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# Directions and guidance to the Strategic Rail Authority

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## **Establishment of the strategic rail authority**

1. The Strategic Rail Authority ("the Authority") has been established under section 201(1) of the Transport Act 2000 ("the Act") as a body corporate.

## **Purposes of the strategic rail authority**

2.1 The Authority is to provide leadership for the rail industry and ensure that the industry works co-operatively towards common goals. This objective should underpin the whole range of the Authority's activities. The Authority will set priorities for the successful operation and development of the railway. It will work with other industry parties to secure continuing private investment in the railway, and to deploy public funding to best effect. To this end, the Authority has been given a wide range of statutory powers and duties.

2.2 Section 205 of the Act sets out the Authority's purposes as:

- to promote the use of the railway network for the carriage of passengers and goods;
- to secure the development of the railway network; and
- to contribute to the development of an integrated system of transport for passengers and goods.

2.3 Section 207 of the Act requires the Authority to exercise its functions with a view to furthering its purposes and it must do so in accordance with any strategies that it has formulated with respect to them. In so doing the Authority must act in the way best calculated:

- to protect the interests of users of railway services;
- to contribute to the achievement of sustainable development;
- to promote efficiency and economy on the part of persons providing railway services;
- to promote measures designed to facilitate passenger journeys involving more than one operator (including, in particular, arrangements for the issue and use of through tickets);
- to impose on operators of railway services the minimum restrictions consistent with the performance of its functions; and
- to enable providers of rail services to plan their businesses with a reasonable degree of assurance.

2.4 In exercising its functions in such ways the Authority must also:

(a) have regard to

- the need to protect all persons from dangers arising from the operation of railways (including, in particular, by taking into account any advice given by the Health and Safety Executive);
- the interests of persons who are disabled; and
- the effect on the environment of activities connected with the provision of railway services;

(b) secure that any grants or other payments or loans made by the Authority and any guarantees or investments in bodies corporate given or made by it are such that it reasonably considers will further its purposes (in accordance with any strategies which it has formulated) economically and efficiently.

## **Statutory background to directions and guidance**

3.1 Sections 206(3) and 207(5) of the Act enable the Secretary of State to give directions and guidance to the Authority in relation to its strategies and as to the manner in which it is to exercise its functions in order to comply with subsections (1) to (3) of Section 207 of the Act. He may also give the Authority directions not to exercise any of its functions in a particular manner (or not to do so without consulting or obtaining his consent).

3.2 This document and the attached annexes set out the Secretary of State's directions (which are in italics) and guidance to the Authority. The directions include (at Annex A) a set of objectives which the Authority is required to deliver.

3.3 Section 209 of the Act requires the Secretary of State to publish these directions and guidance in such manner as he considers appropriate and he will be making this document publicly available on DfT's corporate web site. *The Authority is, additionally, directed to make these directions and guidance, and any other directions and guidance which the Secretary of State may give, publicly available on its web site.*

3.4 Section 208 of the Act enables Scottish Ministers to give directions and guidance to the Authority in relation, broadly, to franchised passenger services operating in Scotland and franchised cross-border sleeper services, and advice in relation to other franchised cross-border services. Any such directions and guidance will be published separately by the Scottish Executive.

3.5 Section 196 of the Greater London Authority Act 1999 (as amended by the Act) enables the Greater London Authority (or the Mayor of London acting on its behalf) to give directions and guidance to the Authority in relation to the provision of railway services in Greater London.

## **Rail regulation in Great Britain**

4.1 The Authority, the Rail Regulator, and the Health and Safety Commission (HSC) are the three pillars of railway regulation in Great Britain. The Secretary of State looks to these three regulators to work together to ensure that the railways are run safely in the public interest, through effective and accountable regulation.

4.2 The Authority is the strategic, planning, and co-ordinating body for the rail industry and the guardian of the interests of rail passengers. It acts as purchaser of train services and railway infrastructure on behalf of the Secretary of State. The Authority should provide a clear strategic direction for rail transport in Britain; promote rail passenger and freight transport; and encourage private investment in the rail industry. It should deliver the Secretary of State's objectives through partnerships with key organisations

in the industry. Through the franchising process and by exercise of its powers under the Act (in particular, section 211), and having regard to the likely availability of resources, it should invest in the improvement and enhancement of rail services.

4.3 The Rail Regulator's functions and duties are set out in the Railways Act 1993, as amended by the Transport Act 2000, in the Competition Act 1998 and, in relation to international regulation, in the Channel Tunnel Rail Link Act 1996 and the Railways Regulations 1998. Against this statutory framework, the Rail Regulator's role may be characterised as acting as the independent economic regulator of the railway in the public interest.

4.4 The Health and Safety Commission (HSC) is the single, independent safety regulator for railways in Great Britain. The Health and Safety Executive (HSE) is the HSC's operational arm. Under Section 207(3)(a) of the Act, the Authority has a duty to take into account the need to protect all persons from dangers arising from the operation of the railways, taking into account, in particular, any advice given to the Authority by the HSE. In carrying out its functions the Authority should ensure that the HSE is fully consulted whenever railway safety may be at issue, and it should be guided by the advice of HSC/HSE on all health and safety issues.

## **The strategic approach**

### **Background**

5.1 From the 1960s to the 1990s, Britain's railways experienced a slow decline. In particular, they were starved of investment at a time when great advances were being made in other transport modes and in communications. This was the background to the privatisation of the railway by the previous Government, for which provision was made in the Railways Act 1993.

5.2 Privatisation opened the way for new private investment in the railway, and encouraged train operators (in particular) to adopt a more challenging, customer-focused approach to management than had sometimes characterised their predecessors.

5.3 But in many respects privatisation was seriously flawed. The original blueprint for privatisation did not assume any significant growth, certainly not on the scale that the railway experienced in the late 1990s or has the potential to achieve over the next ten years. That difficulty has been compounded by the fragmentation of the industry into a large number of separate businesses (including train operators and rolling stock companies, Railtrack and its contractors) which each have distinct commercial interests to protect.

### **The Government's Objectives**

5.4 Against this background the Government has developed its own objectives for the railway as part of its integrated transport policy. The Government's priorities for transport are reduced congestion, better integration, and a wider choice of quicker, safer, more reliable options for travellers and other transport users. The Integrated Transport White Paper <sup>1</sup> set out the Government's transport policy; the 10 Year Plan <sup>2</sup> sets out how that policy will be delivered.

5.5 A key element of the Plan is to realise the potential for growth which now exists in the railway industry. The Government's key targets for the railway are set out in Annex 2 to the 10 Year Plan, and include the following:

- to increase rail use in Great Britain (measured in passenger kilometres) from 2000 levels by 50% by 2010, with investment in infrastructure and capacity, while at the same time securing improvements in punctuality, reliability and safety;
- to reduce overcrowding in London to meet SRA standards by 2010;
- a significant increase in rail freight's share of the freight market by 2010. The Government believes it ought to be possible to increase market share resulting in an increase of up to 80% in rail freight by 2010.

5.6 Other relevant targets set out in the 10 Year Plan, to which the railway will contribute, include:

- to reduce road congestion on the inter-urban network and in large urban areas in England below current levels by 2010;
- to improve air quality by meeting National Air Quality Strategy targets; and
- to reduce greenhouse gas emissions by 12.5% from 1990 levels, and move towards a 20% reduction in carbon dioxide emissions by 2010.

5.7 Specific outcomes which the railway is expected to achieve (including the targets set out above) are discussed in Chapter 6 of the Plan, and summarised in paragraph 6.22. They are:

- a 50% increase in passenger journeys overall;
- more frequent services, faster journey times and an 80% increase in patronage on inter-city lines;
- more frequent services on commuter lines;
- better cross-country network connections;
- increased reliability and punctuality;
- better integrated information for customers;
- improved levels of customer satisfaction with the quality of services and of stations;
- an increase in rail's share of the freight market to around 10%, equating to an additional 15 billion tonnes-km of rail freight a year;
- a more efficient and competitive service from rail freight.

