

FirstGroup plc submission to Department for Transport's consultation seeking views on new policies to be included in the forthcoming Railways Bill

1. FirstGroup plc welcomes the opportunity to present comments on the Government's proposals to reform Great Britain's railways, ahead of the forthcoming Railways Bill, which will enable the establishment of Great British Railways (GBR). This submission outlines our response on aspects of the consultation that have most relevance to FirstGroup and offers practical and deliverable policy recommendations which will benefit the customers and the communities we serve, and allow us to further develop our contribution to the productivity and growth of the national and regional economy.
2. FirstGroup, alongside industry partners, has long called for reform of the railway sector and is keen to see new arrangements introduced which consider the customer and commercial elements of rail as well as operations and infrastructure, with the aim to grow and develop the revenue and value of rail in a customer focused, dynamic and efficient industry.
3. Therefore, we are supportive of the creation of GBR as a whole, provided that the new arrangements also take into account the part that the private sector already plays in providing services and economic support to the industry and continue to encourage private sector investment.
4. A key part of the future industry structure is the need to encompass a much stronger role than currently outlined for the Office of Rail and Road, as a strong and independent regulator: to hold GBR and the industry to account, to control access charging mechanisms and therefore to protect both customer interests and private sector investment.
5. However, there are some areas which bear more analysis as they might have further adverse effects on our businesses, particularly our successful open access rail operators, which are set out briefly below in this summary and at more length in our online submission to the Department for Transport.

Introduction to FirstGroup

6. FirstGroup is one of the UK's leading transport operators carrying almost two million passengers per day. Each of our divisions is a leader in its field: First Bus is one of the largest bus operators in the UK, serving more than 25% of the population in the UK with a fleet of around 5,700 buses. Our First Rail division is one of the largest rail operators, with years of experience operating all types of passenger rail: long-distance, commuter, regional and sleeper services.
 - a. We currently run three Government-contracted operations, namely, Great Western Railway, South Western Railway and West Coast Partnership – which comprises Avanti West Coast and HS2 Shadow Operator West Coast Partnership Development. We will continue to deliver on our existing commitments and will work with Government and other partners on the handover of SWR to the DfT in May this year, and our GWR and West Coast Partnership contracts at a later date. During this period of transition, we remain eager to help grow passenger numbers as much as possible at our NRC train companies and want to continue working with the DfT and HMT to improve the financial position of the railway.
 - b. We also run two successful open access operators, Hull Trains and Lumo, (more details below) and operate London Trams and the London Cable Car on behalf of Transport for London and Heathrow Express on behalf of Heathrow Airport.
 - c. First Rail also has several additional services businesses including First Rail Consultancy, software company Mistral Data and contact centre First Customer Contact.

7. As one of the most experienced operators in the UK, we are uniquely positioned to work with GBR to add value and improve services. Across all our operations, we are working together with industry partners and local stakeholders to provide better rail services, keep people moving and communities prospering across the country.
8. Enhancing public transport connections is integral to productivity and economic growth agendas. As set out in our social value report, FirstGroup generated £1.44bn of Gross Value Added contribution to the UK economy in the 2022 financial year, spending £2.44bn on goods and services provided by UK firms, including £210m spent with UK-based SMEs supporting 1,640 jobs in these organisations. Our businesses are at the heart of our communities, demonstrated by the fact that our 30,000-strong workforce is sourced from 97% of local authority areas in the UK with one third of our employees from the 25% of local authority districts that have the highest rates of unemployment.
9. Rail transport must play a key role in supporting decarbonisation and environmental objectives and our plans call for investment that realises this vision. We support industry ambitions to remove all diesel-only trains from service by 2040 and as well as the introduction of new fleets into all of our rail companies, GWR are trialling a fast-charge battery only train in West London. Having launched the Lumo rail service and invested in its all-electric fleet (which has incentivised travellers to switch from flying to rail travel between London and Edinburgh) our commitment to decarbonisation has led to us being named as the top performing bus and rail operator in the FTSE4Good Index of companies and to us receiving the London Stock Exchange's Green Economy Mark.

FirstGroup's open access services

10. Open access has been a hugely successful aspect of the rail industry over the last 25 years, connecting previously under-served places and providing additional capacity which helps drive more people towards rail and away from less sustainable forms of transport. Services are provided entirely at the operator's own commercial risk and bring private investment into the sector. They create jobs and over a billion pounds in economic benefit to the UK, while driving modal shift to rail over more carbon intense transport modes such as car or plane. Open access has demonstrated that it can drive economic growth; any future rail policy must fully embrace open access.
11. The ORR's careful exercise of its regulatory powers to approve open access operations has helped to provide businesses with the confidence to make significant investment in the industry and wider communities. Our recent £500m order for a fleet of Hitachi trains that will be produced in Newton Aycliffe, celebrated by the Prime Minister and Secretary of State for Transport in December 2024, serves as just one recent example.
12. Should FirstGroup's open access applications to the ORR submitted throughout 2024 be successful – including a new Lumo service between London and Rochdale via Newton-le-Willows, Eccles and Manchester Victoria; the extension of the Lumo service between Glasgow and Edinburgh, a new Lumo service between London and Torbay, and a new Hull Trains service between London and Sheffield via Retford and Worksop – then the agreement FirstGroup has with Hitachi provides options to invest a further £460m on 13 five-car trains, taking our investment to almost £1bn. These proposals if granted will also see the creation of approximately 230 permanent roles with numerous indirect roles in the supply chain to serve our operations.

13. Our applications will help deliver local economic benefits in the areas we plan to serve. We have submitted what we believe are strong applications which have been well stress-tested in respect of network capacity, performance and economics, and our successful track record in open access has demonstrated our success in this area. Our applications have a very strong alignment to the Government's aspirations for private sector investment, delivering improved connectivity and driving economic growth. They build upon robust evidence, along with strong stakeholder support. The Government is encouraging the private sector to deliver for the UK economy and the communities we serve, and should the applications be approved, residents and businesses along the line of route will be better connected to national economic hubs, and with enhanced local connections, stimulating social mobility and regional economic growth.
14. Open access rail services contribute towards the government's aim of improving UK productivity through the provision of affordable connectivity and mobility. A March 2025 rail industry study by ORR demonstrated industry-leading performance by Hull and Lumo (measured through passenger kilometres travelled per thousand pounds of passenger expenditure). The study can be found here: [Report on rail industry productivity](#) (see Table 5).
15. Further UK productivity benefits from open access include those from service expansion, increased competition and enhanced connectivity. Open access rail services connect key locations that do not otherwise have regular direct service to key city centres. This improves access for workers, facilitating easier commuting and potentially reducing travel times, which enhances productivity by reducing travel time. The time saved by increased rail usage is a significant driver of productivity. The economic value of time saved through journeys on Lumo and Hull over the life of their track access contracts to be between £184m and £249m (based on independent research by Arup). Open access also encourages competition among rail operators, leading to lower fares and improved service quality, making rail travel more appealing for a larger number of people and businesses, which further stimulates economic activity.
16. We are now in the 25th year of Open Access services in the UK with no real-life examples of track capacity, performance or abstraction risks manifesting themselves. There is strong evidence to the contrary that shows that Lumo and Hull Trains have been successful for passengers and co-exist with other operators on their routes without issue. This all stands to support the success of the independent decision making of the regulator in relation to such applications, ensuring the efficient use of track capacity, greater benefits for passengers, and value for the taxpayer.
17. Hull Trains has provided an open access service between Hull and London for 25 years. It runs seven return services each day between Hull and London and saw the introduction of a new fleet of bi-mode trains in 2019, that have reduced CO₂ emissions by 65% compared to its previous fleet. Since Covid it has experienced a 32% increase in customers and recent research shows using the service from Hull to London King's Cross produces 12 times less CO₂ than driving. Hull Trains have increased seat capacity by 500% thanks to our investment in new and longer trains. Without Hull Trains, Hull and towns across East Yorkshire would only have one train a day to and from London.
18. Lumo, having entered the network in 2021, has carried four million customers since its launch. Its entirely electric fleet means that journeys on Lumo emit 95% less CO₂ than flying, 21 times less than a petrol car and six times less than electric vehicles, making Lumo a core enabler of modal shift – a crucial component of net zero. On this line of route, rail traditionally achieved a third of the rail air market between Edinburgh and London, with the introduction of Lumo rail now sees half of the rail air market.

