

Call for Evidence: Railways Bill

Written evidence submitted by Independent Rail Retailers (IRR)

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1. Introduction

Independent Rail Retailers (IRR) welcomes the Transport Select Committee’s inquiry into the Railways Bill. This legislation has the potential to change how millions of passengers first experience our railway because, for most people, their journey begins long before they reach a platform. It starts with searching for fares, choosing a ticket, and understanding their options. The way rail retail works is therefore fundamental to delivering a railway that is simple, trusted, and good value for passengers.

Millions of rail passengers every year buy their tickets from independent rail retailers. Our members serve almost half of the rail passengers across Great Britain each year and account for around £5 billion of rail industry revenue. Independent Rail Retailers is the membership and advocacy organisation representing the majority of third-party rail retailers.

Our members are passenger champions, offering value for money tickets to customers, user friendly websites and apps and excellent customer service – the things that consumers value and rely on when choosing to travel by rail. In practice, how people buy their ticket is the start of their rail experience, and it shapes their confidence in the whole system.

Our members also provide business travel to companies and many of the retail services branded by train companies. Beyond providing value for passengers, they keep costs low, boost revenue for the industry and put passengers at the heart of decisions. A strong, fair retail market is therefore central to delivering a modern, trusted railway. Our role will continue to be vital as Government seeks to simplify ticketing and improve the overall passenger experience under the new Great British Railways (GBR) structure, which includes as a key element the intention to stand up a new GBR retailing website and app.

We are pleased that the Railways Bill continues to recognise the value of Third-Party Retailers (TPRs) and the importance of a thriving retail market. According to the Government’s CP1442 document *A Railway Fit for Britain’s Future ‘GBR will usher in a new, agile, and commercial industry structure’*. Fair and open retail competition is one area where Government and independent retailers can work together to reduce costs for passengers and taxpayers while also creating the conditions for genuine competition to thrive.

The Competition and Markets Authority further highlighted this in its response to the Government’s consultation: *“it is [...] important to give the right signals from the outset that TPRs will be competing on a level playing field with GBR - to encourage the competition and investment which will benefit passengers directly.”* Ensuring fair and open competition is therefore critical to delivering real tangible benefits to passengers.

If economic terms between GBR's retailing function and independent retailers diverge over time, there is a risk that passengers may not fully benefit from the efficiencies, innovation and value for money that competition currently brings.

2. Improving rail travel for passengers

Over the past 20 years, TPRs have grown revenue, while reduced costs to the industry (and ultimately the taxpayer) and improved the customer experience. Passengers have a choice of where to buy their tickets and like to make that choice themselves. Giving them options encourages competition, drives innovation, and ensures they get the best value and experience possible.

Independent retailer's cost of sale (at 4.5%) is less than half of the industry's estimated blended cost of sale of over 10%. They are the industry's most cost-effective distribution channel, not only self-funding their technology and innovation – but also funding capital investment on the network through fulfilment charges, helping to drive positive change much faster.

These ongoing benefits will be key to supporting the Government's ambition to make rail travel simpler, better value and easier for passengers to navigate.

The benefits to passengers and taxpayers include:

- Customer-centric innovation and marketing: TPRs attract and retain customers through superior digital experiences, choice, and convenience. They invest millions in marketing at home and abroad, helping to grow the market for the benefit for all parties. Passengers choose independent retailers for the quality of their offer, and retailers target both niche and mass markets.
- Cost-efficiency for industry: TPRs pioneered lower-cost sales channels such as mobile ticketing, which now accounts for over 50% of industry revenue - significantly reducing distribution costs. From their commission, and other income, they cover costs of sale and ongoing investment including payment processing, fraud control, customer support and technology costs, and ongoing investment in product development and marketing. TPRs also have invested over £25 million into infrastructure such as gate-line and handheld inspection technology, investment that would otherwise fall on to the taxpayer.
- Value for money for passengers: Saving passengers money and making rail more competitive through innovative split-ticketing technology and/or through identifying cheaper alternative journeys or routes.

3. The Railways Bill – fares and retailing

Under the Bill, Great British Railways will consolidate the 14 existing operator websites into a single online platform and retail directly to customers. Independent retailers would continue to retail alongside GBR, in a fair and open market. This is designed to enable a thriving retail market where competitive pressures work to improve the customer offer and drive-up standards.

