

Williams-Shapps Plan for Rail

Consultation on Legislation to Implement Rail Transformation

Response by the Chartered Institute of Logistics and Transport

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Introduction

The Chartered Institute of Logistics and Transport (CILT) is a professional institution embracing all transport modes whose members are engaged in the provision of transport services for both passengers and freight, the management of logistics and the supply chain, transport planning, government and administration. Our principal concern is that transport policies and procedures should be effective and efficient, based on objective analysis of the issues and practical experience, and that good practice should be widely disseminated and adopted. The Institute has a number of specialist policy groups, a nationwide structure of locally based groups and a Public Policies Committee which considers the broad canvass of transport policy. This response has been prepared by our Strategic Rail Policy Group with input from our Rail Freight Forum.

Response to Questions

Question 1: *Does the scope of the proposed designation of Great British Railways as an integrated rail body appropriately capture what you would expect for an effective guiding mind for the railways? (paragraph 2.6) Please explain.*

The legislation needs to establish sufficient flexibility to ensure that all functions can be carried out. "Integrated rail body" is an amorphous designation. The role of a guiding mind to lead the coordinated operation of Britain's railways should be an explicit obligation, as should the coordination of the infrastructure and the services using that infrastructure. There is a potential conflict between the provision of access for passenger services under the concessions let by GBR and for the open access services of other passenger operators and freight operators which should be more clearly addressed. It is essential that GBR operates in an even-handed manner to all users and customers of the railway and to support private sector investment required to support key government policies such as decarbonisation, levelling up, modal shift and freight growth.

What is described in the consultation documents is necessary but not sufficient. We suggest that the following should also be considered:

- a. The responsibility is described as "running the railways....to maximise social and economic value". This should be expanded to include enhancing social and economic value to GB by the expansion of rail activity.
- b. It is unclear where the responsibilities divide between GBR and Passenger Contractors in relation to the specification of the types of rolling stock to be used – matching current and future rolling stock to the types of traction the infrastructure assumes/is to assume is a critical role for a 'guiding mind'
- c. The 'guiding mind' should have the freedom to decide whether to renew items of infrastructure or to continue to maintain it – it is otherwise likely that the ORR will seek to 'second guess' this as part of its periodic reviews which places the ORR in a 'guiding' position
- d. GBR is expected to support freight and cross-regional passenger growth but there is no similar obligation for other passenger services. This seems to be an omission.
- e. GBR's support for freight should be clarified with a clear responsibility for delivering the freight growth target and support for freight customers including potential freight customers
- f. GBR should be proactive in influencing national and local planning policies to ensure the increased use of rail is considered (particularly relates to rail freight interchanges) and be a statutory consultee for changes to strategies, policies and guidance

GBR should have the ability to coordinate investment in trains with investment in infrastructure to achieve the best effect - (b) above refers. However, this would be better included in Directions and Guidance rather than through primary legislation. GBR should also be able to balance funds between infrastructure asset management expenditure (maintenance/renewals), infrastructure operations expenditure and trains operations contracts net expenditure, which should help to create best value for money (again through Directions and Guidance rather than legislation). This should also take account of policies to support private sector investment and factor in the unlocking of such investment when calculating the value for money of rail projects.

To the extent that a devolved government wishes to contract services to GBR (as per paragraph 2.17) there will need to be sufficient powers granted to GBR in the first place and appropriate guidance and licence obligations issued. It is noted that paragraph 2.7 refers to certain core functions of GBR being consistent with Secretary of State guidance but not all core functions. Presumably in all cases it will need to act consistently with Secretary of State guidance and arguably the real obligations of GBR will come through this guidance.

It will also be important to set the correct economic measures which measure the relevant benefits of freight, concession passenger and open access passenger service and provide a way of prioritising allocation of capacity. This may include changes to the evaluation criteria to give due value to the various benefits achieved through rail usage.