19. Both Lumo and Hull Trains offer affordable fares, up to 30% cheaper than other operators occupying the same route. This has helped attract a broader demographic of customers, who may have otherwise been priced out the market. Lumo and Hull Trains have also prioritised attaining low cancellation rates of c.1% according to ORR's own data and are also at the top of the rail reliability rankings, with an industry leading 96% customer satisfaction rating.
20. Open access services can co-exist smoothly with nationally contracted operators and in fact complement these services. Open access helps to grow the railway overall and pays its way through variable track access charges which contribute to the fixed costs of running the network – by the end of 2025/26 Lumo will pay 10% more per train mile than LNER and 35% more than Avanti West Coast, according to ORR data.
21. Open access also leads to greater productivity through more efficient use of railway infrastructure. The capacity used by open access services also results in better yields from government infrastructure, using unused paths and generating productivity and revenue for UK plc.
22. Lumo and Hull Trains are on track to contribute a collective £1.4bn in economic benefits by the end of their track access agreements in 2032 and 2033 (based on independent research by Arup). New open access applications by Lumo and Hull Trains are expected to have a similar economic impact. The West Coast Main Line application between London Euston and Rochdale is expected to deliver up to £480m in economic benefits and new jobs, generating choice to the region's growing business community. Similarly, the London – Sheffield application by Hull Trains will give the first regular service on the route since 1968 and provide vital connectivity to the proposed future fusion energy production in West Burton, which will generate 7,000 new jobs. It will further provide Worksop with the first direct connection to London, enabling residents and the development of more than 3,000 new houses with better transport.
23. Open access operators also introduce new routes, calling patterns and services, increasing the overall frequency of trains. This availability makes rail travel a more attractive option for commuters and businesses, encouraging more use of public transport and in turn driving productivity benefits. A 2025 independent report by Arup showed agglomeration benefits at Hull and Lumo of £16-£71m over the life of their access contracts.
24. Open access businesses have demonstrated the innovation which private operators can bring to the network – they have demonstrably proven additive to rail market (often through modal shift away from less sustainable modes), rather than abstractive of contracted operations. The East Coast Mainline has recovered post-pandemic quicker than any other line of route and is the only route in the UK where passenger numbers have grown; with open access operators playing a key role in this.

Summary of FirstGroup's submission to the consultation

25. Our response to the consultation focuses on the following areas, of which this is a summary grouped under key themes. More detailed responses can be found in the Appendix.

Leadership and Governance (Questions 1 to 3)

26. As a potential monopoly provider, Great British Railways (GBR) should be subject to appropriate protections and controls through independent regulation, including fair treatment of freight and open access operators. This will ensure we can deliver customer benefits, drive modal shift, and derive best value for the taxpayer from rail infrastructure. We advocate for independent regulation of the statutory objectives to ensure fair treatment of non-GBR operators, retail impartiality, data protection, and promotion of competition and regional economic growth.

27. We caution against over-simplification of the regulatory model that could delay improvements. We would like to stress the importance of strong, independent regulation for GBR, with fair, transparent and open decision-making processes.
28. We disagree that the Secretary of State should issue GBR's license, as it would be weaker than existing regulation. A strong license is required that protects customer and community interests and supports open access services. We firmly believe in the need for ORR to retain its regulatory powers.
29. We support a long-term strategy for GBR to align with government priorities, ensuring stable investment horizon and coordination with other government policies. However, the long term strategy must contain operational and timetable agility to allow GBR to meet customer needs, and for open access operators to meet the customer needs that GBR cannot.

Passenger (Questions 4 to 6)

30. FirstGroup supports a stronger passenger watchdog with regulatory powers to ensure passenger interests are prioritised. We are concerned that at a macro level that the passenger is under-represented in the proposed industry structure. We advocate for a statutory requirement for GBR to drive passenger growth and for the watchdog to have the power to intervene when standards are not met. We believe that the Passenger Standards Authority should be a statutory advisor with regulatory functions.
31. In addition, we support the continuation of a common Rail Ombudsman service across all operators, and we would expect GBR to be subject to the Rail Ombudsman service on the same terms as other operators, as we consider the independence of the ombudsman to be highly valuable to passengers.

Access and Charging (Questions 7 to 11)

32. FirstGroup argues that the proposed access framework lacks sufficient protections and controls, particularly in respect of successful open access services. The framework needs to have more protections and controls to ensure best use of network capacity, and particularly to support the needs of the customer and opportunity for modal shift.
33. We believe the ORR should retain its role in setting access policy and regulating charging regimes to ensure fair and non-discriminatory access for non-GBR operators. Failing this, ORR must be a strong regulator with effective rights of appeal and effective remedies, operating in a disciplined environment structured to deliver transparency and fair, timely and objective decision taking, with fair opportunities to appeal.
34. The primary legislation will need to address the significant issues set out in the consultation including fair, transparent and clear access rights, timetabling and charging decisions; transparency and accountability for decisions; fair charging; ability to appeal to ORR on access, timetabling and charges; publication of information in a fair and non-discriminatory way; and establishment of the passenger watchdog.
35. In our view the primary legislation should also cover retention of the duty to promote competition and effective remedial powers for both DfT and ORR over GBR; retention of the duty to promote enable operators to plan the future of their businesses with a reasonable degree of assurance; a new duty to promote modal shift; impartial retailing; protection of third party sensitive confidential data; and confirmation that GBR has no further exemptions from wider legal duties.;

Financial Framework (Question 12)

36. FirstGroup supports a five-year funding settlement for GBR but calls for a longer-term strategy to support investment. We would like to stress the importance of transparency in access charges and the need for continuity in the calculation of charges.