5.8 The rail industry is committed to halving the number of accidental equivalent fatalities per million train miles before 2010.

<sup>1</sup> A New Deal for Transport: Better for Everyone (Cm 3950), published in July 1998

<sup>2</sup> Transport 2010: The 10 Year Plan, published in July 2000 by the Department of the Environment, Transport and the Regions.

## The authority's objectives

6.1 *The Authority is required, as its primary objective, to work within its statutory framework to deliver the targets set out at paragraph 5.5.*

6.2 Since the publication of the 10 Year Plan, the performance of the railway, in terms of the punctuality and reliability of services, has declined. *The Authority is required, as an equal primary objective, to work with the rail industry to achieve substantial lasting improvements in performance.*

6.3 In order to achieve these primary objectives, the Authority will need to address all aspects of the operation of the railway. To this end, *the Authority is required to deliver the objectives set out in Annex A to these Directions and Guidance.* These objectives may be updated from time to time.

6.4 The Authority has powers to influence and in some cases to direct the industry, through the passenger franchises which it awards and manages, the investments which it promotes or undertakes, through other forms of financial assistance, and through its regulatory role for consumer protection. It should use these powers as appropriate. But it will also need to guide the industry through dialogue and persuasion. It will, in particular, need to set priorities for action by itself and others.

6.5 The Authority should aim to secure fresh private investment and a more customer-focused approach to the management of the railways. Train operators need to be able to take advantage of the opportunities now opening up to develop their businesses and the Authority should not seek to override their commercial judgements unless it considers that public finances will otherwise be at risk.

6.6 The Authority will, however, need to address the problems caused by fragmentation of the railway industry's structure: in particular, it should seek to ensure that incentives and commercial interests are properly aligned so as to achieve common goals.

6.7 It is particularly important that the Authority works consistently and purposefully with the Rail Regulator and the HSC and HSE to strengthen and support the railway. The Authority will need to establish close working relationships with these organisations, while recognising their respective responsibilities and avoiding the duplication of effort. It should freely exchange information with them except where statutory protections or commercial confidentiality require otherwise.

6.8 The Authority's statutory remit requires it among other things to exercise its functions in the way best calculated to contribute to the achievement of sustainable development. This reflects the fact that the railway helps to meet a number of objectives set out in the 10 Year Plan and elsewhere. The Authority should accordingly ensure that its strategies, its investments (including in passenger franchises) and other expenditures, and its other activities have regard to their economic, social and environmental impacts.

6.9 While the Authority's primary focus must be on delivering the 10 Year Plan outcomes, it will also need to bear in mind that railway assets, especially rolling stock and infrastructure, typically take time to deliver and have a life span measured in decades. Equally, the strategic development of the railway will be affected by demographic, social and other changes taking place over the longer term. The Authority's strategies, investments and other expenditure should have due regard to long term factors.

6.10 The Authority has responsibility for a significant public budget. In accordance with the financial framework issued by the Secretary of State under paragraph 16 of Schedule 14 to the 2000 Act, it is under a duty to work within the resources allocated to it. By virtue of the financial framework and of section 207(4) of the 2000 Act, it is also required to secure value for money from its expenditure. It should accordingly plan carefully to ensure that the funds available to it year by year are used to best effect in pursuance of its objectives. The Authority's assessments of value for money should be consistent with Treasury guidance in the Green Book <sup>3</sup> and with any guidance issued from time to time by DfT on the methods and values to be used in transport appraisals.

6.11 The Authority also has a responsibility for substantial standby credit facilities to Network Rail. *It must take all reasonable steps to ensure that Network Rail complies with the terms on which these facilities have been granted. These steps should include monitoring.*

6.12 The Authority's Financial Framework requires it to obtain the prior approval of the Secretary of State before exceeding agreed budget limits. The Authority's request for approval should include a value for money assessment of any proposals which would impact upon such budget limits and an analysis of the priority of those proposals relative to existing spending plans.

6.13 In order to facilitate discussion with the Rail Regulator in relation to how he should carry out his duty to have regard to the financial position of the Authority, the Authority should seek to agree with the Rail Regulator a framework for assessing the impact of his decisions on the value for money and net benefits generated from SRA funds.

<sup>3</sup> Appraisal and Evaluation in Central Government (The Green Book), 2nd edition, published by HM Treasury in 1997.

## **The authority's strategies**

7.1 Section 206 of the Act requires the Authority to formulate strategies with regard to its purposes as defined in Section 205 of the Act. The Authority published its first overall strategy in January 2002.

7.2 All parts of the industry, including the Authority and the other statutory regulators, will need to work together if the Government's and its objectives are to be delivered. The Authority's strategies should, accordingly, cover both its own activities and those of the industry. To this end it should consult and involve relevant industry parties in the preparation of its strategies (see paragraph 12.1).

*7.3 The Authority must ensure that its strategies, including its overall strategy, are consistent with the resources available.* Its overall strategy should explain how it maximises net benefits from the funds available to the Authority.

*7.4 In its overall strategy the Authority must explain how it proposes to deliver the objectives set in paragraphs 6.1 and 6.2.* In particular, it should:

- show the planned contributions of inter-city, London and the south east and regional railways to achieving the overall target of 50% passenger growth;
- identify the franchises where capacity and/or overcrowding problems are most acute, and the quantified capacity increases required to deliver the 10 Year Plan targets;

- explain how substantial growth in rail freight will be achieved, identifying the key individual initiatives and schemes likely to provide value for money, and their respective contributions towards delivering rail freight growth;
- identify those franchises where the 10 Year Plan targets are likely to necessitate early replacement;
- set out clear proposals for progressively raising the standard of train services across all franchises, where appropriate through negotiation with existing franchisees and other stakeholders;
- quantify the benefits to passenger and freight rail users and others of the initiatives and schemes in the strategy;
- so far as possible, quantify the wider benefits (eg contribution towards Government congestion targets and environmental and social objectives) of the strategy;
- identify the Authority's priorities for early action, and set out the rationale for these;
- summarise the resources available to the Authority and indicate the basis on which priorities for the use of these resources are determined
- describe how and by when the Authority will secure the introduction of third party project management and project finance to supplement Railtrack's capabilities in respect of major enhancement schemes; and
- identify any shortages of skills that may have an effect on the industry's performance, development and safety; and, in conjunction with other industry parties, promote measures to address those shortages.

7.5 The Authority should keep its overall strategy under review; *it must publish a revised and updated version in January 2003 and before the end of each subsequent calendar year thereafter*, reflecting and building on progress to date. *The Authority must consider at the start of any access charge review in accordance with Schedule 4A to the Railways Act 1993 whether the elements of its overall strategy that address the resources available and the basis for the prioritisation of the use of those resources are fully up to date and, if not, must inform the Regulator of any changes that it considers are necessary.*

7.6 *The Authority must further advise the Rail Regulator of revisions that may be necessary to published strategies, including as a consequence of any draft, provisional determination or other advice from the Rail Regulator. It must advise the Regulator if he is proposing expenditure which is not provided for in the Authority's strategy or which is beyond the resources allocated to it, or expenditure which in the opinion of the Authority does not secure value for money or risks impairing its ability to maximise the benefits from available resources.*

7.7 *The Authority must ensure that its overall strategy continues to reflect the full range of objectives set for it in these Directions and Guidance.* The essence of a strategy will be lost if it is rewritten from first principles every year, but the Authority should consider, in consultation with its stakeholders, when a more thorough review may be appropriate. The development of its policies and strategies should be informed by relevant research and evaluation (see Annex B, paragraph 10).

