunity to improve trust in an industry by facilitating automatic compensation in the event of delays and cancellations, something that Which? has strongly campaigned for. There are also multiple benefits for operators from data collection to improve their services in the way that TfL uses Oyster data from the millions of journeys made every day in London.

We therefore welcome the RDG's recent report 'Easier fares for all' which presents a series of proposals for modernising the ticketing and fares system.[102] This follows a consultation in 2018 held in partnership with Transport Focus which received nearly 20,000 responses. Taking into account the reforms that respondents wanted to see the report proposed reforms that have the potential to benefit customers by simplifying the fares system and making it fairer:

> *"A simplified buying process – so people could buy from an easy to understand range of tickets online and on smart devices, or use pay-as-you-go, where payment is made automatically, giving them the same (or an even easier) buying experience as they have when paying for cinema tickets, groceries or hotel rooms"*

> *"Customers having control over the journeys that they pay for – no more guessing whether to buy a return or two singles; customers would be able to mix and match their requirements from basic single fares and get the best price. With digital ticketing, in many cases they could just travel and let the system work out the best fare. This addresses head-on the question of fairness and the principle of customers only paying for what they need."*

Excerpts from *Easier fares for all, RDG (2019)*

Whilst we recognise that some forms of smart tickets such as chip cards are more suitable for shorter journeys and mobile tickets are suitable for longer journeys, these benefits will only be fully realised if government and industry work closely together to ensure integration and interoperability. Previous smart ticketing initiatives have not always been successful and so the industry should look at where smart ticketing uptake has been most successful by offering user-led, intuitive products. In addition to TfL, which has led the way on smart ticketing in the UK through the use of first Oyster and then Contactless travel, there are successful international examples which include:

- The Netherlands, a collaboration of five large public transport operators worked together to introduce a nationwide contactless card system, the 'Ov-chipkaart'; and
- Switzerland, which has a nationally integrated smart ticketing scheme that works across multiple modes of transport and has introduced an app that automatically calculates the lowest travel fare for passengers and deducts it from the associated payment account.

The introduction of smart ticketing has experienced barriers outside of London which have primarily been associated with the reluctance of train operators with short-term franchise agreements to invest in long-term projects, and the complexity of coordinating multiple operator payments. It is important that the industry aligns to introduce smart ticketing and government ensures that the incentives are there to do so. The ORR's annual report 'Measuring Up' monitors customer experience of ticket vending machines and automatic ticket gates.[103] This should be expanded to include all forms of smart ticketing and factors that contribute to uptake.

4.3.3 Improving travel planning and experience for disabled travellers

An inclusive railway is not just about improving the physical infrastructure, it also requires providing up-to-date information and accessible information and material. Technology and data can support passengers accessing information when they need it.

The Disabled People's Protection Policy (DPPP) consultation included a proposal to introduce a consistent standard for station accessibility definitions and provision of information. TfL already provides a variety of maps and information in different formats and the RDG is working to produce a digital map with accessibility information for all the stations on the rail network including online models of stations to enable passengers to familiarise themselves with the layout and environment before they travel. In addition, the Rail Safety and Standards Board and the DfT launched two innovation competitions to reduce the cost of accessibility improvements at stations. Some of the winning entries included the provision of technology to help with travel planning:

- Nodality (Navigating transport interchange): This project looks to build a website that provides disabled passengers and carers with all the information they need to understand whether they can use a specific station.
- Aubin (The Journey Planner for Autistic People): Makes travel on the railways easier for people on the autism spectrum by planning the least stressful routes and / or modes of travel.
- Accessible Journey Pocket Assistant: A personalised, accessible journey planner and wayfinding services.

The rail industry is currently trialling a new passenger assist app to help make it easier for passengers who need assistance to book and communicate with staff.[104] Whilst this, and the innovative schemes outlined above, are positive steps, they are all reliant on passengers having access to the internet and/or smartphones. To be truly inclusive the industry needs to make sure that assistance works for all passengers, including those who do not have such access.

5 Annex A – Our research process

Over the past year, Which? has undertaken qualitative and quantitative research to better understand rail passengers and their experiences of their train travel. This included:

- An online survey of 2,085 UK adults conducted between 9 and 11 November 2018 by Populus, on behalf of Which?.The data was weighted to be representative of the UK population.
- An online forum was conducted between 5 and 11 December 2018, with 36 rail passengers who had to have travelled by train at least three times in the last three months. The sample included those who travelled by train to work and those who travelled for leisure reasons. There was a spread of age, socioeconomic groups, rural/ urban, geographical spread, gender, frequency of train travel and satisfaction with value for money of train travel. In addition, 10 participants said that they had needs which made train travel more difficult, either due to a disability or who they were travelling with (eg young children).
- The Which? annual survey of TOCs.[105] 10,000 UK train passengers were surveyed online with a total of 15,419 responses.[106]
- Data from Which?'s annual survey of TOCs was used to undertake a statistical segmentation to identify distinct groups of passengers within the sample who use the rail in different ways, their attitudes, behaviours and demographics, and;
- The findings of two passenger listening events conducted in London (December 2018) and Manchester (February 2019) which have been shared with the Williams Review team.

We have used anonymous quotes from our research illustratively in this evidence submission and are happy to share more detail with the Williams Review team.

This research and our policy work helped us to identify consumer detriment in the rail industry, understand the systemic causes and propose solutions for improvements. We tested our findings with a wide-range of stakeholders including the Williams Review team, during early 2019. The feedback we received has informed the recommendations set out in this submission.

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