



## BRIEFING PAPER

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# Rail fares, ticketing & prospects for reform

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### Contents:

1. Rail fares
2. Ticketing
3. Rail cards
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## Summary

Rail fares have been a sore point for passengers for some time. This is exacerbated at the turn of the year when the annual regulated fare changes are brought into effect. The fare increases, which arguably cause the most dissatisfaction for passengers, raise questions around who determines fare changes and whether there is any prospect of them being frozen or even reduced?

It is the train operators that control individual rail fare changes, but for certain categories of fares they are constrained by regulation, which prohibits increases beyond inflation each year.

Train operators can and do reduce individual fares. A typical case is the Advanced Fare, which provides a considerable discount to travel during quieter periods and with limited flexibility. But fares on the National Rail network, at least since 2004, have not been reduced or frozen across the board, or even for a single operator. Overall fare levels have increased off the back of rising industry costs and successive government policies to shift the burden of paying for the railways away from the taxpayer to the passenger.

A fares freeze or reduction will almost certainly not happen anytime soon. The costs are likely to be too prohibitive to government for this to occur, meaning the annual regulated fare increases are set to continue for some time yet.

Given this, much of the discussion around reform is focussed on improving the system to make fares and ticketing simpler, easier and more transparent for passengers.

Several governments have attempted to institute change in these areas since privatisation. While some positive changes have been delivered for passengers, including new ticketing technologies and an improved process of buying tickets, the overall system remains largely as it was.

As a result, the same passenger frustrations remain and the case for reform is still strong. The Rail Delivery Group believe that “maintaining the status quo is not an option” and have proposed what they describe as “root-and-branch reform” of the current system.

However, the obstacles that prevented widespread reform in the past – namely the cost to government, the complexity of the regulations and the political palatability of reform – remain largely as they were. It is not clear whether these can be easily overcome. In any case, widespread changes will take several years to implement.

In addition to providing an overview of the current fares and ticketing framework, this paper provides an extensive discussion of these issues, what action has been proposed since privatisation and what proposals have been formally implemented.

A statistical overview of rail fare changes since privatisation can be found in HC Library briefing paper [Railways: fares statistics](#).

Information on other rail-related matters can be found on the [Railways Topical Page](#) of the Parliament website.

# 1. Rail fares

The current structure, type and level of rail fares in Great Britain has been determined by a mixture of history, market forces and regulation.<sup>1</sup> The fares structure that is in existence is a hangover from the days of British Rail and many of the regulations underpinning rail fares were introduced through the [Ticketing Settlement Agreement](#) in 1995 to maintain whole of network connectivity for passengers. The Rail Delivery Group (RDG), described these regulations a “well-intentioned but ultimately counterproductive”.<sup>2</sup> Since then, further layers of requirements have been added through individual franchise agreements, “with little or nothing taken away”.<sup>3</sup> For a more comprehensive discussion of the history and development of fares and regulation see Section 2 of the Steer Davies Gleave report '[Research Project on Fares](#)'.

## What is the difference between a fare and a ticket?

The terms 'fares' and 'tickets' are often used interchangeably, including on the National Rail enquiries [website](#). There is a distinction between the two and for the purposes of this paper:

- A 'fare' is the terms of the transaction, including the price and conditions of travel.
- A 'ticket' is evidence of that transaction, with the term 'ticketing' also encompassing the way in which the transaction takes place.

For example, when travelling on a National Rail service, a passenger may have an advance **fare**, which is a cheaper option but can only be used on specific service. They might have purchased that fare online ('ticketing') and have a smart **ticket** as evidence of the fare.

In terms of the basics of who controls rail fares, **individual rail fare changes** are determined by train operators, but certain **categories of those fares** are regulated by Government and can only be increased by a given amount each year. The **overall fares structure** across the railway is determined by Government policy. The details around fares changes, structures and regulation will be discussed below.

## 1.1 Types of fares

The broad types of fares that are available on the National Rail network are listed below. All these fares, except for advance fares, are collectively known as “walk-up” fares because they can be purchased on the day of travel.

- [Anytime](#) – these are fully-flexible fares. The outbound journey of an anytime return fare must be used on or within 5 days of the date shown on the ticket and for the return, within one calendar month of the date shown on the ticket.