7.8 In practice, given the wide range of issues to be addressed, the Authority may wish to publish strategies in relation to different matters at different times. It should, however, ensure that these individual strategies contribute to and are compatible with its overall strategy, and thus with the objectives set out in these Directions and Guidance. In particular, the Authority's individual strategies and its overall strategy should set out its approach to the relevant objectives, including any priorities it has set. The overall strategy should address the linkages among objectives and, if necessary, set priorities among them. So far as possible, in revising and updating its overall strategy and in 2002 not later than the end of April, the Authority should indicate what individual strategies it plans to publish over the following year.

7.9 The Guidance issued to the Rail Regulator on 26 September advises that he should ask the SRA to provide clarification or a further strategic statement where he considers that desirable for the proper discharge of his functions. Where the Authority agrees to such a request, it should seek to ensure that its response is provided in time for the Regulator to be able to take it into account in reaching his final decision on any matter in relation to which such clarification would be relevant.

7.10 Since the Authority's objectives extend into the future and depend in part on actions to be taken by others, its strategies will need to allow for the effects of uncertainty. But they must be feasible, realistic and deliverable within the resources available.

*7.11 Given the Government's objective to ensure an integrated approach to transport policy and delivery, the Authority must obtain the consent of the Secretary of State to its strategies, which it must seek not less than three weeks before the intended date of their publication, whether in draft or final form.*

## **Investment**

8.1 During the period of the 10 Year Plan the Government expects growth to be achieved of 50% in rail passenger traffic and of up to 80% in rail freight. Delivering these outcomes will require substantial capital investment, from both the public and private sectors.

8.2 The Government looks to the Authority to take the lead in planning and procuring enhancements of the network which will help to deliver the 10 Year Plan targets on a basis which is value for money and affordable. The Authority should implement new arrangements for this purpose, in particular:

- developing a business planning framework for the industry (see paragraph 8. 3) which provides the private sector with the clarity, stability and confidence it needs to invest;
- determining the services and infrastructure the Authority wishes to fund, having regard to value for money and affordability.

8.3 The business planning framework should support the Authority's leadership role, and should:

- enable the Authority's and other rail industry initiatives to be aligned;
- provide a basis on which the Authority may judge when to intervene to ensure consistent management and delivery of desired outcomes;
- enable the Authority to build and maintain linkages with other business planning and control tools used in the rail industry.

The Authority should seek to obtain the rail industry's acceptance of the business planning framework as a primary source for revising and updating its overall strategy as described in paragraphs 7.5 to 7.7.

8.4 The Authority and the Government, in discussion with Railtrack, have been developing a new funding and development framework. The purpose of this framework is to allow third parties to take the lead in developing and implementing new enhancement schemes. The Authority is to press ahead with the development and implementation of the new framework.

8.5 The Authority has a variety of duties and other opportunities to make, and provide incentives for, investment in order to achieve the targets for growth. These include, but are not limited to, the following:

- *The Authority must use the full range of franchising options described in paragraph 10. 3 to deliver the outputs described in the Government's Passenger Rail Franchising Policy Statement (published on 19 December 2001), a copy of which is attached at Annex C. It must monitor delivery of these outputs and take prompt action if train operators fail to meet them.*
- *By contracting with railway industry parties and others, and by exercise of its other financial powers including (where appropriate) the payment of grants the Authority must secure investment for the wider development of the railway network for both passengers and freight. It must also consider other options such as joint ventures with operating companies, construction and project management firms and City finance houses; and also Special Purpose Vehicles - companies set up specifically to undertake rail infrastructure works.*
- The Authority should use the most effective and innovative means to introduce capital support into the industry, address market failures, and maximise the capacity to raise private capital by including a range of funding mechanisms. The Government expects the Authority to be active in seeking both new ways of ensuring this additional private finance and alternative methods of funding and managing enhancement projects.
- With the consent of the Secretary of State, the Authority may give undertakings under section 54 of the 1993 Act in relation to investment in rolling stock for a particular franchise. Such undertakings may specify that, so long as the performance of the rolling stock remains satisfactory, subsequent operators of that franchise may be required as a franchise condition to use that rolling stock until a specified date, which should have regard to the reasonable return on the original investment.
- *The Authority must establish and administer a Rail Performance Fund (RPF) to help secure small-scale enhancements and other measures with the aim of improving the performance of the railway.*
- *The Authority must continue to administer the Rail Passenger Partnership (RPP) Fund in accordance with the bidding guidance for RPP schemes published in January 2002. This fund should support proposals at the regional and local levels that develop rail use and promote modal shift and integration with other modes.*

8.6 *In considering schemes for funding from RPP or from the other funds at its disposal, and in setting priorities among them, the Authority is to apply the "Planning Criteria: a Guide to the Appraisal of Support for Passenger Rail Services" issued by the Office of Passenger Rail Franchising on 24 May 1999. Any changes to the Planning Criteria must be submitted to the Secretary of State for prior approval. The Authority is separately developing appraisal criteria for application to freight schemes; it must similarly obtain the Secretary of State's approval before these are brought into use.*

8.7 The Authority should give particular encouragement to schemes which support the Government's integrated transport policy and broader sustainable development objectives. It should encourage other promoters of schemes to consult it as their plans develop. It should also offer clear and well publicised guidance and assistance, to local authorities and others, on the mechanisms for developing, and securing finance for, investment in the passenger and freight railway industry, including land use planning.

8.8 Where a scheme appears to the Authority to secure significant wider economic, social or environmental benefits, but is not viable on commercial grounds alone, it should consider whether direct public financial support for such a scheme would be justified, or whether it could be facilitated through

the development of arrangements for sharing risk between the public and private sectors. In making judgements of this kind, the Authority should have regard to its statutory duty to secure value for money.

8.9 As a separate matter from the purposes of the RPP, the Authority should also consider whether, and if so to what extent, it would be appropriate for it to make a funding contribution to support passenger rail services which are sponsored by local authorities and were approved by the then Department of Transport prior to the award of first round franchises. The costs of local authority support for such services are likely to have increased as a result of the fundamental restructuring of charges that occurred in the privatisation of the rail industry. Subject to there being headroom in its budget, therefore, the Authority may arrange with the local authorities concerned for their sponsored services to be incorporated in franchise agreements and to receive such financial contribution from the Authority as it considers appropriate.

8.10 The 10 Year Plan makes clear that building in accessibility for disabled people in all new investment is a condition of public money being spent. *The Authority must reflect this policy in its investment decisions.*

8.11 The railway industry will continue to look to the Authority for a view on future levels of service provision; it should be prepared to give advice on these matters consistent with the policy framework set by the Government, and with the resources available.

## **Franchise management**

9.1 Franchise management is important and should be aimed at fulfilling the Authority's duty to protect the interests of users of railway services by ensuring the timely and effective delivery by franchisees of the terms and obligations of their franchise agreements.

9.2 If a franchise operator or franchisee has contravened, is contravening or appears likely to contravene the terms of the franchise agreement, sections 55-58 of the Railways Act 1993 set out the action which the Authority is required to, or may, take action against the franchise operator/franchisee. In considering such action the Authority should have regard to the interests of passengers and public finances, and its response should be proportionate to the failure.

9.3 Where a breach is not trivial, the Authority should arrange for the matter to be corrected as soon as possible, for instance by securing additional undertakings or contractual changes from the franchisee.

9.4 Where, in the opinion of the Authority, a contravention, or likely contravention involves a material adverse effect on passengers or public finances, or materially affects either the Authority's interests or those of any Passenger Transport Executive which is party to the franchise agreement, and where the Authority believes that the contravention can be remedied, it should ensure this is done as soon as reasonably possible. In such cases the Authority may seek to secure contractual undertakings from the franchise operator or franchisee which will provide for:

- the franchise operator or franchisee to secure compliance with the franchise term which has, or is likely to be contravened; and/or
- such additional compensatory benefits to passengers as the Authority considers are appropriate for the contravention or likely contravention.

