



# **NEW OPPORTUNITIES FOR THE RAILWAYS**

THE PRIVATISATION OF BRITISH RAIL

*Presented to Parliament by the Secretary of State for Transport  
by Command of Her Majesty  
July 1992*

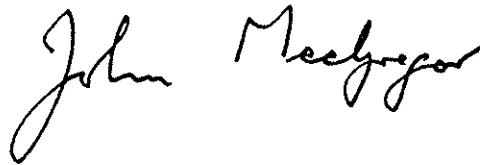
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## FOREWORD

Privatisation is one of the great success stories of this Government. It has taken different forms in different industries. But common to all privatisations has been the harnessing of the management skills, flair and entrepreneurial spirit of the private sector to provide better services for the public.

The time has come to extend these benefits to the railways. This calls for a new approach. British Rail makes large losses. It cannot therefore be sold as a complete concern in the same way as other industries which we have privatised and there will not be substantial proceeds to the Exchequer. Our objective is to improve the quality of railway services by creating many new opportunities for private sector involvement. This will mean more competition, greater efficiency and a wider choice of services more closely tailored to what customers want.

This White Paper explains how we are going to achieve these objectives.

A handwritten signature in black ink, reading "John MacGregor". The signature is written in a cursive style with a large initial 'J' and 'M'.

John MacGregor

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# 1. PROPOSALS

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## Introduction

1. The Government is determined to see better use made of the railways, greater responsiveness to the customer, and a higher quality of service and better value for money for the public who travel by rail. The proposals in this White Paper meet these objectives.

2. The railways have substantial strengths. They have unrivalled city centre to city centre connections. They are particularly cost effective for long distance and heavy freight. They can be energy efficient. They often cause less environmental damage than road transport. But the railways cannot play their full role unless they give passenger and freight customers the services they expect. The key to success is a reliable, efficient operation offering high quality services to users. The introduction of competition through greater involvement of the private sector and the ending of BR's monopoly in the operation of services will be instrumental in achieving this.

## British Rail

3. British Rail has made significant improvements in recent years. Its efficiency compares well with that of other European railways. The productivity of the BR workforce is among the highest of any European railway. InterCity services and BR freight operate without direct subsidy.

4. Investment in the railways has greatly increased. Last year rail investment reached £1005m, more than 50% higher in real terms than in 1980, and was the highest in real terms since 1962 when the network was much more extensive. Over £1 billion is expected to be invested in 1992/93 with continuing high levels in subsequent years. All parts of the railway have benefited from this investment. For example, the East Coast Main Line has been electrified from London to Edinburgh. New diesel trains operate on many Regional services. BR is investing heavily in the trains and infrastructure for international services through the Channel Tunnel. The Government is encouraging BR to improve its services under the Citizen's Charter. The Passenger's Charter sets demanding but achievable standards, makes commitments about improving services and establishes new compensation arrangements.

5. However, regular users know that the performance of the railways is not good enough. Too frequently, and on too many lines, the quality of service fails to meet the travelling public's expectations. BR's staff and management work hard to improve services. But they are limited by the structure of the industry in the public sector. The industry is more insulated from the demands of the market than its private sector airline, coach and road haulage competitors. It therefore has fewer incentives to improve its performance and less freedom to respond to what the customer wants. Radical changes are needed.

6. The Government therefore wishes to involve the private sector in the operation of the railways. Introducing competition, innovation and the flexibility of private sector management will enable the railways to exploit fully all the opportunities open to them.

7. In other countries the private sector is actively involved in the railways. Already 40% of Japan's railways are private and it is the Japanese Government's intention to privatise the remainder. The Swedish Government enable the private sector to operate certain railway services through a tendering system. The privately owned American freight railways have been successful and profitable over the past ten years.

### The Essential Requirements

8. The Government has paid particular attention to the following issues in framing its proposals:

- (a) **Safety.** The safety of the rail network remains of paramount importance. Any changes must provide for the existing standards of the railway network to be maintained and for any necessary development and further improvement of these standards. The Government has taken the advice of the Health and Safety Commission. Proposed arrangements for safety are set out in Chapter 6.
- (b) **Quality of Service.** The new arrangements must offer the passenger and freight customer improvements in the standard of service they receive from the railways.
- (c) **Essential Passenger Services.** The Government fully recognises the social and other benefits of regional and commuter services. It is committed to providing continuing subsidy to support them.
- (d) **Network Benefits.** A single railway network is convenient and flexible for passengers. These benefits include a national timetable and through ticketing.
- (e) **Opportunities for Employees.** The Government is concerned to enable BR's existing workforce to transfer to new companies when they are established and to provide opportunities for them to take a stake in their industry when they are in the private sector.
- (f) **Environmental Benefits.** The Government wishes to continue developing the environmental benefits of rail and to maintain its existing high environmental standards.