Question 2: *Are there any other factors Great British Railways should balance and consider as part of its public interest duty? (paragraph 2.9) Please explain.*

How the social and economic value of freight services will be compared with passenger services is going to be an important factor in how the rail network continues to develop. The transport appraisal guidance (TAG) needs revision to ensure that all the benefits of freight trains are included on a comparable basis to all network users. The provision relating to accessibility is unclear whether it refers to physical accessibility to stations and trains for people with disabilities or more general accessibility such as accessibility to work, education, healthcare, etc.

Currently there are no obligations in relation to sustainability, which is not the same as "environment". Sustainability should go beyond that which is internal to the railway, i.e. promoting modal transfer and would also include ensuring there is sufficient supply of a suitably skilled workforce. "Impacts on the environment" should be extended to include those brought about by modal transfer of passengers and freight movements.

As well as passengers, taxpayers and funders, due consideration should be given to the needs and requirements of freight customers and facility owners. Freight services on rail are often part of a more complex logistics chain and sufficient consideration needs to be given to how the rail component interacts with the overall freight routes and can support modal shift.

The 'guiding mind' should have the freedom to decide whether to renew items of infrastructure or to continue to maintain it – it is likely that the ORR will otherwise seek to 'second guess' this as part of its periodic reviews which places the ORR in a 'guiding' position. GBR should have discretion to manage its assets in a way to meet operators' and customers' requirements effectively and economically.

Question 3: *Do you support the proposal to include a power in primary legislation to enable Scottish and Welsh Ministers to delegate their contracting authority to Great British Railways, subject to the terms of delegation being mutually acceptable to ministers in the Devolved Administration(s) and the Secretary of State? (paragraph 2.17) Please explain.*

To the extent that it would be the choice of a devolved administration to delegate authority to GBR, ensuring that GBR has powers to enact such delegated authority would be a logical proposal. Where devolved funding for infrastructure has been implemented (Scotland / soon to be Merseyside / CVL), GBR network requirements may incur additional costs on the devolved funders. This needs to be addressed as it could otherwise insert an asymmetry in rights and obligations. GBR needs to reflect different operating and funding models and to have specific Licence conditions to reflect this

The devolved administrations, in any case, need to ensure that GBR is consulted before any award is made to ensure compatibility between the proposed contractor and the infrastructure and also as to whether any non-devolved service proposals (contracted by GBR) are compatible in operational (timetable, performance, etc) terms with the devolved contracts and funding.

Question 4: *Do you have any views on the proposal to amend Section 25 of the Railways Act 1993 to enable appointment of a public sector operator by Great British Railways by direct award in specific circumstances? (paragraph 2.18) Please explain.*

There must be very clear and specific circumstances to allow GBR to appoint a public sector operator. However, appointing a public sector operator in order to manage risk and cost for specific infrastructure projects has some merit, particularly where the private sector has limited appetite and applies a high risk premium to the project. A clear business case would need to be produced for the public sector operation to show that a private sector bid is poor value for money compared to the public sector comparator. Transferring risk associated with a relevant infrastructure project may also mean that the private sector option may provide better value for money through the use of a direct award.

Any relevant competition should make it clear that a public sector comparator would be used and the possibility existed of the competition being cancelled in the event of poor value for money bids from private sector bidders. Introducing such a provision may have the effect of reducing the number of private sector bids if there is the clear possibility of the DfT/GBR cancelling the competition and providing a direct award as this increases the potential for bidders losing their bid costs even if the bid is the most competitive that a private sector bidder could make.

Question 5: *Do you support the proposed amendments to Regulation 1370/2007, which are i) reducing the limitation period for the challenge remedy, ii) introducing a remedy of recovery to accord with the new UK subsidy regime, iii) clarifying who may bring a claim, iv) retaining the ability to make direct awards under Article 5(6), and v) clarifying the PIN notice period? (paragraph 2.20) Please explain.*

Direct awards have a negative effect on competition, particularly where the criteria for selecting the recipient is unclear. This can then have a negative impact on the supply market and subsequent investor confidence in the rail sector. GBR should have robust policies in place to ensure that it does not abuse the direct award process and should be wary of reducing the time limits for private sector providers to object to a direct award.