In considering whether to make an order and/or impose a penalty under sections 55 and 57(b) respectively of the Railways Act 1993, the Authority may take into account the extent to which the franchise operator or franchisee has agreed to give such undertakings.

9.5 The Authority should maintain effective working relations with Passenger Transport Authorities and Executives in respect of the management of franchises to which they are parties in accordance with section 34 of the 1993 Act.

*9.6 The Authority must notify the Secretary of State and keep him informed about any franchise-related issue which has or is likely to have a significant adverse effect on passengers or public finances and about the action which it is taking or proposes to take in response, which may or may not include enforcement action under sections 55-58 of the Railways Act 1993.*

9.7 Franchises may contain specific provision for their own extension. The Authority may activate such provision without reference to the Secretary of State so long as the extension is for a period of no longer than six months. *The Authority must obtain the Secretary of State's approval before agreeing any other extension to an existing franchise. It must also satisfy itself that such extension is compatible with EU obligations.*

9.8 In relation to the management of franchises the Authority should also have regard, where relevant, to any directions and guidance issued by Scottish Ministers in relation to any franchise operating wholly within Scotland. The directions at paragraphs 9. 6 and 9. 7 do not apply in relation to any such franchise.

## **New or replacement franchises**

*10.1 The Authority must notify the Secretary of State before making or revoking any franchise designations under Section 212 of the Transport Act 2000. It must also seek the Secretary of State's consent before entering into commitments to let any new franchise. In either case, the Authority must satisfy itself that its action is consistent with EU obligations.*

10.2 The Authority should explore the full range of franchising options for securing potential benefits for passengers, including variations to existing franchise agreements without any increase in length; franchise extensions; early replacement of existing franchises; and "on time" replacement of existing franchises. It should have regard to the policy set out in the Government's Passenger Rail Franchising Policy Statement (published on 19 December 2001), a copy of which is attached at Annex C.

10.3 The Authority may form the view that the early replacement of an existing passenger franchise is warranted by the potential benefits to passengers and other users, and that it would be affordable. The Secretary of State will be minded to consider a direction under section 26(1) of the Railways Act 1993 enabling the grant of a new franchise without a formal invitation to tender process if he has been satisfied of the benefits of so doing. His policy on such directions was set out in the Government's Passenger Rail Franchising Policy Statement.

10.4 The Authority will need to allow those making proposals for new or replacement franchises (whether or not on expiry of existing franchises) to exercise their commercial initiative and judgement in doing so. But it should also ensure that a proper basis has been established for competing proposals to be fairly evaluated. In particular:

- the Authority should provide, at a reasonably early stage, a clear specification of what the franchise is expected to deliver. This specification will be determined primarily by the availability of funding, taking into account the Authority's overall priorities for its budget;
- where a new or replacement franchise is likely to require improvements to the existing railway infrastructure, the Authority should specify how those improvements are to be reflected in the franchise proposals.

10.5 In examining proposals for new or replacement franchises the Authority should have regard to their potential contribution to delivery of the 10 Year Plan and of its own objectives as set out in Annex A. It should give weight to the following:

- affordability and value for money;
- the commitment of existing franchise operators to safety, performance, customer services, personal security, innovation, investment and efficiency;
- the extent to which investment can be obtained;
- the extent to which better performance can be secured;
- the wider social and economic benefits, including from road decongestion, and environmental impact of proposals;
- compatibility and consistency with local transport plans and regional transport strategies;
- the extent to which integrated transport measures both within the rail network and between rail and other transport modes can be achieved, including integrated public transport information systems; this should seek to include better and safer interchange at and access to stations by local public transport, by car, cycle and on foot and by passengers with disabilities;
- the extent to which accessibility of stations and services will be improved, including any commitment to relevant staff training;
- the extent to which proposals will seek to improve the complete door-to-door journey experience;
- the extent to which passengers will be given a greater voice in the level and standard of services;
- the extent to which station facilities such as signage, information, waiting rooms, ticket offices, cycle parking and secure parking can be improved, and accreditation obtained under the Secure Stations initiative; and
- impact, if any, on existing or potential freight services.

10.6 *All bidders for new or replacement franchises must be made aware of the criteria upon which their bids are being assessed.*

10.7 Under section 34 of the Railways Act 1993, the Authority is required to ensure that the terms of a new or replacement franchise provide for matters specified in a statement by a Passenger Transport Executive (PTE) whose area is served by the franchise. The Authority should work closely with PTEs to ensure that this is done.

10.8 The Authority is not, however, required to comply with a PTE's statement in circumstances specified in section 34(8A) of the 1993 Act. Where the reason for not complying with a PTE statement would be the impact on the Authority's expenditure, or on other railway services, the Authority should ensure that the competing options for expenditure or services are evaluated on a fair and comparable basis.

10.9 *In considering proposals for new or replacement franchises, the Authority must have regard to the need for compliance with the Disability Discrimination Act 1995, and with the 10 Year Plan commitment that accessibility for disabled people in all new investment is a condition of public money being spent. Proposals must also be tested for compliance with the Authority's Code of Practice on Train and Station Services for Disabled Passengers. In doing so, the Authority should consult the Disabled Persons Transport Advisory Committee as appropriate. See Annex B, paragraph 2. 6.*

10.10 *The Authority must take all reasonable steps to ensure there is no disruption to railway passenger services at the end of a franchise.*

10.11 In relation to new and replacement franchises the Authority should also have regard, where relevant, to any directions and guidance issued by Scottish Ministers. The direction at paragraph 10.1 does not apply in relation to any franchise operating wholly within Scotland.

## **Change of control**

11. *Where it is asked to approve a change of control of a franchise operator the Authority must take into account the matters referred to in paragraph 10. 5. It must seek the Secretary of State's consent before agreeing any such change. This direction does not apply in relation to any franchise operating wholly within Scotland.*

## **Consultation - strategies and general**

12.1 *Section 206 of the Act requires the Authority, in formulating its strategies, to consult Scottish Ministers, the National Assembly of Wales, the Rail Regulator and such other persons as it thinks fit and paragraph 7. 11 of these Directions and Guidance requires it to obtain the Secretary of State's consent. Subject to these specific requirements, the Authority will need to judge with whom and how it should consult.*

12.2 There is no general requirement to consult in relation to the exercise of the Authority's other functions, for example under Chapter I of Part IV of the Act or Part I of the Railways Act (although some of its functions and the provisions of these Directions and Guidance carry obligations to consult specified persons or to obtain approvals e.g. from the Secretary of State). Even where there is no specific obligation to consult, the Secretary of State expects there to be the appropriate level of consultation with persons likely to be affected by the actions.

## **Other matters**

13. Further directions and guidance in relation to a range of other matters are set out in Annex B.

## **Annex A: Objectives**

*The Authority is required to deliver the following objectives.*

1. *To provide leadership for the rail industry and ensure that different parts of the industry work co-operatively towards common goals.* The Authority was created in part as a response to the fragmentation of the industry. This objective should underpin the whole range of the Authority's activities.
2. *To secure progressive improvements in the performance of franchised rail services and improved levels of customer satisfaction with the quality of stations and services.* The performance of franchised rail services is of great importance to passengers; the Authority should keep that performance under review.
3. *To manage passenger franchises actively* so as to ensure that commitments on performance and investment are delivered and that the standard of service to passengers is improved in accordance with franchise terms.
4. *To take opportunities to achieve improvements in the terms of existing passenger franchises, both in relation to performance and otherwise.* Such opportunities may arise for instance when the Authority's approval is sought for change of franchise control.
5. *To extend or replace existing passenger franchises in due time before they expire, or earlier where to do so is warranted by the potential benefits to passengers and other users.* In considering proposals for the extension or replacement of existing franchises the Authority should have regard to the specific outcomes required by the 10 Year Plan (as published in July 2000 or as subsequently revised) in relation to passenger growth, quality of service and passenger satisfaction. It will need in particular to consider:
  - the size, duration and coverage of franchises;
  - the interaction of franchises with one another, and of franchised services with others (including freight);
  - how to determine and manage overall priorities within a staged process;
  - the funding available to it, overall and year by year, for franchise replacement.
6. It is important that reliable data about franchise operators' performance and customer satisfaction levels should be published on a regular basis. *The Authority is therefore to carry out a National Passenger Survey twice a year and publish a 6-monthly bulletin describing, in terms that reflect the experience of passengers, the operating performance of franchise operators for the preceding period and their customer satisfaction levels.*
7. *To keep under review the level of regulated and unregulated fares.* Current policy on regulated fares is supported through franchise agreements. Unregulated fares are in the first instance a matter for the commercial judgement of train operators, subject to general competition policy. The Authority's objectives, to pursue passenger growth and service quality, may be best served by retaining a wide range of fare options including for walk-on fares. On the other hand, unrestrained increases in unregulated fares, whether generally or for specific routes or journeys, may be deemed unwarranted or act as a disincentive to passenger growth. The Authority should accordingly keep the impact and extent of fares regulation under review, but should obtain the agreement of Ministers before making any change in current arrangements.