9. The railway is a very large, complex and specialised operation. Millions of people depend on it. Services must not be disrupted by organisational change. So the pace of change must take account of the need to keep services running efficiently.

## Options

10. The Government has considered a number of options for the future structure of the railway. It would not be practicable to privatise BR as a single entity because its financial losses are too great. Similar objections apply to the sale of BR split into purely geographical units. For the foreseeable future no regional company could be sold outright as each would be entirely dependent on continuing and large subsidies from the taxpayer.

11. BR, with the Government's agreement, has, over the last ten years, reorganised the railways in business sectors based on different markets - InterCity, Regional Railways, Trainload Freight etc. There is scope for some privatisation of the individual businesses. But it would not be possible to sell all of them. They operate in different markets and they have very different financial performance. Network SouthEast could only be made profitable with substantial and rapid real fare increases. The Government does not believe that such increases would be justified. Regional railway services will be dependent on subsidy for the foreseeable future. The financial prospects of the present InterCity services are better and it is likely to be possible to privatise at least some of them in due course. Freight is profitable, overall, but the different parts of the freight businesses perform very differently. The Government has therefore concluded that no single solution is appropriate to all BR's businesses. Each will have to be treated differently, taking account of its characteristics.

12. Flexible solutions will be needed to encourage private sector participation in the railways. A structure is required which will promote the introduction of new operators while taking account of the continuing need for subsidy. BR currently operates as a vertically integrated railway, with track and train operations under its control. The Government believes that track and train operations should be separated at an early stage and that a new track authority - Railtrack - should be established initially within BR with responsibility only for track and associated infrastructure. When BR's train operations are in the private sector, Railtrack will continue on its own as a separate organisation. This structure offers the greatest prospect for private sector involvement in operations and will enable BR to provide fair treatment between operators wanting access to the track and other infrastructure. The Government recognises the challenge which this restructuring will pose for BR following the recent organisational changes introduced under the Organising for Quality initiative. It will work closely with BR management to ensure a smooth transition to the new structure.

## Summary of Proposals

13. The Government has decided that rail freight and parcels should be transferred entirely to the private sector.

14. So far as the passenger railway is concerned the Government believes that the private sector should be given the fullest opportunity to manage and operate existing railway services, receiving grants where necessary in return for meeting required standards of service. In this Parliament the objective will therefore be to

enable the private sector through franchising to manage and operate passenger services. Responsibility for negotiating, awarding, and monitoring franchises will be given to a new Franchising Authority.

15. In addition the Government proposes to provide a right of access to the rail network for private operators of freight and passenger services. All operators will be required to meet strict safety and environmental standards. Rights of access will be overseen by a new rail Regulator.

16. One part of BR will become a track authority - Railtrack - with responsibility for operating all track and infrastructure. The other part will become a residual operating company responsible for operating passenger services until these are all franchised to the private sector. When franchising is completed BR's only function will be to provide track and associated infrastructure.

17. The Government will also provide opportunities for the private sector to purchase or lease stations, subject to safeguards for operators and passengers.

18. In the longer term the Government would like to see the private sector owning as much as possible of the railway. Powers will therefore be taken to allow the future privatisation of all BR track and operations.

## The Benefits of Private Sector Involvement and Liberalisation

19. Improved services for passengers and freight customers will come from:

- (a) **More concern for the customers' needs.** Management and employees in the private sector have greater incentives to provide the services which the consumer wants. The profitability of their company - and at the end of the day their jobs - depend on providing a service which attracts custom. Nationalised industries do not face such acute pressures.
- (b) **Competition and Ending the Monopoly.** New operators will be allowed to provide services, giving customers a choice and stimulating improved services and value. Already a number of companies have indicated an interest in introducing new freight or passenger services.
- (c) **Management Freedom.** Railway management should be free to get on with its main task of running services to the satisfaction of passengers and customers. The Government's proposals will provide for greater participation by the private sector in railway operation, with less scope and justification for Government involvement in managerial issues.
- (d) **Clear and Enforceable Quality Standards.** The Franchising Authority will specify and monitor the level of services which passenger operators will be required to meet. For the first time standards such as punctuality, reliability and overcrowding will be written into contracts. A franchisee failing to perform to the required standards will be in breach of contract and subject to penalties including, in extremis, the loss of the franchise.

- (e) **Motivation.** Franchising passenger services to reflect regional or local identities will help to boost the pride that all employees take in providing a high quality service to the travelling public.
- (f) **Efficiency.** Smaller operating companies will bring more localised management closer to the public and greater opportunities to cut out waste and otherwise reduce costs, without sacrificing quality.