Fares and Ticketing (Questions 13 and 14)

37. FirstGroup agrees in the main on regulation of rail fares, but we would like to call for specific protections for non-GBR operators.
38. We support the simplification of fares structures while ensuring interoperability and through ticketing.

Devolution (Questions 15 to 18)

39. In general, FirstGroup supports devolution, bringing transport provision closer to the needs of local communities and ensuring accountability for key local transport decisions.
40. We support the retention of existing statutory provisions that enables devolution through secondary legislation. It is vital that devolved authorities continue to be able to procure services from the private sector, as Transport for London and Merseyrail do now.
41. However, devolved authorities must not be able to limit competition for mainline services and there must be open, transparent processes balancing the needs of local communities with the national rail network.

Train Driver Licensing and Certification (Question 19)

42. FirstGroup supports the proposal for the Secretary of State to have the power to amend train driver licensing regulations, and firmly support the requirement for consultation to ensure industry-wide input.

Transitional Costs and Benefits (Question 20)

43. FirstGroup highlights the financial and economic risks of the proposed industry structure, emphasising the need for certainty to support investment and innovation. We are keen to see collaboration and co-operation to implement improvements now, rather than waiting for GBR to be set up, which will inevitably take a number of years.

This paper is intended as an introduction to the FirstGroup submission to Department for Transport's consultation seeking views on new policies to be included in the forthcoming Railways Bill. The FirstGroup responses to each individual consultation question are in the appendix. We would be happy to provide any appropriate further information or evidence relating to this paper upon request.

The Arup reports referenced above are available at <https://www.hulltrains.co.uk/-/media/pdf-files/arup-economic-benefits-report-hull-trains.pdf> and <https://www.lumo.co.uk/-/media/Timetetable-PDFs/Open-Access-Reports/25-01-30-Open-Access-Operations.pdf>.

Appendix - FirstGroup responses to individual consultation questions

Leadership and governance

1. Do you agree that GBR should be empowered to deliver through:

a) reformed incentives;

- 1.1. GBR empowerment must be proportionate and within agreed limits, as GBR will be a monopoly transport provider in many areas of the UK and the dominant provider in other areas. Appropriate measures and protections should be enforced to ensure there is no unintended area where single party control can result in limits to customer benefit, restrict options to drive modal shift or the ability to deliver taxpayer value through fair competition. These protections and controls must be enforced through some form of independent regulation of the statutory objectives, including fair treatment for freight and open access operators.
- 1.2. FirstGroup welcome the fact that the consultation confirms an ongoing role for the private sector; and the commitment to fair access and charges for non-GBR operators.
- 1.3. Consistent with the proposals, legislation must include a statutory objective for fair treatment of non-GBR operators. FirstGroup recommend that there are also statutory objectives for promotion of passenger transport by rail; retail impartiality; protection of third party sensitive confidential data by GBR; promotion of modal shift as part of the UK's commitment to decarbonisation net zero); promotion of competition; and regional economic growth.
- 1.4. FirstGroup is not fully clear from the consultation what the reformed incentives will be for GBR. We believe they should support transparent, fair and objective decision-making compliant with the laws and principles in primary legislation and, importantly, putting passengers first.
- 1.5. In our view, the reformed incentives set for GBR should include those for its people and culture, as these will be key to meeting aspirations for improved performance, efficiency and customer service. The incentives should also prioritise customer-focus, communities and modal shift through creating an open marketplace to enhance the benefits for all users and those that interact with the industry on a regular basis. There will need to be agility to balance national objectives and to develop and market bespoke local services and products attuned to the needs of local customers.
- 1.6. The objective to promote transport of passengers by rail, should include incentives to support Open Access operators in order to continue to drive modal shift, productivity, economic growth and unlock housing developments in underdeveloped regions of the UK. Open access operators bring all these benefits and more, as set out above in paragraphs 10-24.
- 1.7. It is particularly important, given the context of GBR being made up of people and departments that exist today in NR, to ensure GBR considers the customer and commercial elements of rail as well as operations and infrastructure. Decisions should be made from a whole industry perspective, with the aim to grow and develop the revenue and value of rail in a customer focused, dynamic and efficient organisation.

b) and a simplified and streamlined regulatory framework?

- 1.8 Simplification, in the form outlined in the consultation document, is not supported as there is a danger in over-simplifying. Elements of the framework should not be removed to the extent that this delays or stagnates improvement for customer, communities, modal shift and regional growth. To be effective for the customer, taxpayer, climate and economy, monopoly organisations need strong, independent regulation and GBR should not be exempt.
- 1.9 In FirstGroup's view ORR should retain its role in prior approval of passenger and freight access, and in setting access policy and in regulating charging regimes to non-GBR operators. GBR, as laid out in this consultation, will be a monopoly supplier to those wishing to access the network and as such will be seen as a potential barrier to entry for private sector investment. It is our view that an independent regulator must be in place for these areas where it could be seen as a conflict of interest if all decisions emanate from this one body.
- 1.10 Those deciding on capacity need to be able to take a truly independent view, recognising that collective multi-party effort and constructive challenge can lead to better outcomes for rail with associated wider benefits. Regulatory decisions must be taken in a transparent and open way, in the same way they have been successfully managed in the last twenty-five years. The same is true of the criteria which will be used to make the decisions, which must be consulted upon and then published.
- 1.11 The rail industry must be effectively monitored and regulated with an incentive for good decisions to be made as early in the process as possible. The role of the Passenger Watchdog will be crucial, but it is unfair and inefficient to rely on customer champions and advocates monitoring upstream railway decisions; and definitely not right to rely on customer complaints.
- 1.12 FirstGroup welcome the fact that the "government recognises that having requirements in legislation is critical to providing investment, for example in freight, with certainty and will ensure that important requirements and obligations on access will be set out in legislation in simplified and amended form" but stress that needs to apply to open access as much as to freight. The regulatory framework is part of that certainty required for investment, so key requisites, such as fair treatment of non-GBR operators, and long-term planning and transparency must be set out in the legislation.
- 1.13 There are many aspects of the framework which are not yet decided and will require specialists from the industry to develop detailed proposals. FirstGroup would welcome early engagement and be willing to contribute appropriate expertise to shape key elements of the industry structure moving forward through the legislation, including on the GBR Licence, Access & Use Policy, potential amendments to Railways and Other Guided Transport Systems (Safety) Regulations 2006 (ROGS) etc.
- 2. Do you agree that the Secretary of State should be responsible for issuing and modifying a simplified GBR licence enforced by the ORR, and that the ORR's duties with respect to GBR should be streamlined to reflect the new sector model?**
- 2.1 FirstGroup disagree that GBR should be held to account through a licence issued by the Secretary of State. This would be weaker than existing regulation and is counter-intuitive given fact that GBR creates a monopoly for rail. The licence should be issued by ORR as an independent regulator with all of its existing duties.