8. *To implement an improved system of support to freight operations to replace the existing Freight Facilities and Track Access grant schemes.* The new system will need to be compatible with EU State Aids rules. It should be designed to encourage the growth of rail freight where to do so represents value for money in terms of the public benefits secured. The Authority must *notify the new scheme formally to the EU Commission, via the Department for Transport and UKREP, in good time prior to introduction of the new arrangements. Until such a new scheme is operational it must continue to administer the existing schemes in accordance with the rules applied by the Department of the Environment, Transport and the Regions immediately prior to 1 February 2001.*

9. *To secure increases in the capacity of the railway to accommodate the expected growth in passenger and freight traffic.* Primary responsibility for the network rests with Railtrack, with whom the Authority should work closely to identify priorities for investment. Proposals for franchise replacement may include specific measures to increase capacity. The Authority may wish to finance capacity enhancements directly where to do so would achieve value for money and the investment would otherwise not be made.

10. *To develop a policy for the utilisation of network capacity.* In an ideal world sufficient capacity would be available for all users. Much more can be done to optimise the capacity of the existing network and the Authority should work closely with Railtrack and industry to identify measures to achieve this. Where this is not possible, for instance when physical locations are constrained, hard choices may have to be made to identify priorities where operators' aspirations may conflict with one another. The Authority's policy should be designed to inform operators and to assist the Regulator in his consideration of proposed access agreements.

11. *To ensure that rolling stock is available so that train operators are able to accommodate expected passenger growth in appropriate modern standards of comfort and safety.* This should be a primary requirement in new or extended franchises. To facilitate the achievement of this objective, the Authority should produce and keep under review a strategy for passenger rolling stock. This should reflect potential demand for new vehicles and opportunities for redeployment of the existing fleet, and should have regard to the desirability of moderating peaks and troughs in demand for new manufacture. The Authority will need to address vigorously the difficulties which currently affect the delivery of new trains by their manufacturers and their introduction into service by operators.

12. *To achieve a significant improvement in the resilience of railway operations.* It is apparent, both from day to day experience and from the response to major events such as the accident at Hatfield in October 2000, that such resilience is currently lacking. It seems likely that a range of measures will be needed to support this objective, including more readily available back-up resources, better contingency planning and improved communications.

## **Annex B: Other specific issues**

### **The broader policy framework**

1.1 *The Authority is to take into account any relevant Government policies insofar as they affect, or may be affected by, the fulfilment of its objectives.* The Authority should also take into account any relevant policies of the Scottish Executive, the National Assembly for Wales and the Mayor of London in relation to their respective responsibilities.

1.2 Many aspects of the Authority's work will have particular local or regional impact. The Authority should accordingly ensure that its strategies, and the exercise of its other functions, are consistent with Regional Planning Guidance issued by the Secretary of State. In formulating its strategies and carrying out its functions it should work closely with the local and regional planning bodies, local authorities and the Government Offices, and should have particular regard, where relevant, to local transport plans.

## **Network benefits and passengers' rights**

2.1 Passengers need, and value, the operation of the railway as a single network. The Authority should therefore continue to encourage co-operation between operators to protect and promote arrangements which facilitate the making of journeys which involve the use of services provided by more than one passenger service operator.

2.2 Passengers also value the availability of tickets which enable them to travel between two stations irrespective of the choice of service or route. Where a railway passenger journey could be made using services operated by different franchisees, the Authority should continue to require the franchisees to offer tickets which are inter-available between their services where it believes the benefits of doing so will outweigh any benefits that might arise from greater price competition and service diversity. *The Authority must consult the Secretary of State before taking action which would have the effect of reducing ticket inter-availability.*

2.3 *The Authority is to continue to require each franchisee to publish its own Passenger's Charter. This should include the franchisee's own code of conduct for dealing with passengers, publishing performance information, handling complaints, and payment of compensation to passengers in the event of poor performance. It should verify compliance with Charter commitments, and require franchisees to ensure that passengers are properly informed of their rights under Passenger's Charters.*

2.4 The Authority should secure significant improvements to Passenger Charter undertakings and to compensation levels for passengers whose journeys have been badly disrupted. It should ensure that operators have to re-assess the provisions of their Passengers' Charters at periodic reviews.

2.5 The effective development of multi-modal travel is a Government objective as set out in the Integrated Transport White Paper and the 10 Year Plan. Existing arrangements which facilitate multi-modal travel should accordingly be preserved, and new arrangements promoted. *The Authority must take all appropriate steps to provide for and encourage the participation by franchisees in multi-modal travel schemes, including the Travelcard scheme in London, so long as it is satisfied that participation will be consistent with its statutory duty to secure value for money.*

2.6 Under the Transport Act 1985, the Disabled Persons Transport Advisory Committee (DPTAC) is the statutory adviser to the Secretary of State on the transport needs of all disabled people. The Authority should work closely with DPTAC and be guided by its advice on issues relating to disabled passengers using the rail network. *The Authority must also keep under review and publish a code of practice for protecting the interests of disabled users of railway passenger or station facilities.*

2.7 The Authority should seek to promote the personal security of passengers travelling by rail. It should promote improved personal security at stations by encouraging accreditation under the Secure Stations Scheme and the Secured Car Park Scheme. It should also work with appropriate bodies to improve personal security on pedestrian routes to the stations.

2.8 The Authority should also seek to promote the use of bicycles by seeking the provision of reasonable and secure facilities on board new rolling stock and at stations.

## **Rail passengers' committees**

3.1 The Rail Passengers' Council and the Rail Passengers' Committees (the RPC network), including in London the London Transport Users' Committee (LTUC), provide independent representation for passenger interests. The Authority should work closely and effectively with them, but they should remain clearly independent of the Authority. It should underpin this independence by ensuring that the RPC network has resources consistent with its remit and the demands placed upon it, and by reviewing its financial and staffing levels from time to time.

3.2 The Authority should also underpin this independence by agreeing a memorandum of understanding with the Rail Passengers' Council covering, but not necessarily limited to, information sharing, consultation, franchise monitoring and management and budget relationships.

3.3 The Department for Transport is committed to appointing a broader range of people to public bodies to make them more representative of society as a whole. The Authority should aim to increase the proportion of Rail Passengers' Committee appointments held by women to at least 40%; by ethnic minorities to at least 7%; and by disabled people to at least 5%.