GBR will also take on the retail industry management functions currently performed by the Rail Delivery Group. This includes the oversight and management of central systems that all retailers use and making decisions on and enforcing the requisite standards for third parties to operate as rail ticket retailers.

IRR welcomes the commitment to a competitive retail market and the importance of there being a *'fair and open market'*. However, in our response to the initial consultation we set out our concerns that having GBR act as a retailer while taking on responsibility for access to and governance of the market increased the risk of self-preferencing – i.e. taking steps to preference its own retail business over others. This wasn't a theoretical risk: there are instances today where independent retailers do not have access to certain products and services. The size and scale of GBR would make this risk even more acute.

To this end IRR members stressed the importance of creating a level playing field. IRR have argued that GBR Retail should be managed as a standalone function within the GBR group, with legal, accounting and financial separation. Operating independently from the operational and system oversight functions would help prevent unfair advantages or decisions that could place some retailers at a disadvantage. Our members also wanted controls that ensure clear information about how GBR retail costs and revenues are treated – for instance in preventing cross subsidy from other parts of GBR into GBR retail and ensuring that GBR retail operated under the same financial pressures as third-party retailers.

The Bill recognises these risks and proposes some safeguards. The Government response to the consultation proposes that the retail industry management functions managed by GBR will have reporting lines that are separate and distinct from its operational and commercial arm – with appropriate information safeguards also put in place. These functions and other relevant GBR activity will be governed by a Code of Practice, which will incorporate clear requirements for how GBR interacts with all market participants and impose separation of decision-making where relevant.

To ensure that GBR abides by the rules set out in the Code of Practice, affected third parties will be able challenge any decisions or actions they consider to be noncompliant, by raising them directly with the Office of Rail and Road (ORR). The ORR will be required to investigate and, if it considers that GBR has not complied, it will be able to demand corrective action by issuing binding orders on GBR. IRR welcomes ORR's important role in providing impartial

oversight and supports ensuring the regulator has the appropriate tools to protect good outcomes for passengers.

The production of the code will be subject to full consultation, thereby ensuring significant input from industry, regulatory and other stakeholders.

4. The Code of Practice

IRR members continue to believe that a more formal separation of GBR Retail from GBR is the best way to deliver a fair and open market. However, if this is not to be, then the Code of Practice becomes hugely important to the development of a thriving and fair retail market. IRR is not opposed in principle to the idea of a Code of Practice that governs the relationship between GBR and independent retailers, nor the role of the Office of Rail and Road in overseeing and enforcing the code. However, it will only be effective if its scope and principles ensure a level playing field between GBR Retail and independent retailers. IRR believe that there are a number of issues that need to be addressed before the code will provide sufficient assurance.

We understand that GBR Retail will not be covered by the Code of Practice, and that the Code will define how the retail industry management functions interact with licensed retailers, but not how GBR itself will retail. We also understand that GBR will not operate as a traditional retailer receiving commission on ticket sales. Taken together, these factors make it more difficult to assess how GBR Retail is funded and how its costs compare with others.

It is unclear how TPRs are to be assured of a fair and open market if no one can demonstrate that GBR is operating within the same economic envelope as independent retailers or whether it is being cross subsidised or even being paid more in way of virtual commission. Greater transparency over how GBR Retail's operating costs and revenues are structured would help provide confidence that all retailers can compete effectively and that passengers receive a consistent experience.

If there is to be no formal organisational separation between GBR and GBR Retail, at the very least, there must be financial transparency when it comes to costs and revenues. This could be achieved by creating a distinct cost centre for GBR retail. We accept that GBR must also provide for station and on-train sales, but it would be possible to compare costs and revenues for GBR and TPR digital retailing. Without this transparency it will not be possible to determine whether there is a fair and open retail market. One of the key roles of any Code of Practice will be to provide this level of assurance.

So, while a Code of Practice may be a useful step forward in setting out the relationship between GBR and independent retailers, its limited scope, excluding GBR Retail itself, will leave ongoing concerns about ensuring parity of market access and true economic parity. Including GBR Retail within the scope of the Code would help ensure that all retailers operate under the same expectations, supporting a consistent offer and better outcomes for passengers.