Any remedy available to a potential private sector bidder should be in accordance with remedies available under the standard procurement regime. If remedies are reduced, there would be a perverse incentive to use a revised form of 1370/2007 and make more direct awards as bidder challenges would be less effective. We would hope that this would not become Government policy.

Clarifying who can bring a claim would be welcomed, providing it is used to simply clarify the position, based on the type of organisation who have been able to make a successful claim, rather than use the opportunity to change the ability of previously successful organisations to bring further claims and reduce the opportunity for scrutiny of the granting of direct awards.

We would endorse the clarification of the PIN notice period and maintaining transparency in granting direct awards so that all potential bidders have a clear view of the timing and operation of the relevant process.

Question 6: *Do you support the proposed statutory duty on ORR to facilitate the furtherance of Great British Railways' policies on matters of access and use of the railway, where these have received Secretary of State approval? (paragraph 2.38) Please explain.*

The ORR should be an independent body which is able to act in a quasi-judicial manner in order to ensure fair access to the rail system. Binding the ORR in the way proposed is likely to skew the balance of access in favour of GBR, which is also letting the passenger rail concessions.

Independent open access train operating companies, particularly freight operating companies (plus customers and facility owners), will be making significant financial investment on the expectation of being able to operate a set of services over a period of time. The ability for the Secretary of State to approve changes to access and use of the railway imports a significant risk to these investments and may cause logistics operator to decide that the lack of certainty of access over a sustained period will destroy an investment case for a rail project. We would not support this proposal but, if the new duty is enacted, there should be specific provision that it will not be to the detriment of freight customers, operators and facility owners, and its use is consulted and implemented through processes established under GBR's Licence.

Given the legal commitment to net zero by 2050 and the need for urgent action to prevent irreversible climate change, the ORR's duties should include considering environmental as well as social and economic benefits. Consideration on the use of the railway needs to include clear consideration for both passenger and freight use.

Question 7: *Noting we will consult separately on the use of the power to amend the existing Access and Management Regulations, are you aware of any immediate essential changes that are needed to these Regulations to enable Great British Railways to deliver its guiding mind function? (paragraph 2.44) Please explain.*

We are not aware of any immediate changes that are required. We would endorse the holding of a separate consultation on the Access and Management Regulations.

Where there are powers to allow secondary legislation to amend EU-derived legislation, we suggest the use of a "sunset" clause to time limit this power. The absence of such a clause would leave open the possibility of such powers being used for further change at a later date that could adversely affect private sector investors in the rail sector, including freight customers, operators and facility providers.

Question 8: *Do you agree with the proposed recasting of ORR's competition duty to better reflect public sector funding? (paragraph 2.49) Please explain.*

We are concerned that such an amendment to the ORR's competition duty would be used to strengthen the position of passenger service concessions, given their direct input to GBR through the farebox revenue. There is a danger that direct impacts on the GBR balance sheet will take precedence over wider benefits to the UK economy, e.g. freight on rail reduces road congestion, improves air quality, reduces CO2 and has general environmental benefits. Rail Reform offers an opportunity to review decision criteria for current and future access that provides clarity, incentivises the most efficient use of the network and promotes wider strategy and policy priorities, for freight as well as passenger.

While there may be merit in balancing competition and the use of public funds in the provision of passenger services, this should not be applied to freight which is already highly competitive and has

significant levels of private sector investment. That competition has delivered and continues to deliver substantial benefits for customers and UK plc. Freight is an entirely different market and must not be adversely affected by action taken in the passenger sector. In essence, GBR must in all matters be required to treat customers and operators which it does not control in a demonstrably fair manner. If this is not the case, private sector freight companies are likely to hold back on the investment required to achieve the growth targets, which are not, in themselves, sufficient to ensure the certainty needed to secure the £15+bn of private sector investment required to meet key policy objectives.