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<sup>1</sup> Steer Davies Gleave, [Research project on fares - Final Report: analysis, recommendations and conclusions](#), 28 February 2011, pi

<sup>2</sup> Rail Delivery Group, [Easier fares for all](#), 18 February 2019, p9

<sup>3</sup> Ibid

- [Off-Peak](#) – these are cheaper but less flexible fares. They are restricted to use on less busy services. The trains that one can catch and the times that one can travel with an Off-Peak ticket vary considerably depending on the journey being made, the day/date of travel and the train company.<sup>4</sup>
- [Advance](#) – these are least flexible fares that are sold in more limited numbers. They are only valid on the specific booked departure as per the reservation. If the booked departure is missed, a new ticket must be bought to travel on the next service. Advance tickets may be changed prior to departure subject to payment of any difference in fare and an administration fee, but no refunds are available if the ticket is not used.
- [Season](#) - Unlimited travel between two stations for a period of 7 days or for any period between 1 month and 1 year.
- [Rovers and Rangers](#) - Unlimited travel within a specified area. There may be a few time restrictions on when you can travel.<sup>5</sup>

These fares can be offered either through an individual train operator, or multiple operators in the form of through-fares that provide access across different parts of the network. The latter, which are described as inter-available fares, are set by the ‘lead operator’ for that journey, which is normally the operator with the greatest commercial interest in that journey. The fares regulations require other operators to honour these “inter-available” fares once they have been set by the lead operator.<sup>6</sup>

### How is the ‘peak’ defined?

Fares are categorised depending on the time of the day they can be used, notably during the peak and off-peak. This is done to better manage capacity by spreading demand over the course of day, aligned to more accurately match different consumer willingness-to-pay.

In general, for long-distance journeys fares regulation sets a maximum window within which operators may define the peak. Currently, this window is defined as from start of service in the morning to 10.30 and for long-distance journeys starting from stations in and close to London, there is also an afternoon/evening peak period from 15.00 to 19.00.<sup>7</sup>

The peak period regulations are applied differently by individual rail operators and from a passenger perspective, there is no single definition of what constitutes the ‘peak’. In recent years what constitutes the ‘peak’ in the morning and evening has stretched on some services.

In 2010 *Which?* produced a briefing listing the variety of ‘evening peaks’ which existed at that time.<sup>8</sup> The broad range is illustrated in the graphic below:

<sup>4</sup> National Rail Enquiries, [Off-Peak Tickets](#) [accessed 8 April 2019]

<sup>5</sup> DfT, [Rail Fares and Ticketing Review: Initial consultation](#), March 2012, p102