- 2.2 The GBR Licence must be strong and protect customer and community interests, for example require GBR to deliver improved accessibility and to support modal shift, economic growth and regional development, including through approval of open access applications.
- 2.3 GBR's Licence should require GBR to respect existing track access rights and promote open access services, in the same way freight targets are proposed, recognising the value that open access brings particularly to UK productivity, regional economic growth and social mobility.
- 2.4 FirstGroup firmly agree that it is important that DfT consult on the new GBR licence. There should also be consultation on any amendments to the GBR licence. The licence should be wide, to allow for delivery of services (and enforcement if required) and protection of customer and taxpayer interests.
- 2.5 FirstGroup agree with the consultation's proposal that the GBR Licence should be enforced by ORR. Enforcement powers that the ORR require must include an ability to direct changes to contracts, and to enforce actions including penalties for failure (i.e. failure to deliver infrastructure/operational performance or taxpayer value for money). The latter is necessary to prevent monopoly behaviour leading to standards slipping, inefficiency creeping in, and to prevent underperformance. It will also build trust in the new system and help government remain at arm's length from the operational railway.
- 2.6 In addition, ORR must continue to have existing enforcement duties for the rest of the industry. Its responsibilities should not be streamlined if that removes opportunity to deliver government objectives and taxpayer benefit, such as promoting competition and broader economic growth.
- 2.7 To prevent monopoly behaviour by GBR, ORR must continue to approve access, set access policy and charging regimes, and retain its powers to intervene directly by direction/substitution.
3. **Do you agree that the Secretary of State should be responsible for setting a long-term strategy for GBR to align with government priorities?**
 - 3.1 Yes, a long-term strategy is needed. Long term certainty is required by the private sector to reassure and sustain investor confidence in the railway, enabling investment, securing rolling stock procurement and stabilising supply chains. This is also vital in an industry with long time horizons for project delivery. The long-term strategy must contain operational and timetabling agility to allow GBR to meet customer needs, and for open access operators to flexibly meet customer needs that GBR cannot.
 - 3.2 FirstGroup welcome the proposal that the Secretary of State for Transport (SoS) must respect existing rights as part of the long-term strategy and ask for the consideration of grandfather rights for existing operations.
 - 3.3 The 'strategic' long term timetable planning process must also be open and transparent within the rail industry, including with open access operators, and with relevant devolved authorities. This must be matched by a fair, robust and enforceable long term charging regime, to enable the investments needed for new open access operations.
 - 3.4 A long-term rail strategy allows rail to be an effective partner in other areas of government policy, for example planning and housing development.

Passenger

4. What are your views on the proposed functions of the Passenger Watchdog?

4.1 First Group support a strengthened role for a passenger watchdog in the form of the Passenger Standards Authority (PSA). However, we are concerned at a macro level that the passenger is under-represented in the proposed industry structure given:

- The significant reduction in competition through consolidation of operators into a single organisation.
- The cost pressures likely to face the industry and be evidenced through the financial governance processes set out section 4 of the consultation document.
- Explicit duties to grow freight without a counter-balancing duty to grow passenger volumes or usage.

4.2 As set out in our answer to question 1, FirstGroup believe there should be a statutory requirement for GBR to drive passenger growth to counterbalance its duty to grow freight, the significant pressures it will face on cost as well as legal and safety obligations on asset stewardship. If this statutory duty is not put in place, we support the need for a stronger passenger champion to ensure that the rail industry remains customer centric and becomes even more so. Given the integration of a range of organisations into GBR and the removal of competition between operators, we believe the passenger watchdog needs firmer regulatory powers to ensure the voice of the passenger is prioritised in GBR's decision-making processes.

4.3 We do recognise the benefits of a 'one stop shop' approach for passengers and consumers covering both GBR and non-GBR operators, leading to a commonality of approach in assessing and addressing passenger concerns. FirstGroup has had a positive and constructive working relationship in this respect with Transport Focus since its establishment and would therefore support an extension of Transport Focus' role.

4.4 Whilst we recognise the benefits of a consistent passenger experience, it should also be noted that open access operators are already heavily incentivised to understand their market and serve their passengers. This is evidenced through the leading position open access operators continue to occupy in national surveys of passenger satisfaction with recent scores of 96%. The role of the PSA in overseeing open access operators therefore needs to recognise the unique circumstances and incentives applicable to open access businesses. It is also important to recognise that different operators will choose locally appropriate means of delivering a core specification. We therefore believe the regulatory role for the PSA should be focused on monitoring delivery for passengers rather than dictating how operators deliver against the specification.

4.5 The specific functions set out in section 2.9 of the consultation document should therefore reflect a wider role for the PSA, particularly in:

- Gathering insight on customer perception and priorities as primary market research
- Working with GBR (and where appropriate other operators) to set passenger-focussed standards
- Monitoring delivery against these standards
- Having the power to intervene should GBR (and where appropriate other operators) not meet these standards

5. Which of the approaches would best enable the establishment of the new passenger watchdog?

5.1 Given the under-representation of the voice of the passenger in the proposed industry structure (see our response to question 4 above) FirstGroup believes that the PSA should be a Statutory Advisor with regulatory functions.

- 5.2 A statutory advisory body alone would have no powers of audit, regulation, intervention or remediation, and would therefore find it challenging to drive up passenger standards without the necessary reasonable enforcement powers, considering the cost versus benefit conditions that would need to be applied. Regulatory powers would ensure the PSA has more influence to drive an enhanced passenger experience, including the potential to set guidance, monitor compliance and take remedial action where required.
- 5.3 Were a regulator role to be introduced, the PSA would need to effectively and transparently manage any conflict of interest between its watchdog and advocacy functions. This would require an ability for interested parties to challenge decisions and safeguarding, and potentially ring-fencing or separating areas of decision taking which could be impacted by functions. As details emerge, these considerations will inform how functions are allocated between the watchdog and ORR.
- 6. Which of the options to establish the Alternative Dispute Resolution function as part of the passenger watchdog would deliver the best outcome for passengers in your view?**
- 6.1 FirstGroup supports the continuation of a common Rail Ombudsman (RO) service across all operators, and we would expect GBR to be subject to the RO service on the same terms as other operators.
- 6.2 We consider the independence of the RO to be highly valuable to passengers. We also recognise the potential for conflicts of interest where the watchdog has multiple functions including acting as ombudsman on complaints. This suggests that the proposed simple transfer of sponsorship of the RO outlined in 2.21 in the consultation document is the simplest route. This would be subject to the relevant enabling legislation to make clear the ongoing responsibility of the watchdog for ensuring that the RO remains operationally independent, and that any replacement is suitably accredited, independent and neutral.