We believe the Government should be investing in infrastructure enhancements to meet the needs of GBR passenger contractors and freight. Given that such investment is rarely incremental by individual train it can create surplus capacity (or the infrastructure already includes surplus capacity) and this surplus can provide an open access passenger opportunity. We believe a potential OA operator should be required to pay a contribution towards such investment as part of its access charges. Government should not invest in infrastructure solely for an OA operator - the OA operator should pay for what it requires in such circumstances. ORR should act as the referee for fair access, while protecting government investment.

Also, legislation should be introduced to facilitate multi-operator and multi-modal tickets and override the Competition and Markets Authority's concerns over their potential anti-competitive nature given their overwhelming popularity and public interest value in having them.

Question 9: *Do you support the proposal to include in legislation, a power for Great British Railways to issue directions to its contracted operators to collaborate with one another in circumstances where doing so could otherwise give rise to concerns under Chapter I of the Competition Act 1998, in particular, where this could lead to defined benefits to taxpayers and/or passengers? (paragraph 2.54)*

Collaboration processes to produce timetables and service patterns which provide better connectivity and integration of services which benefit the passenger should be supported. However, such powers should not be abused to squeeze out other private sector operators (including freight) and an independent body (such as the ORR) should have the power to ensure that actions over service patterns are being taken fairly and in accordance with GBR's Licence. In this regard there should be an obligation to cooperate with other industry parties such as freight operators, where this would be in the interests of delivering key national strategic objectives.

Permitting a level of collaboration should also be extended to other types of transport to ensure that a MaaS solution can be provided, e.g. looking to coordinate train, bus and tram services so that there is a better offering to the passenger or users of freight services. See also our answer to Q8 in this regard.

We note that the Competition Authorities have already issued guidance regarding collaboration between bus services which is referred to in the DfT's Guidance for Enhanced Partnerships for bus services.

Question 10: *Would Train Operating Companies be willing to share information and collaborate in the way envisaged without the proposed legislative provisions? What are the risks to them without the proposed legislation? Would the proposed legislative approach help to resolve these risks?*

In a competitive market TOCs would be unwilling to share information which would be detrimental to their position in the market place. Under current legislation there is a concern that any attempts to collaborate would be seen as anti-competitive, even where there is a clear benefit to the passenger, and so the TOCs avoid any risk by not collaborating. The proposed change would help in those circumstances where there is a win-win situation for the relevant TOCs but be unlikely to encourage any changes where sharing such information would be detrimental to the TOC.

Question 11: *Are there any particular additional safeguards (in addition to the safeguards outlined in paragraphs 2.54 - 2.55) that you consider necessary to support the interests of third parties (including freight, open access and charter operators) or to otherwise protect passengers and/or taxpayers?*

We believe there should be a Licence Condition on GBR to ensure this occurs, with ORR acting as referee in the event of a dispute.

Given that freight operators behave – and are required to behave – in a fully competitive manner, moderation of competition provisions must specifically exclude freight. Similarly, any requirements to provide information must exclude commercially sensitive information that could damage private sector investment or risk contravening competition law.

Question 12: *How should we ensure that Great British Railways is able to fulfil its accountability for the customer offer while also giving independent retailers confidence they will be treated fairly? (paragraph 2.61) Please explain.*

Not all passengers have access to digital retailing, nor do all wish to. Any ticketing solution needs to take account of this, particularly noting that older people and those with special needs sometimes find digital technology a barrier to accessing transport services. The ability to purchase tickets at a railway station should still be part of the available offer.

We believe there should be a Licence Condition on GBR to ensure fair treatment of independent retailers, with ORR acting as referee in the event of a dispute.