*3.4 When considering appointing new members to the Committees in England and Wales, the Authority must consult the Secretary of State prior to interviews being held with shortlisted candidates. It must also consult the Secretary of State before re-appointing any existing member of those Committees. In relation to appointments and reappointments to the Rail Passengers Council - Scotland, it should have regard to any directions and guidance issued by Scottish Ministers.*

## **Passenger transport executives (PTEs)**

4.1 *Section 211 of the Transport Act 2000 allows the Authority to take responsibility for the payment of grant to PTEs in England in respect of franchise and administrative costs and it must do so from 1 April 2001.*

4.2 In taking over these functions the Secretary of State expects the Authority, inter alia, to:

- support the current level of PTE services under existing franchises, and provide a broadly equivalent level of support to PTEs for new or replacement franchises;
- continue to fund the current RPP schemes;
- assess the impact, on PTE-funded services, of national standards on safety, performance and overcrowding; and provide funding to achieve those standards, consistently with how they are funded for non-PTE services.

*4.3 If a PTE in England ceases to secure the provision of all railway passenger services from a franchisee under an agreement made pursuant to s34 of the Railways Act 1993, the Authority will assume responsibility for financing the services so provided at the time the PTE ceases to secure such services. It will be responsible for determining the future levels of services formerly secured by the PTE.*

## Future service levels

5. *Except where the Secretary of State has given a specific direction to disregard this direction in relation to a specific franchise agreement, the Authority must secure that minimum levels of service remain at least equivalent to those specified in the current Passenger Service Requirements or which are otherwise contractual obligations.* However, services should be developed to reflect passenger demand and best use of capacity. Insofar as such developments relate to services specified in the PSR, it should consider proposals from franchisees in the light of the "Planning Criteria: A Guide to the Appraisal of Support for Passenger Rail Services, issued by the Office of Passenger Rail Franchising on 24 May 1999".

## Fares

6.1 The Authority should encourage proposals that help to make fares more easily understood by passengers and which use new technology such as smartcards.

6.2 The Authority should subject the existing range of regulated fares to an overall cap of RPI-1% but consider changes to the cap where:

- existing capacity is fully used and the additional revenue earned from increasing capacity would not cover the costs involved
- significant quality improvement is proposed which might be paid for, in total or in part, through fares
- variations between peak and shoulder-peak prices might be effective in encouraging redistribution of peak demand and reduction in overcrowding

6.3 The Authority should keep the present link between London Fares and performance under review.

6.4 Section 28 of the Railways Act 1993 requires the Authority to require franchisees to participate in those schemes which apply to their services and which provide for discounted fares for elderly, disabled or young people which meet with its approval. *In addition to national schemes, if it is so requested by a local authority, the Authority must require franchisees to participate in that local authority's concessionary travel scheme so long as it is satisfied that participation will result in no net cost falling on the franchisee or on its budget.*

## Open access competition

7.1 The Regulator is responsible for the approval of access contracts. The Transport Act 2000 amends the Railways Act 1993 so as to require the Rail Regulator to facilitate the furtherance by the Authority of its strategies (balanced against his other duties). The Regulator's duty to promote competition is redefined to be for the benefit of users of railway services. The Regulator may also refuse to approve access contracts if they might impede the provision of a service which has been designated for franchising. The Authority should work closely with the Regulator to ensure he is fully aware of its assessment of the overall benefits of individual service proposals and proposed access agreements, and of its policy on the utilisation of capacity (see Annex A, objective 9).

7.2 In awarding franchises, in its policy on the allocation of capacity and generally, the Authority should weigh any potential benefits of on-rail competition against the impact upon existing services and the need to ensure value for money in return for the public subsidy provided to those services. It should seek to

ensure that competition does not undermine existing services supported by the taxpayer, or reduce network-wide passenger benefits. It should ensure that its strategy safeguards against the erosion of a properly integrated rail network.

## **Local and regional transport plans**

8. To assist in the co-ordination of transport and land-use planning in England and Wales, Regional Planning Guidance (RPG) will include a Regional Transport Strategy (RTS), to inform both development plans and Local Transport Plans (LTPs). The Authority should advise Government Offices and regional planning bodies on the rail proposals in RTSs, making its views known on draft revised RPG, and should contribute to the programme of multi-modal studies. It should ensure that strategies are consistent with RPG issued by the Secretary of State.

## **Railway land**

9.1 The Authority should take decisions to dispose of its land in the context of its strategies. In assessing whether there is a realistic prospect of rail or other transport use in the foreseeable future, it should avoid taking a short-term view. Decisions should be made after the potential of sites has been evaluated in a rigorous way, taking into account the views of any property advisory group set up by the Authority.

9.2 The Authority should look to the rail industry and local authorities to acquire sites with rail potential, allowing time for detailed consideration of future ownership and use, and for obtaining any necessary consents. But if these bodies do not purchase sites it should consider whether they should be retained by the Authority for rail use at a later date. In reaching such decisions the Authority should weigh carefully the risks of blight and the lost development opportunities, including other Government objectives such as making brownfield sites available for development.

9.3 Where the Authority decides to dispose of a site for railway use rather than alternative development, it should obtain the market value for that land reflecting the limitation on its use. It should take all reasonable steps to ensure that a purchaser of land for railway use will not then be able to maximise the development value of the land for another use.

9.4 Section 218 of the Transport Act enables the Authority to dispose of land not required for railway purposes. Such land might serve another transport use. Before disposing of land not required for railway purposes the Authority, having regard to its purpose of contributing to the development of an integrated system of transport and in consultation with the relevant local authorities and regional planning bodies, should consider whether that land has an alternative transport use.

## **Research**

10. The Authority should encourage and as appropriate commission research related to its purposes and objectives. It should have particular regard to the need to forecast the impact of its policies, projects and programmes on its objectives, including the targets set out in the 10 Year Plan, and should undertake (or commission) a continuing programme of evaluations covering its major policies. In addition, it should seek to lever in private funding of research on major initiatives while ensuring clear ownership of any research that is commissioned on its own behalf. Its research and evaluation strategy and individual proposals should be developed in consultation with other bodies, including the Research Councils, HSE,

Railway Safety and Government Departments, and should complement other research initiatives within the UK and EU. The Authority should continue to promote and develop methodologies for informing the formulation of policies, their financial appraisal and evaluation.

## **Collection and publication of data**

11. The Authority should compile and publish regular statistics on national rail trends and the performance of train operating companies according to the terms of the Memorandum of Understanding agreed between Ministers and the Authority, which is reproduced at Annex D.

## **Rail staff concessionary travel**

12.1 The Government's policy, in line with the obligations to be transferred to future employers, is that rail staff concessionary travel will continue for those entitled by reason of their employment on a basis no less favourable overall to the individual than that which applied in December 1995. This safeguard is limited to those employed by BR and its subsidiaries on or before 31 March 1996 or, if earlier, the date on which the employer ceased to be a subsidiary of BR, and to those employed by Railtrack on or before 31 March 1996. Those entitled include those former employees benefiting from staff concessionary travel by reason of their employment with BR and its subsidiaries and Railtrack and the eligible dependants of employees and former employees benefiting from such concessionary travel.

12.2 The Authority should exercise its powers under section 135 of the Railways Act 1993 to ensure that franchise operators, and others operating on its behalf, provide staff concessionary travel in respect of those entitled within the safeguard above, and to those benefiting from existing specific arrangements between BR and third parties entered into prior to 11 December 1995, to provide concessionary travel to employees, former employees and qualifying dependants of those third parties.

12.3 Such facilities should be provided free of charge (other than relevant administration fees) in respect of those entitled within the safeguard above to the Association of Train Operating Companies and to franchise operators; others may be charged although the Authority should note that there are existing arrangements which provide services free of charge, and these should continue until they are amended in accordance with their terms, or the parties otherwise agree.

## **Railways pension scheme**

13. In exercise of the Authority's powers under Clause 13 of the Franchise Agreement, and its powers, duties and obligations under Clause 12 of the Trust Deed of the Railways Pensions Scheme, it will need to have regard to the statutory provisions of paragraphs 6-8 of Schedule 11 to the Railways Act 1993 and relevant Orders. In so doing it should also take into account the long-term financial implications for each Franchisee Section of the Scheme.