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## **2. PASSENGER SERVICES**

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20. This chapter sets out in more detail the Government's proposals for BR's passenger services. BR currently provides these through three businesses - Network SouthEast, mainly providing commuter services serving London; Regional, serving other conurbations, rural areas, and providing some cross-country links; and InterCity, providing express long distance services. A fourth business, European Passenger Services, will operate international passenger services through the Channel Tunnel.

21. BR's passenger services do not lend themselves to outright sale in the short-term because despite improvements over the past ten years they continue to be unprofitable. The Government nevertheless wishes to involve the private sector to the greatest possible extent in the operation of these services. This can best be done through franchising their operation, inviting the private sector to compete for the right to operate them. This will introduce new entrepreneurial approaches. Where subsidy is required it will be provided; the level will be determined by competition in the private sector. Competition for franchises will bring greater responsiveness to passenger needs, improved efficiency and better services. In exchange for the right to operate these services and to receive grants where appropriate, the operating companies will have to contract to meet required standards of customer service, for example of frequency, reliability and punctuality. In the case of profitable services franchisees will be expected to make payments to the Government for the right to provide services.

### **Continuing Role of BR**

22. BR will be restructured into two units, with separate management and accounts. Railtrack will own the track and other infrastructure and control day-to-day operations through the signalling system. The residual operating unit will continue to run rail services until they have been franchised. Franchising will be done progressively, so BR's role as an operator will diminish over time.

23. Railtrack will be responsible for timetabling, operating signalling systems, and track investment and maintenance. The Government believes that revenue subsidies should be targeted directly to provision of services. Railtrack will not therefore be subsidised (although it will be eligible for capital grants in certain circumstances, see para 43) and will be expected to make a return on its assets and to charge operators for the use of its track. Within this policy framework Railtrack's charges and allocation of train paths will be overseen by the Regulator. Separate detailed accounts will be prepared for Railtrack: this will assist the Regulator in his task of policing charges and access.

24. Railtrack will be required by the Government to contract out its own support functions, for example track maintenance, where that offers value for money.

## Franchising

25. The Government will seek to ensure that franchises are organised to meet the best interests of the passenger. Franchises will reflect a regional or local identity, which will help secure the commitment of managers and staff. They will be designed, wherever possible, to provide scope for competition. They will also need to take account of what makes operational sense, for example, to ensure an efficient use of rolling stock.

26. There will be no universal template for a franchise contract. All passenger services have their own characteristics. It will be necessary to respond to the interest shown by the private sector, not only in terms of the geographical extent and length of the franchise but also in terms of the functions to be carried out by the franchisees. Flexibility will be preserved in all aspects of franchising, to take full account of the private sector's views on how it can best bring its skills to bear.

27. There will be no standard duration for franchise contracts. The aim will be to balance the greater scope offered by a longer contract for private sector operators to tailor their services to passengers' requirements and to invest on their own account with the benefits to be gained from more frequent exposure of franchised services to competitive tendering.

28. It will be the responsibility of the Franchising Authority to franchise services on the Government's behalf. The Authority, after consultations with the private sector and BR, will agree with the Secretary of State a programme for franchising train services. The Government will decide a budget for grants for these services, and set broad objectives for service levels, service quality and fares. Taking account of these broad objectives, the Authority will specify the minimum services a franchisee will provide and the minimum quality standards. Open competitions will be held for private sector companies to run services. Individual services will continue to be provided by BR only if no satisfactory private sector bid is received.

29. Franchises will therefore specify as appropriate the obligations placed on the operator, such as minimum frequencies, the quality of service to be provided in terms of punctuality and reliability, maximum fares etc. The franchisee will also have to meet the requirements of the Passenger's Charter, and so provide compensation for passengers where standards are not met. The franchisee will have a separate contract with Railtrack, covering the terms of its use of track and other infrastructure.

30. Subject to these contractual obligations operators will have the freedom to provide the extent, type and quality of service which they believe best meet passenger demands. During the life of the franchise the Franchising Authority will monitor the franchisee's performance.

31. It will be for the Franchising Authority to decide whether franchises should include services currently run on an experimental basis by BR under the Transport Act 1962 (Amendment) Act 1981 (the Speller Act). It would be open to new operators to run such services on a commercial basis if they wished.

32. Private sector operating companies will need expert railway staff. Arrangements will be made to enable BR staff and assets to be transferred to franchisees. The Government intends to require BR to vest its passenger operations in a number of separate companies, matching the grouping of services to be franchised. The private sector would then compete to take over these companies for the life of the franchise.