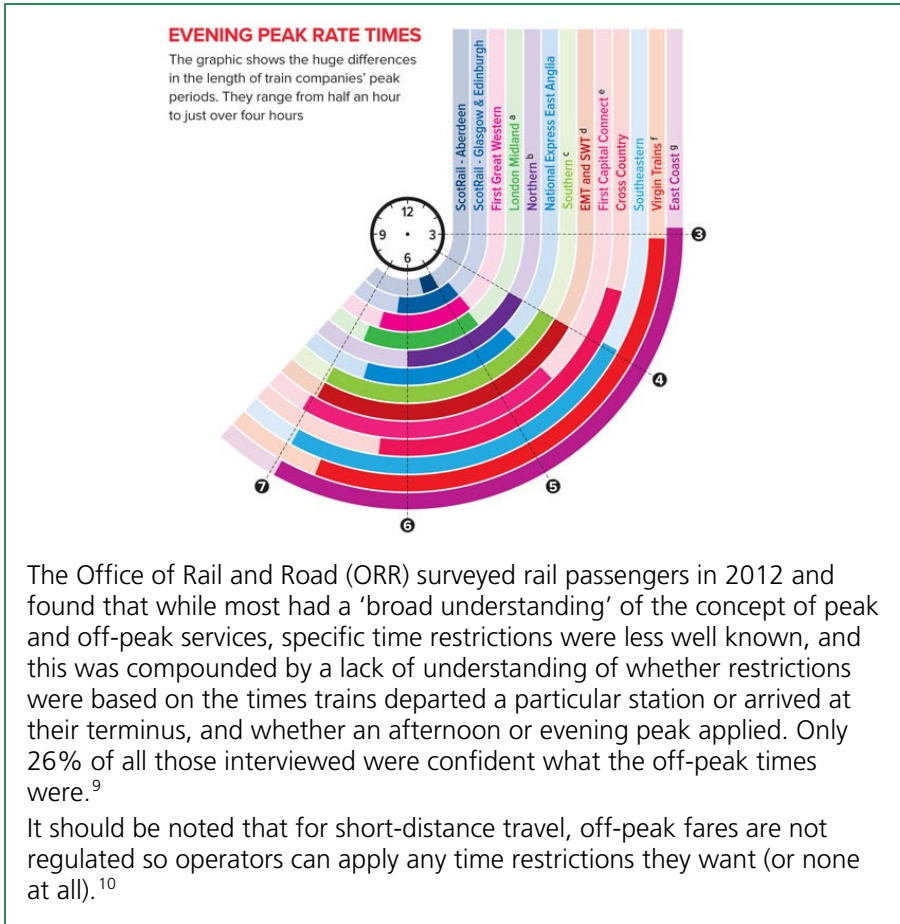
<sup>6</sup> *Ibid.*, p103

<sup>7</sup> *Ibid.*, p58

<sup>8</sup> *Which?*, [Train tickets' peak rate stretches after 11am: Passengers confused by different peak travel times](#), 26 August 2010; the followed the decisions by some TOCs in the 2010 fares round to switch a number of off-peak (and usually cheaper) services to peak services [see, e.g. “Rain firms cash in with peak fare changes”, *The Daily Telegraph*, 10 May 2010]

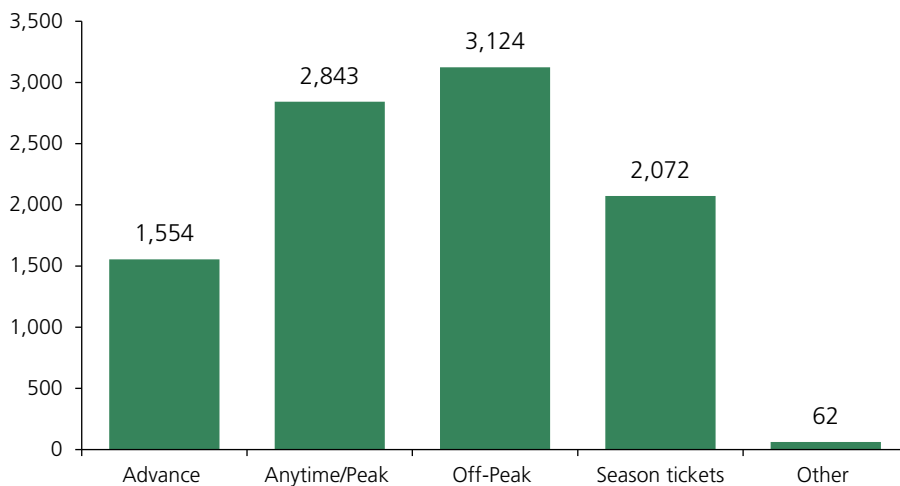


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Off-peak fares account for the greatest share of passenger revenue, at £3.1 billion (or 32%) in 2017-18. Anytime fares account for the next highest share of revenue at £2.8 billion (or 29%). Advance fares have accounted for an increasing share of revenues, rising from 12% in 2010-11 to 16% in 2017-18, with the season ticket share having fallen by 4% over the same period to account for 21% in 2017-18.

### Passenger revenue by fare type, 2017-18 (£ millions)<sup>11</sup>



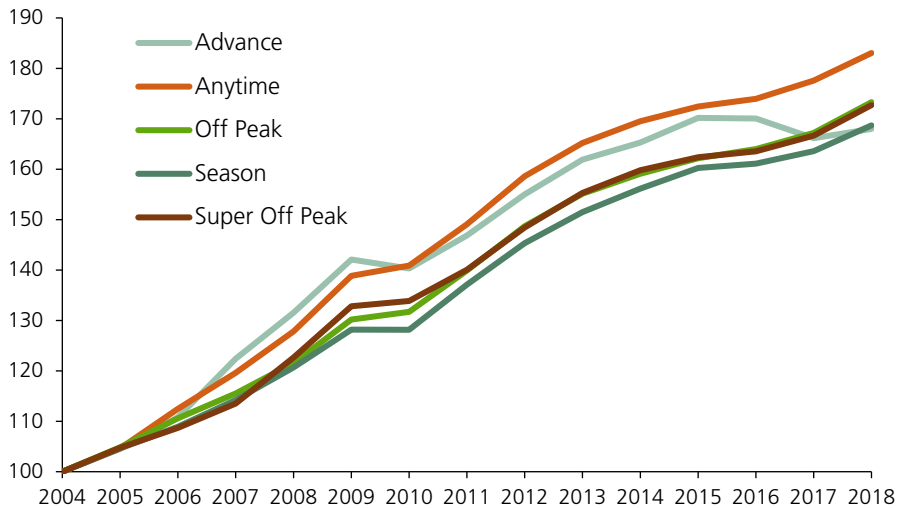
<sup>9</sup> op cit., [Fares and ticketing – information and complexity](#), paras 2.27-28, p11