## **European union issues**

14. There will be occasions where aspects of the Authority's business require or would benefit from referral to, or discussion with, the European Institutions. *In such cases the Authority must ensure that the UK Permanent Representation to the European Union (UKREP) and the Department for Transport are aware of these dealings; and it must comply with relevant Cabinet Office guidance.*

## **Annex C: Passenger rail franchising**

*Text of the Government's Passenger Rail Franchising Policy Statement published on 19 December 2001*

### **Passenger rail franchising**

#### *Policy and funding*

1. The Government's priorities for transport are reduced congestion, better integration, and a wider choice of quicker, safer, more reliable and easy to use options for all travellers and other transport users. The Integrated Transport White Paper <sup>4</sup> set out the Government's transport policy; the 10 Year Plan <sup>5</sup> sets out how that policy will be delivered. The Government has committed substantial sums to the improvement of the railways over the 10 Year Plan. It is vital that the franchising process delivers the maximum benefits from these resources.

### **Targets**

2. The Government's key targets for the railway set out in the 10 Year Plan are:

- to increase rail use in Great Britain (measured in passenger kilometres) from 2000 levels by 50% by 2010, with investment in infrastructure and capacity, while at the same time securing improvements in punctuality and reliability;
- to reduce overcrowding to meet Strategic Rail Authority (SRA) standards;
- a significant increase in rail freight's share of the freight market by 2010. The Government believes it ought to be possible to increase market share resulting in an 80% increase in rail freight by 2010 - provided the rail freight companies can deliver improvements in performance and efficiency.

### **Objectives**

3. Our objective is to secure the earliest possible delivery of better rail services for passengers without prejudicing necessary long-term investment and while providing value for money for the taxpayer. We are seeking continuous improvement in safety and operational performance, as well as better customer service.

4. Our draft Directions and Guidance for the SRA include the following objectives:

*1. To secure progressive improvements in the performance of franchised rail services and improved levels of customer satisfaction with the quality of stations and services.*

*2. To manage passenger franchises actively so as to ensure that commitments on performance and investment are delivered and that the standard of service to passengers is improved in accordance with franchise terms.*

*3. To take opportunities to achieve improvements in the terms of existing passenger franchises, both in relation to performance and otherwise.*

*4. To extend or replace existing passenger franchises in due time before they expire, or earlier where to do so is warranted by the potential benefits to passengers and other users.*

## **Process**

5. Most of the eighteen 7-year franchises expire in 2003-2004. The current franchise agreements contain commitments to deliver particular services to a specified standard.

6. Franchise management is important. We expect the SRA to protect the interests of rail users by ensuring timely and effective delivery by franchisees of the terms of their franchise agreements.

7. But we also expect the SRA to explore the full range of franchising options for securing potential benefits for passengers. These include:

- variations to existing franchise agreements without any increase in length;
- franchise extensions;
- early replacement of existing franchises; and
- "on time" replacement of existing franchises.

8. We expect the SRA to identify the most appropriate approach for each franchise, in order to work towards the objectives set out in paragraphs 3 and 4, and to deliver the most appropriate outputs from those at paragraph 13. This will include determining an appropriate length for replacement franchises - whether awarded early or "on time".

9. A franchise extension might be necessary, for example to facilitate the refurbishment of existing rolling stock, the ordering of new rolling stock, or the smaller enhancements that would bring early benefit to passengers. Existing franchises already provide for extensions of up to two years.

10. There will also be cases where the potential benefits cannot be delivered under an existing franchise agreement, even if extended. For example, the benefits may take too long to deliver, or changes may be needed to the franchise map. The SRA has already identified some franchises which need to be replaced early and is negotiating new agreements on South West Trains, South Central and Chiltern.

11. Where franchises are replaced early, they will provide a base to move forward. The contract will be expected to deliver benefits quickly but permit more substantive investment in due course. This will allow the more limited funds available in the early years of the Ten Year Plan to be distributed more widely across the country, and avoid other investment being delayed by work on major enhancements.

12. In all new franchises, the SRA will invite bids against a clear specification of core outputs. Our purpose is to ensure that in negotiations everyone can be clear what the Government is trying to achieve. The SRA, focussing on 10 Year Plan priorities within its overall strategy, will give details of the outcomes it wants. There will still be flexibility for bidders to put forward their own (additional) proposals. But the common core specification will ensure that the fundamentals of different bids are directly comparable.

## Outputs

13. Our aim is to deliver the following sorts of benefits. Not all of these will be necessary in any given franchise and the approach to securing them will also vary between franchises:

- better punctuality and reliability e.g. tougher performance targets, extra drivers, spare trains for emergency use, enhanced maintenance cover, better arrangements for dealing with disrupted services;
- reductions in overcrowding e.g. extra rolling stock, additional services and longer trains;
- better service and facilities e.g. enhanced service levels and frequencies, refurbished or improved rolling stock; improved station signage, information, waiting rooms, and ticket offices;
- improved safety and personal security e.g. more CCTV at stations and on trains, secure parking, more accreditation under the Secure Stations initiative and extended staffing hours;
- integrated transport measures e.g. integrated public transport information systems; better and safer interchange at and access to stations by local public transport, by car, cycle and on foot; and new park and ride stations;
- improved accessibility for disabled people e.g. at stations and on trains;
- putting passengers first e.g. better compensation when things go wrong, no quibble refunds, and a greater voice for passengers in the level and standard of services; and
- improved passenger information and retailing e.g. real time travel information, ticketing systems and internet ticket sales.

## Next steps

14. We expect the SRA to review the opportunities across all franchises to address the issues of most concern to passengers, in the context of the development of its overall strategy. Some of the problems will require major investment which can come with new, longer franchises, many will not. Some of the solutions will have long lead times, many can be implemented quickly. We want both to deliver results in the short term and to plan for the long term.

Department for Transport, Local Government and the Regions

19 December 2001

## Appendix

### **Directions Under Section 26(1) of the Railways Act 1993: Statement of Policy**

#### *Introduction*

1. This policy statement is published by the Secretary of State for Transport, Local Government and the Regions in exercise of his powers under section 26(5) of the Railways Act 1993 ('the Act'), as amended by the Transport Act 2000 ('the Transport Act').

2. Under section 26(1) of the Act the Strategic Rail Authority ('the Authority') must award a franchise to a person who has submitted a tender in response to an invitation to tender under that Section, *unless the Secretary of State otherwise directs*.

3. This statement sets out the policy framework within which the Secretary of State will exercise his powers under section 26 to direct the Authority ('a section 26 direction'). It complies with the requirements of section 26(6) of the Act.

*General use of power*

4. The Secretary of State expects the Authority to award franchises following a competitive process, wherever this is possible. Except in the context of early franchise replacement (see paragraphs 5 - 8 below) the Secretary of State normally expects his power of direction to be used infrequently. In exceptional cases, a section 26 direction may be given outside of the early franchise replacement context where he is satisfied that a competitive process would not be appropriate or it is otherwise appropriate to direct the Authority as to how the franchisee should be selected.

*Early replacement of a franchise*

5. The Secretary of State's Directions and Guidance to the Authority ('the Directions and Guidance') includes an objective to "extend or replace existing passenger franchises in due time before they expire, or earlier where to do so is warranted by potential benefits to passengers and others".

6. Where the Authority elects to seek to replace an existing passenger franchise early, the Secretary of State expects it to do so through an exercise which is very close in substance to the tendering process laid down in the Act. However, where there are some years to run on an existing franchise, the Authority may not formally be able to seek invitations to tender and the process, although fully competitive, may not comply with the requirements of section 26 of the Act.