33. The Government is committed to continuing investment in rolling stock but hopes to pass as much of this as possible to the private sector wherever this would make sense in terms of value for money for the Franchising Authority and the franchisee. There will be arrangements for the transfer of assets at the end of the franchise, so as to encourage investment by franchisees. Nevertheless, having to purchase rolling stock outright before commencing operations could prove a formidable barrier to entry for operators entirely new to the market. That barrier should be lowered if they are able to lease new rolling stock from private sector leasing companies or if a healthy second hand market can be developed. Most franchisees will wish to commence operations using the existing rolling stock, and this will be available to them to rent.

## **InterCity**

34. InterCity has been one of BR's successes. It has improved its services, with increases in frequencies and speeds on many routes. It has proved increasingly popular with the public, with the number of passenger kilometres increasing from 11.8 billion in 1981 to over 13 billion in 1990. Every week more than a million people travel on InterCity. These improvements have been matched by better financial performance. InterCity has made profits since 1988-89.

35. The Government has, however, decided not to move to outright sale of InterCity services at this stage. The first priority is to improve the service to customers by introducing private sector management, culture, disciplines and incentives. Moreover, it is not clear that the business as a whole could improve its performance sufficiently to allow sale in this Parliament. It remains the Government's intention that in the longer term InterCity services should be sold.

36. In the design of franchises, therefore, InterCity services will so far as possible be kept distinct from other services. The precise manner in which InterCity services will be franchised will have to be decided in the light of private sector interest, but the Government's general intention is to franchise them on a 'line of route' basis eg. the East Coast Main Line or the Midland Main Line. The Government would hope to receive payments from franchisees for the right to operate profitable InterCity franchises thus bringing a return to the taxpayer.

## **European Passenger Services**

37. Responsibility for the development of passenger services to and from the continent through the Channel Tunnel lies with European Passenger Services Ltd, a wholly owned BR subsidiary company. EPS trains will run initially over existing BR lines. However, it is expected that, as demand for services through the Channel

Tunnel increases and capacity on these lines is used up, a new line will be needed between the Channel Tunnel and London. The Government has already announced its preferred route for the new line, running from the east via Stratford into Kings Cross station. BR are currently refining proposals for the route so that it can be safeguarded, and an environmental assessment carried out. It is the Government's intention that this project should be taken forward by the private sector. The Government is still considering how EPS should be transferred to the private sector.

## **Network SouthEast and Regional Services**

38. Both Network SouthEast and Regional Railways are heavily dependent on subsidy. In 1991-92, grant accounted for £345m of NSE's turnover of £1,219m. Of Regional Railways' turnover of £905m, no less than £629m came from grant. These figures exclude £31m of grant paid towards British Transport Police law and order costs on the supported sectors. It is clear from these figures that there is no prospect whatsoever of financial viability for Regional Railways, and none in the foreseeable future for NSE. Improved performance is, however, essential. The services of both businesses will therefore be franchised, with franchises designed to reflect regional and local identities.

## **Local Authorities**

39. In seven conurbations local rail services are the responsibility of local authorities acting through Passenger Transport Authorities (or, in the case of Strathclyde, the Regional Council). The Passenger Transport Executives, which implement PTA policies, contract with BR to provide an agreed level of rail services for which they pay, although their expenditure on rail services qualifies for support through the local government finance system. The PTAs and PTEs will continue to be responsible for specifying the services to be provided in their areas. Services will continue to be run under contract, initially by BR, but the Franchising Authority, taking the PTA/PTE specification, will have responsibility for deciding how to franchise the services to private sector operators. This will allow flexibility for the grouping of services for franchises which might not match the existing PTA areas. The PTA/PTEs will continue to pay for the services they require, receiving Central Government support, as now, via their constituent Councils.

40. Outside the PTA areas, local authorities will continue to have powers to make additional contributions to cover the cost of enhancements to rail services or infrastructure in their areas.

## **Private Sector Interest**

41. The Government believes that the private sector will respond to the opportunities to enter the market for providing rail services, as they have taken on contracted out services elsewhere in the public sector. In addition to private sector firms combining their own management skills with the operational expertise of existing railway staff, there will be an opportunity for the staff in BR to bid for franchises. The Government wishes to encourage this, and assistance will be provided for legal and financial advice that will be required by staff putting together a bid.

## **Investment in Infrastructure**

42. The 1990s will see a number of major new railway projects. Planning is in hand on projects to build new lines such as the East-West Crossrail link between Liverpool Street and Paddington. The construction of the Channel Tunnel opens up new travel opportunities between Britain and the Continent.