<sup>10</sup> op. cit., [Rail Fares and Ticketing Review: Initial consultation](#), p58

<sup>11</sup> ORR, [Rail Fares Index \(January 2018\)](#), 19 April 2018, p4

The price of all ticket types has risen considerably over the last decade, though advance fares have plateaued more recently. For full analysis of rail fares, see the House of Commons library briefing paper [Railways: fares statistics](#).

### Rail fares index (January 2004=100) measuring the change in rail fares by ticket type, 2004-2018 all operators<sup>12</sup>



## 1.2 Regulated fares

Unlike other commercial sectors, such as airlines, rail operators are not subject to the same degree of competition and without competition there are few commercial limitations against them when it comes to setting fare levels. Rail fares are consequently regulated to “protect passengers from possible market abuse and ensure that rail travel remains affordable for a wide group of people, particularly where they do not have a realistic alternative.”<sup>13</sup>

The UK rail market is also split up into several separate operational entities that do not always align discretely with passenger travel requirements. Because of this, regulation is required so that, from a passenger perspective, the rail network operates as an integrated whole.<sup>14</sup>

Section 28(2) of the [Railways Act 1993](#) provides the statutory basis for fares and ticketing regulation. It outlines the obligations on the franchising authority<sup>15</sup> when it comes to such regulation, including:

- to make sure that rail fares are reasonable; in determining what is reasonable the franchising authority may consider the interests of rail users and potential rail users and the financial situation including the amount of funding required to operate, maintain, renew and upgrade the railway; and

<sup>12</sup> ORR, [Index showing average change in price of rail fares by ticket type- Table 1.8](#) [accessed 8 April 2019]

<sup>13</sup> op. cit., [Rail Fares and Ticketing Review: Initial consultation](#), p16

<sup>14</sup> Ibid

<sup>15</sup> In England and for cross-border services the Secretary of State for Transport, and Welsh and Scottish Ministers in Wales and Scotland respectively.

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- to promote the use of services of more than one train operator, in general and, specifically, by protecting through-ticketing.

The main industry-wide agreement is the Ticketing Settlement Agreement (TSA).<sup>16</sup> The TSA, which includes National Rail Conditions of Carriage:<sup>17</sup> describes how rail fares are created, set, honoured and settled between operators; ensures that nationwide through/inter-available ticketing exists as under British Rail; and requires (except in certain defined circumstances) all train operators to sell the core range of tickets for all services including those of other operators, and to do so in an unbiased manner (where there is a choice of fares between A and B, to offer both and explain the difference between them).<sup>18</sup> Changes to key parts of the TSA (including the National Rail Conditions of Carriage) must be approved by the Secretary of State.

The principal elements of regulation are imposed on franchisees through Schedule 5 of the franchise agreements agreed with Government. This details the range of fares each train operator must offer, the conditions that attach to them and the maximum overall level of these fares.

The principal market in which fares regulation is deemed necessary is the commuter market around London and certain other cities, where commuters are captive and have few practical alternatives to rail. In 2003 the Strategic Rail Authority (SRA)<sup>19</sup> conducted a major fares review. The outcome of that review was that after 1 January 2004 regulated fares would fall into two categories, known as 'protected fares' and 'commuter fares':

- **Protected fares** include saver returns, standard returns and weekly season tickets; and
- **Commuter fares** include season tickets to, from and within the London Travelcard zones; standard singles and returns for journeys wholly within the London Travelcard zones; and standard singles and standard returns to any station in the Travelcard zones from a defined London suburban area, roughly 35-50 miles from London.<sup>20</sup>

The overarching fares structure has not changed drastically since the 2004 review and regulated fares, which account for 45% of all fares, remain under these categories. All other fares are unregulated and are determined commercially by the TOCs.

Where the fare is regulated, it is both the price and the nature of any restrictions that are regulated (including, in the case of the regulated Anytime fare, the requirement not to apply any restrictions). Operators may apply any restrictions they wish to unregulated fares.<sup>21</sup>

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<sup>16</sup> Operators are also required to participate in the National Rail Enquiries service.