Question 13: *Does the proposed governance framework give Great British Railways the ability to act as a guiding mind for the railways, while also ensuring appropriate accountability? (paragraphs 3.13) Please explain.*

The four levels of control on GBR, the majority subject to decisions of the Secretary of State would appear to provide significant powers to the Secretary of State to be the real guiding mind for the rail sector, setting out those areas where GBR can exercise a level of decision making. The level to which GBR will be able to act as the guiding mind will be strongly constrained by these four pillars, the details of three of them not being part of this consultation.

GBR should have the ability to coordinate investment in trains with investment in infrastructure to achieve the best effect. However, this would be better to be included in Directions and Guidance rather than through primary legislation. GBR should also be able to balance funds between infrastructure asset management expenditure (maintenance/renewals), infrastructure operations expenditure and trains operations contracts net expenditure, which should help to create best value for money.

There will, inevitably, be times and issues where difficult decisions will have to be made, e.g. use of scarce capacity. At such times Regional Directors may be tempted to give preferential treatment to PSC operations for which they are responsible and wholly accountable. This cannot be allowed to happen and the interests of national operators, both freight and passenger must be protected with even-handed treatment of all users of the network. To support this the Secretary of State's powers over senior appointments should include a Freight Director (with equal standing to the Regional Directors) having direct reporting to the GBR Chief Executive. There should also be an internal GBR access compliance function to ensure that managers are discharging their duties in an even-handed manner in support of the overall strategic objectives of GBR and in line with the ORR's external scrutiny duty.

Question 14: *Do you agree with the proposal for Great British Railways' new duties to be captured in the licence and that primary legislation should require the licence to include specific duties in relation to accessibility, freight and the environment? (paragraph 3.16) Please explain.*

The duties to be imposed on GBR should be set out clearly in its Licence, as these become enforceable obligations giving comfort to those parties who deal with GBR.

Simply stating areas that the GBR Licence will include is of limited benefit if there is no control over what controls or requirements will be included under these categories. However, ensuring that these specific areas are covered in the Licence provides more certainty that these areas will be addressed than not including them.

We believe that development of freight and the achievement of the freight growth targets should be one of these new duties. The absence of this key provision could lead to an unbalanced approach by GBR to users of the network and it is particularly important given GBR's role in providing nearly all passenger services. An explicit duty on freight is necessary to provide balance in GBR's discharge of its overall role. Crucially, it is not sufficient for the duty to refer merely to the promotion of freight – it must include a duty to develop freight to meet key policy objectives and deliver the freight growth target. Decarbonisation of the UK's supply chain logistics will be a significant beneficiary of such a process.

Given the critical importance of GBR's Licence, funders, operators and stakeholders must be consulted on its content and any subsequent amendments. It is vital that freight customers and wider logistics interests are included, both at the outset and in the event of any amendments alongside those of passengers and passenger groups.

Question 15: *Do you support the proposal to amend ORR's powers to exclude the ability to impose a financial penalty on Great British Railways for licence breach? (paragraph 3.26) Please explain.*

We disagree with this proposal.

To the extent that a financial penalty is no longer available to ORR, it is not clear what sanctions would be available to ORR for a failure of GBR to comply with its Licence save for a right to terminate that Licence. There would need to be strong sanctions available to, and visibly used by, the Secretary of State to provide comfort to the remainder of the rail industry that the GBR Licence was of value and had a real effect on controlling the actions of GBR. Without such enforcement, there would be serious questions as to the value of having the Licence and a set of Licence obligations.

A financial penalty is a central and clear method to cause reputational damage to GBR if it breaches its Licence. As stated elsewhere in our response, there will be significant temptation to favour in-house operations and there must be effective sanctions to discourage this. Without the ability to issue a fine, action would be limited to largely internal documents that would generally not encourage external scrutiny and thus have limited impact. The fines need not be large as it is the consequences of publication of a penalty and the requirement for remedial action that encourages correct behaviours, not the size of the fine *per se*. They could also be directed towards management bonuses.