43. The Government wants to ensure that Railtrack continues to invest to maintain and improve the network. Investment will largely be financed from charges to operators, including supported operators. However, the Government is also ready to provide direct support for investment in the railway, for schemes which, although not earning an adequate financial return, provide a satisfactory cost-benefit return when wider benefits are taken into account. Railtrack will normally have the lead responsibility for promoting major investment, including electrification. It will need to consult train service operators and will look for contributions from the private sector. Indeed, the private sector might wish to finance certain investments eg. new lines and station redevelopment without any recourse to public funds.

## **Stations**

44. The Government believes that the private sector would make better use of the commercial opportunities at stations. These include providing services to passengers and improving the usefulness of stations to the community, by redevelopment and other means. In some cases it may be appropriate for franchisees to take responsibility for stations for the period of their franchise. But the Government is prepared to consider other disposal arrangements including selling and leasing provided that the interests of operators and passengers using them are protected.

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## 3. FREIGHT

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45. Rail freight has for many years failed to match the growth in road haulage. Its share of the total freight market has declined, standing now at only about 8%. The industry faces the twin challenges of coping with significant restructuring in its traditional core businesses such as coal and steel, and exploiting the new opportunities offered by the Channel Tunnel and the development of intermodal technologies allowing the transfer of freight between road and rail. The Channel Tunnel will open up new international markets. There will be regular fast services between specialised terminals across the country and key destinations in mainland Europe. The Government has approved substantial support for investment by BR in Channel Tunnel freight - over £400 million - to establish a comprehensive range of international services.

46. Rail freight will be able to meet these challenges only if it is efficient and responsive to the demands of its customers. This is best achieved through introducing the management and financial freedom of private ownership. The Government's policy is therefore to establish a competitive and privately owned rail freight industry in the course of this Parliament. This offers the best prospect of attracting new freight to rail with the environmental benefits that this will bring. The Government proposes to liberalise all rail freight operations and privatise BR's present freight operations. Together these policies will bring the disciplines of the market to bear equally on all rail freight operators, and give management the added freedom for innovation and investment available in the private sector.

47. The Government will require BR to reorganise its freight operations for transfer to the private sector. Over a period BR will withdraw from all involvement in rail freight operations. The businesses, with their assets and continuing contractual arrangements with customers, will progressively be transferred to the private sector.

48. BR's current freight operations serve a range of markets and customers with very different needs. Trainload Freight carries the majority of high volume trainload flows in four commodity groups (Coal, Metals, Construction and Petroleum). Railfreight Distribution handles containers, automotive traffic, and BR's developing international freight services. Trainload commodity flows are usually geared to serving a single customer, whereas Railfreight Distribution's services often serve many.

49. Individual freight operations, even within the two existing businesses, may, in any case, have little in common. The Government therefore believes that little would be gained by maintaining a monolithic structure for privatisation. Dividing the current businesses and activities where appropriate would increase the opportunities for competition, lower entry barriers, and focus operations more closely on the needs of the customers and localities served.

50. The different parts of BR's freight operations are likely to attract different purchasers. Where a current service is entirely geared to meeting a particular customer's needs, that customer may wish to take a stake in that service. In some

cases the staff and management of the businesses may wish to organise their own financial backing to take them into the private sector; the Government will encourage this. There will also be opportunities for other parts of the private sector, such as distribution companies, to bring their expertise and new sources of finance to rail freight by acquiring parts of the present business. The Government will consider arrangements for ensuring access to BR's existing general freight terminals.

51. Most rail freight runs on lines allocated to the passenger businesses. But some 1,400 route miles are dedicated to freight. In some circumstances it may make sense to pass ownership of track and related infrastructure into the private sector along with the operational side of the business. It will, however, be important to ensure that this does not undermine open access or prevent effective competition.

52. Railtrack will recover the costs of the freight infrastructure that remains in public hands through user charges. It will continue to invest in track and infrastructure where it would not be appropriate for an individual operator to take on the responsibility, and will recover the costs in charges to users.

53. The privatisation of rail freight will require changes to the Freight Facilities Grant scheme established by the Railways Act 1974. The Government will review the scheme with a view further to encourage rail freight where this offers wider environmental benefits. It is in no doubt that the need for these grants will continue.

## Parcels

54. BR's parcels business carries 25,000 parcels and 30% of Royal Mail letters each day. The business comprises two main elements: Rail Express Systems, which mainly provides trains for the Royal Mail, and Red Star, which provides a rapid parcels distribution service using space on passenger trains.