Access and Charging

- 7. Does the proposed new access framework enable GBR to be an effective directing mind that can ensure best use of network capacity?**
- 7.1. No. The framework needs to have more protections and controls to ensure best use of network capacity, and particularly to support the needs of the customer, opportunity for modal shift and competition.
- 7.2. FirstGroup does not object to some simplification of the regulatory regime. Particularly, we understand that the Access & Management Regulations (AMRs) are not designed to support an organisation allowing itself access, without a contract.
- 7.3. It is unclear from the consultation document whether the AMRs will apply to GBR train services when they are seeking access to non-GBR infrastructure managers; or to GBR when it is engaging with non-GBR operators.
- 7.4. In our view, protections and controls which are at least equivalent to the AMRs must continue to apply to GBR in its engagement with non-GBR operators, set out in the Access & Use Policy (AUP) and the related regulations. In addition, these protections must be strengthened to effectively manage the risk of conflicts of interest with GBR's overlapping functions and routes.

- 7.5. The best use of network capacity will not arise with the proposed access framework, because:
- It is unrealistic to expect GBR, as a monopoly supplier, to be put in a position where it must approve access agreements with its competitors.
 - UK productivity, economic, social and direct investment benefits of open access operations tend to go directly to the Treasury rather than through DfT/GBR budgets and as an organisation which always will be under strict budgetary pressures, GBR cannot be expected to take an impartial view.
 - Placing GBR in this invidious position is unrealistic and sets up an unstable structure that builds in conflicting aims and could restrain private investment in the rail industry, which would slow down growth for the national economy.
- 7.6 The proposals present a lack of shape or discipline for the directing mind of GBR in relation to its own operations. This may make it harder to achieve transparency and accountability and ensure that fair and objective decisions are made. GBR will also be expected to monitor and ensure optimal outputs, coordinate across routes and with other networks and avoid unintended consequences.
- 7.7 Therefore, the AUP should uphold professional discipline and standards of public record keeping in relation to management and allocation of access and timetabling – including where this is internal to GBR (outside of a contractual relationship).
- 7.8 Network capacity is still only at 95% of pre-pandemic use. As said above in response to question 1, those deciding on capacity need to be able to take a truly independent view, recognising that collective multi-party effort and constructive challenge can lead to better outcomes for rail users with more and different services and associated wider benefits.
- 7.9 Capacity use by open access services results in better yields from government infrastructure, using unused paths and generating productivity and revenue for UK plc.
- 7.10 In FirstGroup’s view ORR must continue to have a statutory role setting access policy, to continue to be the authorising and policing body for private sector operator access contracts, including direction/substitution powers. Failing this, ORR must be a strong regulator with effective rights of appeal and effective remedies, operating in a disciplined environment structured to deliver transparency and fair and objective decision taking, with fair opportunities to appeal.
- 7.11 In addition, GBR must be organised to have a ring-fenced function to engage on track access and charging particularly linked to its obligation to safeguard commercial confidentiality and sensitive data. The same is true of the function which transfers from RDG which manages cross-industry decisions on fares and ticketing issues.
- 8. What - if any- key access rules and requirements for GBR should be updated and included in legislation?**
- 8.1 The primary legislation will need to address issues set out in the consultation including fair access, transparency and accountability for access decisions, fair charging, requirement for ORR to approve charges, ability to appeal to ORR on charges, publication of information in a fair and non-discriminatory way, and establishment of the passenger watchdog.

8.2 In FirstGroup's view the primary legislation should also cover:

- Retention of the duty to promote competition, as this encourages private sector investment which delivers customer benefit without additional taxpayer funding
- Retention of the duty to enable operators to plan the future of their businesses with a reasonable degree of assurance.
- A new duty to promote modal shift, consistent with the Government objectives to reduce carbon usage
- Impartial retailing
- Protection of third party sensitive confidential data by GBR
- Confirmation that GBR has no further exemptions from wider legal duties; and
- Effective remedial powers for both DfT and ORR over GBR.

8.3 For FirstGroup the key access rules and requirements which must be enshrined in the primary legislation are:

- **Section 4 duties:** A particular focus will need to be on the obligations setting out equivalents to the Railways Act 1993 s4 duties on the SoS, GBR and ORR in particular – this is where FirstGroup needs protection of fair access and charges for open access operators (as proposed in the consultation document paragraph 3.33);
- **The access framework's essential principles:** including fairness of access and charges and the ORR's status as a regulator and appeals body;
- **Access rules and requirements that work for the benefit of customers:** Access rules and requirements must not result in second class networks or second-class operators. Off the GBR network, GBR should be subject to the same access rights and obligations as non-GBR operators, and these should not be less than now. On the GBR network, non-GBR operators should have fair processes to secure access rights to GBR. The rights and obligations of non-GBR operators must not be less than now and they should also have added protections to address the conflict risks which come in unifying infrastructure and operations within GBR;
- **Fair, transparent and clear access rights and timetabling decisions:** Despite the loss of a contractual structure within GBR, statutory rights and obligations of fair and objective decision making, clarity of information provision and public record keeping should continue to apply to both GBR's internal and external access, timetabling, and charging activities. The significance of these matters means that they must be addressed at the level of primary or secondary legislation, so that non-GBR operators have the benefit of statutory rights for example in relation to access contracts; and
- **Fair charging:** charges should consider the real additional and incremental costs of running open access services as well as the wider benefits that they bring.

8.4 Following on from the primary and any relevant secondary legislation, GBR AUP, codes, and access contracts should then address the detail of the implementation of the rights and obligations set out in the primary legislation. In certain cases, such as for obligations of fair and objective decision making, clarity of information provision and public record keeping timetabling decisions could potentially be achieved through secondary legislation establishing a GBR AMRs or adding a GBR part to the AMR.

Contract templates & GBR Code

- 8.5 GBR regulations to address replacement of the AMR in relation to the GBR network should align with the AMRs to ensure consistent operations across England, Wales, and Scotland under ORR oversight. Attention should be given to interactions between GBR and non-GBR operators to maintain fairness and transparency. Professional discipline, record keeping, and clear processes both GBR and for non-GBR operators should continue, ensuring transparency, accountability, fair and objective decision taking and supporting effective oversight and appeals processes.
- 8.6 The contract templates, as they fit under the GBR code, are critically important documents to any external operator. FirstGroup commit to dedicate resource to be involved constructively (as we have done in the past) in working groups on the contract templates, code and associated documents.
- 8.7 FirstGroup agree that GBR should be responsible for producing such documents on their own (with suitable consultation and working groups, including with its customers), but we do not agree that a monopoly supplier should be able to *enact* them without external validation. The ORR should give approval to the GBR Code and associated contracts, as well as to any subsequent changes. This again will reduce risk premia, help ensure fairness and eliminate any need to invoke long and complex appeals.
- 8.8 The specificity of the contracts is vitally important to open access, in order to support the long-term investment in rolling stock and new services which will promote growth. Whilst we recognise that GBR requires flexibility, this cannot be at the expense of contract duration, the “firmness” of rights or the consequences to GBR from the alteration of existing rights by GBR.
- 8.9 We propose that the Track Access Contract needs to be simplified to include Track, Station and Depot Access into one document with a simplified performance (i.e. automatic liquidated damages) regime that, in the case of Open Access, reflects the passenger experience rather than the pursuance of a complicated and granular mathematical approach.
- 8.10 The current system contains protections for customers by providing a mechanism for contract management within the industry when lack of access to facilities emerges (or, in the case of station and network change, is planned). This is efficient and similar protocols should be retained by GBR, as well as between GBR and other TOCs.
- 8.11 Open Access contracts must be at the cost that the market can bear based on real additional and incremental costs; or marginal cost with relevant discounts linked to wider Treasury value created. FirstGroup agree with proposals that the GBR Licence will allow GBR to offer charging discounts to deliver government goals e.g. to support growth agenda, reduce carbon etc. Currently Network Rail can act as a “guiding mind” through Part J of the Network Code (the “better use” provisions), and we wish to see the very same protections included in either the new contractual structure and/or the GBR code.
- 8.12 As long established under the current structures, longer term access contracts (typically 10 years) should continue to be permitted where there is significant investment, for example in new rolling stock.