In addition, para 3.28 indicates that GBR will be subject to Directions and Guidance from the Secretary of State. This introduces significant risk for private sector organisations dependent upon GBR, notably freight customers, operators and facility owners, which could adversely affect their willingness to invest the substantial sums required to grow freight, in line with key policy objectives. We believe that, in addition to consultation with GBR, there must be consultation with the whole industry and customers. This would give visibility of any potential adverse consequences and allow suitable responses be made regarding concerns.

Our concern is that unless this power is clearly defined and the process set out, the only route for challenge would be under competition law and restraint of trade, which introduces a further element of uncertainty and risk that will deter private sector investment. The legislation, the Licence and the D&Gs need to be clear and set out in such a way that GBR is only accountable to the SoS for D&Gs but that other interested parties (funders/investors) have something to stand behind that does not replicate existing uncertainty, or potentially add the legal complexities of monopoly abuse as almost a default route in contested access or investment decisions. Change and review mechanisms are absolutely central to a successful outcome.

There is, arguably, a case to be made to go further than an obligation to consult widely and include explicit provision in legislation that, other than at times of national emergency, use of Directions and Guidance would not adversely affect the legitimate commercial interests of private sector investors supporting the achievement of key policy objectives, nor of devolved specifiers whose funding of GBR does not flow through the Secretary of State.

Question 16: *Please provide any feedback on the proposed business planning arrangements for Great British Railways.*

Retaining the 5-yearly periodic review, HLOS and SoFA is a logical and realistic approach, given that there will always be a limited budget available for GBR. Ensuring that there is a robust mechanism in place to ensure an economic and efficient infrastructure manager without the "gold plating" of projects will need to remain a key role of the ORR. Benchmarking to other similar organisations will also be important.

The current process is unwieldy and takes far too long to conclude. In a growing and ever-changing market, particularly for rail freight, which adapts to variations in customer requirements on a timescale of days and weeks a 5-year horizon has little meaning other than with major enhancements, which are specifically excluded. The process must, therefore, have flexibility built into it to cater for changes that might not even have been conceived when the plan was agreed. This is particularly pertinent in the context of modal shift to rail in response to the urgent need to decarbonise supply chains currently using HGVs for trunking.

The business plans should include proposed enhancement expenditure which will need to be consistent with assumed changes to service patterns and other outputs incorporated in the passenger contracts. To avoid delay to approval of such enhancement schemes, approval should be delegated to GBR for schemes up to (say) £50m, subject to being affordable within the business plan's assumed enhancement budget. Such a budget should also appear within the SOFA.

Given the obligation on GBR to manage the passenger contracts, and hence, presumably, to flex the specification within any budgetary constraints/opportunities, it is not clear what the role of the ORR is to be in monitoring this aspect of GBR's activity (para 3.42). There is a danger that this proposal could merely add to industry overheads without adding value.

We consider that GBR should have a Licence Condition with respect to engagement, consultation and publication of business plans and strategies, including a requirement to update cyclical planning to reflect changing market requirements and externally-driven impacts, for example where spatial and economic factors require a faster response to change.

Question 17: *Will the proposed approach to independent scrutiny and challenge provide sufficient transparency and assurance that Great British Railways can be held to account? (paragraphs 3.45 – 3.47) Please explain.*

While the ORR will continue to have a role to scrutinise and challenge the actions of GBR, particularly to meeting its licence obligations, there needs to be sufficient "teeth" within the regime to provide an

effective set of checks and balances. Simply being able to produce a report of GBR's failings which is not acted upon is no real deterrent to poor performance. While it is not possible to bind a future Secretary of State there should be some obligations on the Secretary of State to act appropriately and in a timely manner upon receiving a negative report on the actions and performance of GBR from the ORR.