55. It is the Government's intention to sell these businesses during this Parliament. As with freight, the Government also intends to liberalise access so that other parcels carriers will be able to contract directly with BR and with private sector passenger operators for the carriage of parcels on their trains, or to run dedicated parcels trains if they wish. This will clear the way for the private sector to offer new rail parcel services, and in particular to exploit the opportunities offered by the Channel Tunnel for new high speed international parcel services to mainland Europe.

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## 4. FREEDOM OF ACCESS

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56. The Government wishes to encourage the greatest possible development of commercial rail services. It will therefore establish a framework and procedures through which companies wishing to provide new railway services, who can meet the necessary operational and safety standards, will have a right of access to the railway network.

57. At present, there are legal restrictions on the ability of other operators to run services on BR's network. There is no choice of operator for the rail passenger or for the rail freight consignor. Liberalising access to the network will complement structural changes by providing the opportunity for new operators to run services. This will encourage initiative, give customers wider choice and rail operators the stimulus of competition to provide better service quality and value for money. It will also create opportunities for the development of specialist railfreight companies able to respond to the needs of industry.

58. A right of access for certain international services is already provided, with effect from 1 January 1993, by the European Community Directive 91/440. Groupings of railways from two or more member states will have the right to run both passenger and freight services between those countries and through any intervening countries, and individual railway operators will have the right to run international combined transport freight services anywhere within the Community. For domestic services, British Rail has already been asked to co-operate in voluntarily liberalising access. Interest has been shown by a number of companies. But in the longer term it will not be possible to rely on informal, ad hoc negotiations. A formal framework for regulating access to the network will therefore be introduced for all types of rail services. The right of access will be introduced as soon as practicable after the necessary legislation has been enacted.

59. Regulating access to the network raises complex issues. To ensure safe and efficient operation, rail services have to operate in accordance with a very detailed timetable. The timetabling process is of key importance in deciding which services should have priority in the allocation of paths. There are difficult issues too about how different types of passenger and freight services should be charged for the use of infrastructure and related overheads. For passenger services, provision will need to be made to reconcile the requirements for franchised services with the opportunities to be provided for liberalised commercial services. The Government has commissioned a major consultancy study to address these issues.

60. The access and charging regime should ideally meet a number of objectives. The regime should :

- (a) promote efficient operation;
- (b) promote competition and innovation;
- (c) encourage efficient use of infrastructure and other resources;



- (d) not discriminate unfairly between competing operators and services; and
- (e) provide the means for financing investment in Railtrack's infrastructure.

These objectives must be achieved without compromising safety, high environmental standards and continuity of services.

61. The details of the system for access and charging must await the findings of the consultancy study. But it is already clear that the system will require an independent Regulator to ensure that it operates fairly. This and the other functions of the Regulator are discussed in the next chapter.

### **Maintenance Depots and Stations**

62. Independent operators and franchisees will need to have assurances about access not only to the track but also to maintenance depots. Heavy overhaul and repair activities on BR's locomotives and rolling stock are presently carried out by British Rail Maintenance Limited (BRML) and by other BR depots. This is an activity where the Government believes that the involvement of the private sector would bring benefits.

63. As indicated in paragraph 44 safeguards will be provided to ensure access to stations for franchisees and independent operators of passenger services.

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## 5. REGULATION

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### The Regulator

64. The Government proposes to establish an independent Regulator with three main roles:

- (a) overseeing the application of arrangements for track access and charging over the whole network;
- (b) promoting competition and preventing abuse of monopoly power and anti-competitive practices; and
- (c) promoting the interests of consumers and ensuring that network benefits are maintained.

65. The Regulator will have to ensure that Railtrack's arrangements for access and charging are fair. The objective will be to set out clear and unambiguous rules in advance; but the system will need to be developed and refined in the light of experience. The Regulator will also have to ensure that the rules are followed. The Regulator will arbitrate between parties in the event of disagreements. In carrying out his functions in relation to access and charging the Regulator will be guided by general principles of the kind described in para 60.

66. Potential for abuse of monopoly power exists in the railway in two main areas: in the provision of some London commuter services and in track ownership throughout the network. As long as London commuter services are franchised, any abuse of monopoly power will be controlled through the contracts between the Franchising Authority and franchisees. However if in time the Government were to sell to the private sector any passenger services which enjoyed monopoly power the Regulator would be given the task of controlling fares and quality of service through licence conditions, using powers similar to those enjoyed by other regulators.

67. Freight and parcels operate in a competitive environment. The Government sees no need, therefore, to regulate the tariffs and quality of service provided by the private sector operators of these services, just as it sees no need to regulate those of road hauliers or coastal shipping.