9. Does the proposed role of the ORR acting as an appeals body to ensure fairness and non-discrimination provide sufficient reassurances to operators such as freight and open access wishing to access the GBR-managed network?

- 9.1 No. The proposed ORR role as an appeals body is not sufficient by itself. Further statutory, structural and process assurances are needed, to embed behaviours before decisions are made and an appeal then becomes necessary.
- 9.2 FirstGroup welcome the assurance that non-GBR operators will have fair and non-discriminatory access to the GBR-managed network; and that charges will be fair. For the efficient delivery of rail services, it is vital that GBR have a statutory duty for this fairness and non-discrimination for non-GBR operators.
- 9.3 In addition, the processes need to recognise and value the benefit that accrues to the nation, wider than GBR's own profit and loss accounts. A good example of this is modal shift and the need to promote competition with other modes in a cost-effective way.
- 9.4 It is also vital that there are:
- All of the other items set out in our response to question 8 above (on the key access rules and requirements);
 - Long term rights for non-GBR operators making significant investment in rail. While access right length is generally 5 years, longer term rights are appropriate for specific investment and 10-year contract terms have been commonly approved or directed by ORR to support new open access services and investment in associated new rolling stock. It would be detrimental to investment in growth if this were not continued.
 - Structures in GBR (e.g. ring-fenced functions and proper documenting of internal access and timetabling), and processes at early stages in the decision process, which enable GBR to be unbiased and independent; and
 - Availability of data on the public record, as well as access to wider datasets from within GBR for ORR, in order for ORR to make a fair assessment of any appeal.
- 9.5 With sufficient assurance of longer-term certainty and fair treatment, access to private capital and financing will be possible at efficient rates and the UK can guard against losing investment overseas, noting the impacts that has on the UK customer and rail network.
- 9.6 Retaining ORR prior approval eliminates this funding risk as well as the potential for long and complex appeals that will add in industry and legal costs. If this is not available, legislation must ensure effective appeals processes and effective, timely remedies. Similarly, the appeal process must be cost-effective and time-effective (such as the existing independent Access Disputes Committee processes) and, importantly, ORR must have powers to direct access to resolve an appeal, in a timely way.
- 9.7 FirstGroup welcome the confirmation of the continued application of competition law and the concurrent powers of ORR and the CMA.

10. Do you foresee any unintended consequences of the ORR retaining its existing powers with regard to other infrastructure managers which might affect the smooth passage of trains between the GBR and non-GBR network?

10.1 FirstGroup support ORR retaining its existing powers with regard to other infrastructure managers and agree that it is appropriate for the AMRs to continue to apply to other infrastructure managers. It would be unacceptable for GBR to be given powers over other devolved or privately owned infrastructure managers (IMs).

10.2 There will need to be management and coordination across the different networks and currently a collaborative process exists. In future, for example, timescales for approvals and pricing regimes would need to align to support approval of access rights. In day-to-day operation, performance systems and regimes would also need to align. Similar issues are dealt with today and therefore should be manageable going forwards, assuming adequate respect for the sets of separate systems involved.

10.3 To best enable that aligned management and coordination, the regulations and structures applicable to GBR's network should be congruent with the AMRs (although taking account of GBR's combined role as IM and operator). GBR operators should be subject to and have the benefit of the AMRs when accessing other IM networks.

11. The government intends to include in primary legislation a power to enable amendments to the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 to ensure consistency between GBR's processes and those used by other infrastructure managers. Do you agree with this approach?

11.1 No. We do not agree that the power to enable amendments to the AMRs should be held by the Secretary of State. Any such power would be introducing the ability for the Secretary of State to determine how Access and Management decisions are made on devolved and third-party rail infrastructure. This will introduce uncertainty which will reduce the appetite and cost-efficiency for private investment in UK Rail.

11.2 We believe that the other infrastructure managers will wish to co-operate with GBR, as now with NR, and therefore these "King Henry VIII" powers seem excessive and unnecessary, their existence introduces uncertainty that will adversely impact private sector investment in rail and could well be used for other purposes. Further detail of the scope of the type of amendments to be made would be needed for us to fully consider and respond to this proposal.

Financial framework

12. Do you agree with the proposed legislative approach regarding a 5-year funding settlement for Great British Railways?

12.1 No. FirstGroup think that some changes are needed to the proposal to support continued choice for customers and access to private investment.

12.2 The new 5-year funding regime is a logical progression, which has our support, although this must be underpinned by a longer-term strategy and longer funding horizon as this is required for both railway schemes and open access applications which stretch over more than one 5-year period.

12.3 A robust and enforceable framework for longer term funding is essential to:

- give non-GBR operators the long-term assurance that will support their investment in facilities, staff and rolling stock.
- provide some security and longevity to the supply base, the operators, and most importantly customers i.e. rather than big bang projects in each control period, there should be continuous upgrade programmes (for example, electrification programmes supporting decarbonisation).

12.4 FirstGroup welcome the fact that GBR will consult on the setting and recalibration of access charges, as well as the publication of cost-apportionment process. To deliver transparency and confidence for non-GBR operators, the outputs of the cost-apportionment process must also be published.

12.5 FirstGroup also welcome the commitment to access charge stability for at least 5 years. Certainty of charging rates, fixed for a longer term, support private investment with all the benefits that brings including UK productivity and regional economic growth. Current open access operations are businesses based on the current structure and charging regime and they deliver immense customer and regional economic benefit where they operate. The length of their existing access agreements is determined by the ORR on a rate of return on their revenue and costs and any charges are subject, via the AMRs, to “market can bear” analysis.

12.6 There must be continuity of the way that non-GBR charges are calculated after 2029, even if grandfather rights are given to existing contracts. These should be focused on the marginal cost, not exceeding what the market can bear and with discounts for delivering against government priorities, to encourage modal shift, regional development and growth and access to private investment to achieve those policy aims.

12.7 Finally, in FirstGroup’s experience, annual budget setting for railway operations and customer service stifles efficiency and delays innovation and improvement. A 5-year settlement for these areas, together with robust and enforceable frameworks covering a longer period would support delivery of excellent performance and customer service. Operations and customer service budgets also need to allow for agility, in year and across years, to enable innovation and responsiveness to customer needs.