In undertaking its scrutiny role the ORR will need to ensure that GBR serves the interests of freight customers, operators and facility owners alongside those of passengers and other interests. The ORR will also need to be more proactive, better informed and faster in its dealings than has previously been the case in order to make a more meaningful difference within a timescale which is acceptable for commercial business.

Question 18: *Do you support the proposal to give ORR a statutory power to levy a fee on Great British Railways to cover the costs of ORR's functions which are currently funded through the network licence? (paragraph 3.48) Please explain.*

Given that this is simply replicating a feature of the existing system which has worked well, we would support the levy of such a fee under the GBR Licence. It also ensures consistency with other operators' Licences.

Question 19: *Will the proposed changes enable Transport Focus to effectively undertake the role of independent passenger champion in the new rail industry structure? (paragraph 4.8) Please explain.*

Any such change in the role of Transport Focus will only be effective if sufficient funding is also provided to Transport Focus to enable it to properly carry out such a role.

Question 20: *How can we ensure that accessibility is integral to Great British Railways' decision making and leads to cultural change in the rail industry? Please explain.*

The proposals presented address the intent to improve accessibility and establish where the responsibilities sit. However, achieving improvements requires funding for both resources (assistance and the booking arrangements for it) and physical alterations at stations (and potentially rolling stock). These are being achieved on the Merseyrail network but at a significant cost. If funds are not forthcoming, enthusiasm for improvements is in danger of being lost.

Accessibility needs to include access to trains, not just to platforms. Many stations have large platform to carriage stepping distances (beyond those defined for new construction) and these represent a major barrier to access. Making the network accessible needs to be aligned with overall strategy for personal mobility to allow people to use rail through better access to stations; and appropriate action to integrate GBR decision-making with further improvements, through use of impact assessment and active engagement with stakeholders and funders.

Question 21: *Do you support the proposal to expand DPTAC's remit to become a statutory advisor to Great British Railways, as well as to the Secretary of State, on matters relating to disability and transport? (paragraph 4.15) Please explain.*

It is important that there is sufficient level of input and scrutiny to ensure that matters relating to accessibility for all for public transport. We therefore support the proposal.

Question 22: *In addition to providing Great British Railways with powers to make "permitted information disclosures", are there any other revisions to the Railways Act 1993 or barriers to promotion of open data that you consider need to be addressed? Please explain.*

While supporting open data as a principle, it is clearly essential that commercially sensitive data relating to private sector companies, such as those in the freight sector, are excluded from the general presumption of openness.

Question 23: *Do you support the proposal to include a power in primary legislation to enable the ratification of the Luxembourg Rail Protocol? Please explain.*

We fully support this proposal.

The introduction of the Luxembourg Rail Protocol is expected to unlock significant financial savings for the rail sector in the leasing of rolling stock and other moveable assets operating on, above or below a guideway. There are no obvious downsides to adopting the Luxembourg Rail Protocol and we understand that all of the main political parties support its adoption.

An element of the reorganisation of the railways under the Plan for Rail is to reduce the economic cost of funding the railways, both for government and the private sector and the Luxembourg Rail Protocol provides a mechanism to achieve this. We believe that including a power in the Railways Bill to enable the ratification of the Luxembourg Rail Protocol will be the quickest path to reaching that ratification.

Question 24 (see *Impact Assessments*): *Are there impacts or risks of the policies proposed which have not been covered by the impact assessments? Please explain or provide evidence.*

The Environmental Impact Assessment gives comprehensive coverage of the railway's impact on the environment, but nowhere does it mention the substantial benefits of modal shift to rail, particularly of freight. Rail already has an extremely low environmental footprint and much the largest contribution rail can make to reducing UK emissions and other environmental impacts is to attract as much traffic from other more polluting and damaging modes.

Question 25 (see *Impact Assessments*): *Do you have evidence relating to the impacts and risks identified and discussed in the impact assessments? Please provide it to us.*

We do not have any additional evidence