68. For the medium term while Railtrack is in the public sector it will be subject to the usual controls exercised over nationalised industries. The Regulator will, however, be given powers to ensure that, as and when track and other infrastructure is sold to the private sector, the monopoly power of the infrastructure owner will be subject to regulatory control.

69. The Regulator will also have a role in ensuring that network benefits are maintained and that cooperation between operators to provide such benefits does not give rise to anti-competitive practices.

70. The functions of the Regulator will therefore be extensive. The Regulator will have a central role in establishing, encouraging and maintaining a competitive railway in which the interests of passengers and freight customers, as well as those of operators, existing and new, are protected.

### **Closure Procedures**

71. The Government has made clear that it will continue to make grant available to support socially necessary services. The fact that a service is operated by a franchisee will not affect the availability of grant. There is no reason to believe that the Government's proposals will lead to closures of services. But if in future, as a result of change in demand, the Franchising Authority decided that a service was no longer socially necessary and there was no case for continuing that service then the same statutory closure procedures would apply as now. In such cases the final decision about whether a service should be retained or withdrawn will continue to be taken by the Secretary of State.

72. Arrangements will be made to control the disposal of assets so that train operations will be fully safeguarded. These arrangements will apply to all disposals including stations (see para 44).

### **Operating Licences**

73. All infrastructure and train service operating companies will need to obtain a licence from the Regulator. These licences will impose certain conditions. Franchised passenger operating companies will for example be required to meet obligations under the Citizen's Charter. They will also be required to have regard to the needs of passengers with mobility handicaps.

### **Consumer Arrangements**

74. The Government intends to maintain an effective voice for consumers' interests and to ensure that none of the benefits of the existing system of Transport Users' Consultative Committees is lost.

### **The Environment**

75. In many contexts, rail transport offers important environmental advantages over road. BR has committed itself to building on these strengths and to reducing further its own environmental impacts. It has a good record both in terms of the environmental management of its existing activities and in considering the environmental impact of its new investment. The Government is concerned to ensure that private operators adopt standards which are at least as high. It therefore intends to place appropriate duties on the Regulator and licensees with the aim of securing the application of best environmental practice. The Regulator will discharge this duty through the requirements which the licensing system allows him to place on all operators.

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## 6. SAFETY

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76. Safety - of both the travelling public and the workforce - is of paramount importance. There will be no change in the commitment to ensure the continued safe operation of the railway. The Government intends to establish a framework of safety regulation which will guarantee that necessary safety performance is maintained and observed across the railway.

77. In formulating these proposals, the Government has taken expert advice from the Health & Safety Executive (which incorporates HM Railway Inspectorate) which has been endorsed by the Health & Safety Commission. The Government has asked the Health & Safety Commission to arrange for a thorough study of the safety implications of the proposals set out in this White Paper, and to make detailed recommendations. Their advice will be published.

78. It is expected that the new safety framework will:

- (a) place primary responsibility for the safe operation of the railway on Railtrack with individual operators of trains, terminals etc responsible for ensuring safe management of their own operations;
- (b) recognise the Health & Safety Executive as the independent safety regulatory authority;
- (c) require the safety validation of all operators;
- (d) provide means for assuring compliance with safety standards set or recognised by the Executive; and
- (e) require the certification of staff who are critical to safety such as drivers.

79. The primary duty for guaranteeing the safe operation of the railway will rest with Railtrack and individual operators of trains, terminals, depots etc. Integrity of operation will, as now, be ensured by requiring all operators to comply with the instructions of Railtrack as the controller of the track and signalling. Railtrack and operators will be responsible for undertaking the necessary investment which will sustain safe operation and also for developing the necessary procedures and safety culture to support it.

80. Systems will be introduced to ensure that all operators meet the safety requirements. Before commencing operation, new railway operators will be required to demonstrate that their safety management systems and day-to-day operating systems will ensure that their services run safely. Operators will also have to comply with specific safety standards set or recognised by the Executive, which will monitor and enforce those standards across the industry. The critical areas which such standards will need to cover are:

- (a) train and terminal operation;

- (b) the qualifications and competence of certain operational staff; and
- (c) the quality assurance of equipment.

81. Inspectors of HM Railway Inspectorate will continue to discharge their existing functions under the Health and Safety at Work etc Act 1974 and railway safety legislation. Their powers will be supplemented as necessary by extending existing powers under the 1974 Act. The Executive's essential role will be to set or recognise, monitor and enforce standards for safe operation. Inspectors will be able to use powers under the 1974 Act to prohibit any operation having an immediate adverse implication for safety, or to require an improvement. In cases where there was a serious risk of personal injury these powers would enable an Inspector to suspend or prohibit all or part of the operator's activities, as appropriate.