Fares & Ticketing

13. Do you agree with the legislative approach set out above to retain the Secretary of State’s role in securing the overall affordability of fares and continuing to safeguard certain railcard discount schemes?

13.1 Yes. The Secretary of State continues to be the most appropriate party to regulate rail fares. However, the fares regulation mechanisms set out in the consultation document paragraphs 5.3 to 5.5 must include specific protections for non-GBR operators. These protections are essential to ensure fair competition and customer affordability for open access and devolved operators whose business models and viability could be significantly affected by monopolistic behaviours from GBR. Fares policy also needs to protect against GBR undermining the fares structures of devolved administrations or creating structural ticketing anomalies such as additional ‘split ticketing’ opportunities.

- 13.2 We recognise that the national rail fares system would benefit from structural changes to improve customer experience and choice, particularly through simplification of currently complex fares structures. The simplification of rail fares must be flexible enough to allow for innovative approaches from non-GBR operators to serve their specific markets (e.g. Lumo's fixed, semi-flex, and fully flexible ticket structure). In making these changes, the retention of interoperability and through ticketing is critical following the introduction of GBR, enabling customers to purchase a single journey covering multiple operators. Customers should have the option to use anytime fares on valid routes, with income allocated to relevant GBR and non-GBR operators as today.
- 13.3 Furthermore, the Office of Rail and Road/Competition and Markets Authority also need to have strengthened regulatory powers to intervene in the UK rail market due to the shift in dynamics with 14 operators becoming part of a unified organisation, increasing the risk of GBR exploiting a market dominant position as a result of the reduction of operator-on-operator competition.
- 13.4 The safeguarding of specific discount schemes on a national basis through legislation is supported as outlined in 5.5. We welcome that specific discount cards targeted for young people, disabled people, and older people will be protected, but any further railcards need to be fully assessed by both GBR and non-GBR operators to ensure they aren't abstractive to underlying revenue.
- 14. What, if any, safeguards are needed to ensure a thriving and competitive rail retail market while also ensuring GBR can deliver a high-quality offer to its customers?**
- 14.1 Significant safeguards are required to assure the continued operation of a competitive rail retail market given the proposal for GBR to enter this market as a retailer, consolidating all the retail channels of 14 current operators.
- 14.2 Licensing of ticket retailers must be independent, fair, and transparent, and should be undertaken by either ORR or the PSA. Criteria for licensing decisions must be clear and transparent given that GBR will not be independent and will be directly competing with the other retailers. Minority protections are therefore needed to reflect GBR's market dominance in the retailing market and its role as an operator e.g. on setting industry wide commission rates. Procurement of industry services related to digital channels should enable small and medium enterprises (SMEs) to access the market.
- 14.3 GBR's proposed online retailing platform needs to sell all ticket types available for the planned customer journey impartially. Equal access to central ticketing and retailing systems should be legally protected to allow through ticketing and cross retailing. An updated equivalent of the Ticketing & Settlement Agreement is therefore essential to protect through-ticketing arrangements. Industry wide 'schemes' should continue to enable non-GBR operators and retailers to participate in national retailing and ticketing decisions where appropriate.
- 14.4 All retailing must be accessible, providing equal opportunities for all customers, including adherence to WCAG (Web Content Accessibility Guidelines) standards and easy booking for assistance or wheelchair spaces. Systems should be scalable and reliable during high demand, such as adverse weather or rail promotions and would ideally include multi-modal ticketing options to promote integrated transport and active travel. Cybersecurity measures are essential for this national service.

Devolution

15. The government intends that GBR's statutory duty in relation to devolved leaders should strike a balance between enhancing their role whilst also ensuring that GBR has the appropriate flexibility to direct the national network. Do you agree with this approach?

15.1 No. FirstGroup does not agree that the proposals set out in the document strike an appropriate balance between the rights and responsibilities of GBR and those of devolved authorities. A balance needs to be struck between the needs of local communities expressed through devolution and the requirement to operate a consistent and coherent national network, and the proposals do not strike that balance.

15.2 Devolution does inevitably introduce a level of complexity which will lead to conflicts of interest for GBR. This is particularly prevalent in the allocation of access rights where GBR is proposed as both an operator of services competing with a devolved authority and the body responsible for awarding track access. Clear, fair and transparent management of such potentially conflicting responsibilities for GBR is critical in ensuring devolved services can continue to prosper and would be most effectively and efficiently enabled by an independent regulator having powers of direction and intervention at an early stage in the allocation of track access. (See also our response to question 7-12 for further detail on our view on the future role of the ORR.)

15.3 We support the retention of existing statutory provisions that enable devolution through secondary legislation, when requested of and agreed by the SoS. We also support the 'right to request' de-designation of services set out in the consultation document paragraph 6.20 to transfer them from GBR to the control of devolved authorities. It is vital that this process and the associated criteria are open and transparent, balancing the needs of local communities with those of the wider national rail network.

16. Do you agree with the proposed approach in Scotland on enabling further collaboration between track and train while preserving the devolved settlements?

16.1 Yes. The approach should continue to ensure that any divergence between Scottish and GBR strategy does not negatively impact cross-border long distance services.

17. Do you agree with the proposed approach in Wales on enabling further collaboration between track and train while preserving the devolved settlements?

17.1 Yes. The approach should continue to ensure that any divergence between Welsh and GBR strategy does not negatively impact cross-border long distance services.

18. Do you agree with the government's approach of making targeted amendments to existing legislation to clarify the role of devolved leaders in relation to GBR?

18.1 FirstGroup supports devolution, bringing transport provision closer to the needs of local communities and ensuring accountability for key local transport decisions. We also support the continuation of the fully devolved responsibilities of the Mayor of London and Merseyrail outlined in the consultation document paragraph 6.9.

18.2 As also set out in our response to question 15, we support the retention of existing statutory provisions that enable devolution through secondary legislation, when requested of and agreed by the SoS. We also support the 'right to request' de-designation of services set out in 6.20 to transfer them from GBR to the control of devolved authorities. It is vital that this process and the associated criteria are open and transparent, balancing the needs of local communities with those of the wider national rail network.

- 18.3 We support the process outlined in 6.24 enabling local devolved authorities to fund incremental services or infrastructure.
- 18.4 In managing devolved services, we believe it is critical that devolved authorities are able to procure services from the private sector as set out in 6.26. This model has successfully delivered cost-effective, high-quality services to Transport for London through London Overground and the flourishing Elizabeth Line, as well as Merseytravel and light rail and tram for many years. Proscribing devolved authorities from tendering operational management of their local services (as is proposed for Scotland and Wales in 6.12, 6.16) reduces the potential for local authorities to procure high quality services at a competitive price.
- 18.5 Finally, we would also seek reassurance that devolved authorities could not limit competition for mainline services, or directly block open access mainline services.