7. In such circumstances, the Secretary of State expects the Authority to seek a direction under section 26(1) of the Act in order to resolve any doubt as to whether the process constitutes an invitation to tender as required by section 26. The Secretary of State normally expects the Authority to request such a direction at an early stage in its process. He would not normally expect it to proceed to invite best and final offers for an early replacement franchise without a section 26 direction having been given. In deciding when to request a direction, the Authority should consider when it would be most appropriate to engage Passenger Transport Executives in accordance with section 34 of the Act. The terms of the Act require the Authority to issue an invitation to tender, or the Secretary of State to give a section 26 direction, before the Authority can sign heads of terms for a franchise with its preferred bidder.

8. Before giving a section 26(1) direction in relation to early franchise replacement, the Secretary of State will normally need to be satisfied that the benefits potentially offered by the early award of a new franchise outweigh the desirability of waiting for a process which complies with section 26(1) at the expiry of the franchise term.

*Sorts of direction*

9. The Transport Act amended section 26 of the Act to illustrate, by way of example, various kinds of direction which the Secretary of State may give. Three different types of directions illustrated in section 26 of the Act are directions -

- requiring the Authority to award the franchise to be the person specified in the direction ('a section 26(4)(a) direction'),
- requiring the Authority to select that person in a specified manner ('a section 26(4)(b) direction'), and
- authorising the Authority to select the franchisee in such manner as it may consider appropriate ('a general direction').

10. The Secretary of State remains committed to the statement made in the House of Lords, during the passage of the Transport Act, by the then Minister for Transport that "it is not the [Secretary of State's] intention to use [this] to impose a franchisee on an unwilling SRA" <sup>6</sup>. But there are circumstances where a direction in the terms specified in section 26(4)(a) and (b) might be given. A section 26(4)(a) direction might be given, for example, if he considers that there is only one appropriate bid for a replacement franchise (whether subject to early replacement or not). A section 26(4)(b) direction would enable the Secretary of State to set the rules for an early replacement exercise, if that were appropriate.

11. Where the Secretary of State is minded to give a section 26 direction he would normally expect to give a general direction to the Authority, authorising it to select the franchisee in accordance with procedures set out in the instructions inviting best and final offers or separately recorded.

*Relationship with Secretary of State's consent required in the Directions and Guidance.*

12. Under the Directions and Guidance <sup>7</sup>, the Authority requires the Secretary of State's consent before entering into commitments to let any new franchise. This consent is required in all cases, whether or not the franchise is subject to early replacement. Where the Authority is able to select a franchisee by authority of a section 26 direction, the Authority will still need to obtain the Secretary of State's consent before entering into any commitments to award a franchise to its preferred counterparty.

13. Before giving his consent the Secretary of State will normally need to be satisfied that the proposed franchise is consistent with the Directions and Guidance and any other directions or guidance which may be given by the Secretary of State as to the manner in which the Authority is to exercise its functions.

Department for Transport, Local Government and the Regions

19 December 2001

<sup>4</sup> A New Deal for Transport: Better for Everyone (Cm 3950), published in July 1998

<sup>5</sup> Transport 2010 The 10 Year Plan, published in July 2000 by the Department of the Environment, Transport and the Regions.

<sup>6</sup> House of Lords Report, Column 762, 30 October 2000

<sup>7</sup> Paragraph 10. 1.

## **Annex D: Collection and publication of data**

### **Memorandum of Understanding between SRA and DfT concerning the production, dissemination and publication of statistics about the performance of the National Railways system**

#### **1. Collection of data**

##### *Passengers*

1.1 SRA will continue to use the appropriate industry systems to produce analyses of the performance of the passenger train operating companies.

##### *Freight*

1.2 SRA will collect data directly from the freight train operating companies.

##### *Railtrack*

1.3 As appropriate, SRA will collect data from Railtrack. DfT have been in discussion with Railtrack about whether it might be more efficient for it to provide data about tonnes and tonne-kilometres, rather than the freight companies. SRA will continue this initiative.

1.4 As appropriate, SRA will discuss with DfT the feasibility of collecting additional data that would have a clear benefit in monitoring and briefing eg train-kilometres and, as resources permit, collect such data. Any new requirements will have to take into account the compliance cost to the industry of providing additional data.

#### **2. Publication of data**

2.1 SRA will publish a separate quarterly statistical bulletin including the same trend tables that appear in DfT's current Bulletin (copy attached). DfT will provide SRA with copies of all the appropriate databases it needs to construct the tables.

2.2 SRA will publish their bulletin to a pre-announced timetable agreed with DfT. It will be accompanied by a statistical press notice announcing the publication of the bulletin.

2.3 DfT will receive a pre-publication copy of the bulletin and press notice 5 days before the publication date.

2.4 If it is necessary to make any changes to the coverage of the data underlying the figures in any of the tables in the bulletin, or any definitional or other changes, SRA will provide DfT with information explaining and quantifying the effects of any consequent discontinuities in the series.

2.5 If other basic series become available, and resources permit, SRA will include these in the Bulletin.

2.6 The Bulletin currently includes a table showing investment in National Railways. DfT produces this table by paying the Office for National Statistics to collect extra data from rail companies as part of its Capital Expenditure Enquiry. SRA will negotiate with ONS whether they can take over customer responsibility for these data. If not DfT will remain as customer, and produce the table for it to be included in the Bulletin.

### **3. Provision of detailed data to DfT**

3.1 SRA will provide all reasonable assistance to DfT in relation to the bulletin and underlying data.

3.2 SRA will continue to provide DfT with all the company level passenger and freight data that it currently receives in connection with the production of the Bulletin. This is needed by DfT to facilitate any manipulation of the data carried out in order to understand it more fully. These data are needed purely for statistical purposes. They will not be used to monitor the performance of individual companies and will not be distributed outside DfT without the permission of SRA.

3.3 DfT will also continue to receive other basic data, not directly related to the Bulletin, that it currently receives. These will include the PIXC counts and the annual Passenger Rail Fare report. This will enable the Department to be aware of the latest SRA figures. SRA will also keep DfT informed about statistical developments, for example work in hand to produce a fares index.

### **4. International obligations**

4.1 SRA will produce all the data about National Railways needed by Eurostat for its proposed Rail Regulation.

4.2 SRA and DfT will jointly represent UK at meetings of the Eurostat Working Group on Railway Statistics

### **5. Data quality**

5.1 SRA will give priority to maintaining the quality and consistency of the published series. In particular it will continue to work towards resolving the problem of the mileage data that are not currently being captured by the operators' ticket system.

### **6. Documentation**

6.1 SRA will produce sufficient documentation to enable users to understand the data. Details about the quality of the data should be provided.

### **7. Presentation**

7.1 DfT and SRA will seek to ensure that inconsistent or contradictory statements are not made by various parties within the rail industry.

## **8. Ad hoc enquiries**

8.1 SRA will deal with ad hoc enquiries for railway statistics received from members of the public and outside organisations. However, it is likely that DfT will still receive enquiries and, if able, will continue to deal with them. (Experience has shown that many can be dealt with by sending the enquirer a copy of the Rail Bulletin. )

## **9. Liaison**

9.1 SRA and DfT will meet formally every 6 months to discuss issues relating to the provision of statistics, including if necessary any revisions needed to the content of this Memorandum. Either party may request a meeting at other times. SRA and DfT can agree to change the frequency of the meetings.

9.2 SRA will be the lead organisation for the collection and publication of rail statistics, but there may be areas of work, particularly development, where SRA and DfT will agree to work jointly in order to facilitate progress.

## **10. National Statistics.**

10.1 National Statistics was launched at the beginning of June. SRA and DfT will decide whether statistics about National Railways will be designated National Statistics (as defined in the White Paper on National Statistics). Issues to be considered will include:

- Quality assurance requirements including adoption of the quality review procedures that underpin the production of all National Statistics.
- The continued release of data on pre-announced dates as soon as possible after data are available.
- The role of the National Statistician, and the Head of Profession for Statistics in DfT (who carries day to day responsibility for the integrity of the Department's statistics on behalf of Ministers), in the formulation of National Railway statistics.