82. Staff who are critical to safety, including drivers and signalmen, will be certificated by a body approved by the Executive to standards approved by the Executive.

83. Powers will be taken to ensure that, in the longer term, appropriate safety arrangements can be put in place as BR's infrastructure and passenger services are sold to the private sector.

84. These proposals will place additional demands on the Health & Safety Executive. The Executive will have the resources needed to fulfil the additional responsibilities.

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## **7. EMPLOYEES & NETWORK BENEFITS**

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### **Employees**

85. The Government believes that BR's management and employees will benefit from working in an environment in which it will be possible to raise standards of service and establish greater management freedom within appropriate financial and quality disciplines. The Government will encourage employees to take a direct stake in the future of the franchised or privatised businesses in which they will work.

86. The trade unions in the industry will be consulted about matters affecting their members' employment. Employees' rights and terms and conditions of employment will be safeguarded on their transfer to new employment. Concessionary travel arrangements for employees, and their dependants, and for retired staff will also be safeguarded.

87. Privatisation will not affect pensions already being paid from or preserved in British Rail schemes. After privatisation employees will be entitled to preserve pension rights already accrued in these schemes. Alternatively, they will have the opportunity to transfer their accrued pension into a broadly comparable scheme in their new employment. These arrangements will provide a way of ensuring that the security of rights enjoyed by pensioners and members now is not undermined by privatisation.

### **Network Benefits**

88. The Government is concerned to ensure that, so far as possible, passengers and freight customers continue to enjoy the advantages they get from a national rail system including through ticketing, cross validity, discounted fares, and a national timetable. This will be taken into account in the arrangements made for timetabling and ticketing.

### **Timetabling**

89. Timetabling is of critical importance for the safe and efficient operation of the railway. Ultimate responsibility for the planning and operation of the timetable will remain with Railtrack. In carrying out this function, it will be required to observe the new rules of liberalised access and will be overseen by the Regulator to ensure that there is fair treatment for services run by other operators.

90. Railtrack will need to liaise closely with the Franchising Authority and with the operating companies through regular timetabling conferences, before producing a unified timetable for the entire network.

## **Ticketing**

91. Rail passengers now benefit in some important ways from being able to deal with a single railway operator. They can buy through tickets, travelling on trains operated by different business sectors. With the exception of certain services open only to full fare-paying passengers, they can generally turn up at the station and catch the next train. The system is flexible enough for them to change the route of their journeys.

92. The Government wishes to retain these advantages for passengers when different services are under different control. It will require that train service operators cooperate in providing a through-ticketing system. The system will be overseen by the Regulator to ensure that no anti-competitive practices are introduced.

93. It will be for train service operators to make arrangements to accept each others' tickets. Again, the Regulator must be able to intervene to prevent anti-competitive practices, eg those making it difficult for new firms to enter the industry. The Regulator will have powers, through the licensing system, to ensure that, where necessary, network benefits are maintained.

94. The Government believes that, as now, passenger service operators will find it in their commercial interest to offer a range of discounted fares and travelcards.

## **Technical Standards and Research**

95. Common technical standards are important, not just for safety, but also for operational efficiency across the network. They will also facilitate competition by minimising unnecessary barriers to entry.

96. British Rail will initially remain responsible for developing industry-wide standards, but it will be required to consult other operators. In the longer term, technical standards will be coordinated through an industry-wide body. There will be safeguards to ensure that artificial barriers to entry are not created. The arrangements for ensuring compliance with those standards which have implications for safety will be overseen by the HSE.

97. Similarly, BR will remain responsible for track and infrastructure related research for the railway industry in cooperation with train service operators as appropriate. The Government is considering how best to involve the private sector in railway research.

## **British Transport Police**

98. At present the British Transport Police have responsibility for security and the enforcement of law and order on the railways. The Government has no plans to end this arrangement, but will be consulting interested parties on appropriate future arrangements for ensuring security and law and order.

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## **8. THE WAY FORWARD**

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99. The Government's objective is to extend the involvement of the private sector in the operation of the railways, ensure continuity of services, assure safety, and provide value for money. This is the best way to improve the service to customers. The Government intends to introduce the necessary legislation later in this Parliamentary session.

100. Before the end of this Parliament the Government intends:

- (a) to sell BR's Freight and Parcels businesses to the private sector;
- (b) to establish a Franchising Authority and to franchise a substantial number of passenger services;
- (c) to restructure BR to own and operate track and infrastructure separately from the operation of services;
- (d) to establish rights of access for new operators to the rail network;
- (e) to establish an independent Regulator to protect the interests of consumers and to supervise access to all track and charges for its use; and
- (f) to provide opportunities for the sale or leasing of stations.