Train Driver Licensing and Certification Regulations (TDLCR)

- 19. The government intends to create a new delegated power that would enable the Secretary of State to update, amend or revoke provisions in TDLCR and related assimilated law in Great Britain, subject to public consultation. Do you agree with this approach?**
- 19.1 Yes. FirstGroup employ over 3,500 train drivers and actively manage their training, certification and competency management using the licensing process and system managed by ORR as part of their safety responsibilities. We are also members of the industry Train Driver Academy Board currently hosted by Rail Delivery Group.
- 19.2 FirstGroup is fully supportive of the consultation proposals in this area.
- 19.3 All FG TOCs agree that it is important that the TDLCR are not frozen in time but able to be amended. Therefore, we support the proposal that the SoS has the power to amend the TDLCR. This will remove any risk of stagnation in the requirements process. It is important that this power is for the SoS and not delegated to GBR.
- 19.4 We firmly support the requirement for consultation before any amendments to the TDLCR is made. It is important that this is an open consultation so that all aspects of the industry have the opportunity to contribute. The criteria used to make decisions must take into account the impact on different types of railway organisations.
- 19.5 We also support the fact that ongoing management of the Certification and Licensing scheme stays with ORR as the safety regulator, however we feel that the ORR could benefit from greater collaboration with practitioners in the industry on the management of the database.
- 19.6 In our view, the industry would benefit from a consultation as soon as possible on the following issues: a) Periodicity of medicals (especially linked to age related changes); and b) Certificate/licence withdrawal processes.

Transition

20. Please provide evidence on anticipated transitional or ongoing costs or benefits for you or your business resulting from these proposals.

- 20.1 The key details of the proposed industry structure remain unsettled and lack transparency. Many crucial enablers for our business, such as the role of the ORR, GBR's licence, enabling legislation, and the access and use policy, require further development and consultation. If this uncertainty continues, it will dampen investment enthusiasm and appetite.
- 20.2 The delineation of services to be managed by GBR, which operators and ticket retailers must pay for and utilise, versus those provided by rail operators themselves, is unclear. This ambiguity raises the risk of stranded costs for open access operators, encourages shorter-term contracts at higher rates, and serves as a disincentive for innovation until the situation is clarified.
- 20.3 Additionally, GBR's centralisation strategy is likely to concentrate the supply base to rail operators, including to our Open Access operations. GBR is expected to pursue economies of scale in procurement across its operator portfolio. This may lead to the emergence of de facto monopoly supplier situations, where suppliers to GBR effectively control the majority of the market, limiting other suppliers' opportunities to maintain their products and compete. Over time we expected this is likely to result in cost increases, particularly where our suppliers operate in less competitive markets, and where incentives to price competitively are reduced, especially in IT-related systems and services.
- 20.4 Consequently, both the transition and end state outlined in the consultation present financial and economic risks for UK PLC, and particularly for open access and freight operators. These are:
- **Passenger Growth:** Opportunities for local and regional growth may be hindered by GBR's potential monopoly behaviour, unless GBR is specifically tasked under its licence to promote passenger growth (see our answer to question 1-3). There is clear evidence from the East Coast Mainline that open access is a catalyst for growth, aiding the recovery of long-distance patronage for DfT operators. LNER have gone from 22.37m journeys in calendar year 2019 to 25.65m in calendar year 2024 – a 15% increase. This is with increased open access on the route.
 - **Productivity and Economic Growth:** FirstGroup's open access operations have significantly contributed to regional GDP growth. A recent study conducted by Arup estimated that Hull Trains has delivered £185-380m of monetised benefits so far in the c.20 years since its launch, and adding the benefits that are expected over up until 2032 leads to a total of £325-700m of economic benefits. In a similar study, Arup concluded that the quantified benefits for Lumo are estimated to amount to £470m-740m during the period from its 2021 launch up until 2033. These macroeconomic benefits are at risk without changes to the proposed regulatory structures outlined in the consultation document.
 - **Future Investment in Rolling Stock:** The lack of certainty necessitates significant additional minority protections and regulatory powers granted to the ORR (see our answer to questions 7-10). As an example, First announced an order of 15 5-car trainsets for its Open Access businesses valued at circa £500 million, safeguarding jobs and manufacturing capability in the UK. The agreement also includes an option for up to 13 more trains worth approximately £460 million. There is substantial risk to future rolling stock procurements of this nature unless the regulatory process is fair and transparent for Open Access operators and provides sufficient certainty for businesses like FirstGroup and our ROSCO partners to invest in rolling stock.

- **House Building:** Open access and freight operators are crucial to the infrastructure and development sectors both in transporting materials in support of major housing developments, but also generating land value capture while providing residents with frequent direct rail services. Open access operator Hull Trains has enabled more people to live in East Yorkshire and commute to London, helping unlock and enable housing developments along the Humber, particularly at Brough and Howden. Hull Train's application to Sheffield will support 3,142 brand new houses in Bassetlaw with direct rail access to London.
- **Environmental Costs:** The carbon and other benefits of open access, as evidenced by studies conducted by Lumo and Hull, are also at risk. For example, Arup estimated that in financial year 2022/23, Lumo helped customers to avoid emitting 60.6 ktCO₂e by using their services. The greenhouse gas benefit from 2021 to 2033 is between £130m-365m. This benefit is at a substantial scale, reflecting that Lumo services have led to mode shift from private vehicles and air.
- The Arup reports referenced above are available at <https://www.hulltrains.co.uk/-/media/pdf-files/arup-economic-benefits-report-hull-trains.pdf> and <https://www.lumo.co.uk/-/media/Timetable-PDFs/Open-Access-Reports/25-01-30-Open-Access-Operations.pdf>.

21. Final comments

21.1 FirstGroup continue to be focused on delivering for customer and taxpayers during this reform of the rail industry. It is vital that the other organisations within the industry are equally focused on delivering for customers at this time. For example:

- Implement what we can now, through **collaboration** and cooperation
- Do not wait for GBR for **performance improvement** activities, continue to promote performance improvement now. Network Rail have the tools to deliver this without any legislative or structural change.
- While existing legislation is in force, meet the duty to **continue to apply** it in fair and timely way. For example, approval of track access applications by ORR.
- Despite potential changes to the way that they are contracted, continue effective and customer focused **management of depot and station** access, maintenance and services.
- **Procurement** of goods and services using open processes (rather than using the industry uncertainty as a reason to single source suppliers).

21.2 In addition, as an industry we can prepare for GBR by:

- GBR should provide **reassurance and timescales** to industry colleagues and follow that with a well-managed process.
- Using **diverse** industry expertise to develop new policies and processes. For example, we would welcome appropriate opportunities to be involved in development of the revised AMRs, new GBR Code and new Access & Use Policy.
- Ensure that **skills and leadership development** continues – both in that part of the industry which will be impacted by change and that part which remains stable and could otherwise contribute to an imbalance that tips the industry culture towards engineering and infrastructure and away from customer and revenue generation.
- Those NR colleagues in roles untouched by this re-structuring (of which there will be a significant number) also need to go through a process that helps them to transition towards the new GBR customer-focused culture.

21.3 Finally, we would like to repeat our offer and commitment as set out in previous responses, to work with DfT as appropriate on the further stages of the legislation and associated industry documents.