5. Code of Practice Consultation

We welcome that there will be a full consultation on the Code of Practice. We set out below some of our initial observations on the issues that must be addressed to help ensure lasting improvements and real benefits for passengers.

Licensing

The code will need to set out the regime by which third-party retailers will be licensed to operate and how new entrants can get access to the market. Clear, transparent licensing arrangements will help sustain innovation and ensure passengers continue to benefit from a vibrant and competitive retail market.

Costs and revenue transparency

There must be sufficient transparency of costs/revenues to ensure that ORR can meet its competition duty function laid out in the Bill. Greater transparency will also help ensure that changes to commission structures continue to support value for money and passenger choice.

Central system cost allocation

Shared system costs must be transparent and proportionate, so passengers are not indirectly charged more than necessary. As now, it is envisaged that independent rail retailers will be expected to pay a share of the costs of any shared systems and process. Transparency helps retailers plan investment and supports passengers by ensuring costs remain proportionate.

Access to fares

The Code of Practice will need to set out the right of TPRs to have access to fares. Currently train operating companies retain products for their sale only, preventing passengers from seeing the full range of options when they are making a purchase. The expansion of pay as you go highlights this issue as independent retailers are barred from retailing this product limiting passenger choice.

Ensuring all retailers can offer the same products supports consistency and trust across channels and strengthens the overall passenger experience.

Access to other products and services

At present TPRs do not have full access to products and services. They cannot, for example, process Delay Repay claims. Allowing this would offer cost effective solutions that provide genuine passenger benefits. It would:

- simplify processes and stop passengers being passed between retailers and operators.
- make claiming quicker and easier.
- facilitate greater innovation and use of automated payment methods.
- drive up claim rates.
- help drive up levels of satisfaction and trust.
- reduce fraud.

Another example would be in allowing rail retailers to process Passenger Assist requests.

The creation of Great British Railway makes the risk of self-preferencing and competitive disadvantage even more acute, impacting the end customer experience. Giving third-party retailers access to all products and allowing them to process Delay Repay would better allow all parties to compete fairly and make it easier for passengers to make an informed choice of retailer. Ensuring consistent access to core customer services is key to delivering a seamless, trusted, and modern experience for passengers.

Access to industry systems

The Code of Practice will need to establish (and guarantee) access to industry systems needed to allow TPRs to sell and fulfil ticket sales, settle payments/allocation of monies and undertake post sale support of rail tickets. Reliable, equitable access to these systems supports a consistent and resilient customer experience, particularly during busy periods or disruption.

Engagement

The Code should also enshrine the importance of a collaborative approach between GBR and independent retailers. TPRs have a wide range of skills and experience, and it will be to the benefit to the industry to involve them when relevant. For example, engaging TPRs at an early stage when designing new systems and processes could result in a better, more efficient specification which in turn should lead to better passenger outcomes. This collaboration will become increasingly important as passenger expectations evolve, and retail services continue to modernise.

6. Conclusion

The way passengers buy their tickets is often the very first part of their rail journey. If this experience is simple, fair and trustworthy, it sets the tone for the rest of the trip. The Railways Bill offers a real opportunity to get this right.

IRR supports the Government's intention to create a fair and open retail market. However, as drafted, several areas require further clarity to ensure that all retailers can operate on equal

terms and continue delivering the innovation, value and customer service that passengers rely on.

We therefore ask the Committee to:

- recommend that the Government ensures full transparency over how GBR Retail operates, including clear and separate cost and revenue information.
- support a Code of Practice that applies consistently to all retail participants, including GBR Retail, to give passengers confidence that everyone is playing by the same rules.
- encourage Ministers to prioritise equal access to fares, products, Delay Repay, PAYG and other services that directly affect the passenger experience.
- ensure the ORR is equipped with the right duties, resources and tools to oversee the market effectively and resolve any disputes fairly.

These practical steps will help ensure the Bill delivers what matters most: a rail retail market that works for passengers, gives them genuine choice, and supports the modern, customer-focused railway the Government intends to build.

Independent Rail Retailers (IRR) is the membership body for Britain's main third-party ticket retailers; Assertis, Atomised, Evolvi, Fast Rail Ticketing, My Train Ticket, Omio, OnTrack, Raileasy, Trainline and Trip.com.