<sup>17</sup> The contract between train operators and their passengers which sets out the conditions attached to travel

<sup>18</sup> op. cit., [Rail Fares and Ticketing Review: Initial consultation](#), p100

<sup>19</sup> set up by the Labour Government in 2001, abolished in 2005

<sup>20</sup> SRA, [Fares review conclusions](#), June 2003, appendix C

<sup>21</sup> More discussion, see: DfT, [Rail fares and ticketing: next steps](#), October 2013, p18-22



Categories of fares by regulation	
Regulated	Unregulated
Season fares	All first-class fares
Anytime Day	'Advance' fares
Off-Peak/Super Off-Peak	Anytime
	Off Peak Day

*Source: DfT, Rail Fares and Ticketing Review: Initial consultation, March 2012, p102 – it should be noted that this table shows whether each fare type is usually regulated or unregulated, but this is only a general rule and there are exceptions.*

## How are regulated fare levels decided?

**Individual regulated fare** changes are determined by train operating companies (TOCs). They are limited to changing annual levels of individual fares within price caps based on the RPI figure from the previous July. The **regulated 'fares basket'** for individual TOCs (see box below) is also capped based on the same RPI figure. In other words, some fares may go up, while others may go down or stay the same, provided the individual changes do not change outside the RPI price caps and the rise in the fares basket does not exceed the RPI figure. Regulated fare changes are announced every November or December and come into effect in January.<sup>22</sup> It was [announced](#) in November 2018 that regulated rail fares will rise by an average of 3.1% in January for 2019.

### What is a 'fares basket'?

A 'fares basket' is essentially a weighted average of the relevant fares for each TOC. As explained by the DfT:

Each fare in a fares basket is weighted by the revenue received by that operator from the sale of that fare in the base financial year. The total value of the fares basket is the sum of each fare multiplied by the weighting for that fare. It is the total value of the fares basket, and the permitted increases in this total value, which are "capped" through fares regulation.<sup>23</sup>

As fares baskets are based on the range of fares on offer in 2003 (the last time the make-up of the baskets was reviewed), what follows is the general rule but "there are exceptions where new fares have been created since 2003 as these are not included in any fares basket."<sup>24</sup>

There are around 21 fares "baskets" including those for First ScotRail and Arriva Trains Wales, which are regulated by the Scottish and Welsh Governments respectively.

<sup>22</sup> Train operators generally change fare prices in January each year. Train operators may also change fares in May and September to coincide with the start and end of the summer timetable, but usually only use this to change off-peak fares, which are geared more toward the leisure market, or to make corrections.

<sup>23</sup> op. cit., [Rail Fares and Ticketing Review: Initial consultation](#), p104

<sup>24</sup> Ibid., p106

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Commuter fares baskets in the Cardiff and Glasgow areas work in the same way as those in London but the exact contents of the basket and the value of k are determined by the Welsh and Scottish Government respectively rather than by the Secretary of State.<sup>25</sup>

Operators used to have greater flexibility when determining individual fare levels (i.e. regulated fares flex), although the variation on individual fares within the 'fares basket' was limited by Government. Between 2004 and 2013 (except for 2010), this was set at RPI +/-5. That is, **individual regulated fares** could increase by the RPI and greater or less than 5%. In 2012, for example, RPI was 3.2%, which meant individual fares could have increased by up to 8.2%. In 2014, the fares flex was limited to 2% and then was abolished entirely for 2015.

Between 2004 and 2013, the **regulated fares baskets** were able to increase by a percentage point more than RPI. It is only since 2014 that fares have increased in line with RPI, which itself is a disputed benchmark to base fare increases on (see section 1.3).

A statistical overview of rail fare changes since privatisation can be found in HC Library briefing paper [Public Transport Fares](#) (CBP7470), 18 January 2016.

### Fares basket and price cap variation limits in England, 2004-18

From 1 January	Fares basket	Regulated fare price cap
2004	RPI+1	RPI +/-5
2005	RPI+1	RPI +/-5
2006	RPI+1	RPI +/-5
2007	RPI+1	RPI +/-5
2008	RPI+1	RPI +/-5
2009	RPI+1	RPI +/-5
2010	RPI+1	X
2011	RPI+1	RPI +/-5
2012	RPI+1	RPI +/-5
2013	RPI+1	RPI +/-5
2014	RPI	RPI +/-2
2015	RPI	X
2016	RPI	X
2017	RPI	X
2018	RPI	X

Note: there are separate arrangements across some of these years for individual franchises

<sup>25</sup> op. cit., [Rail Fares and Ticketing Review: Initial consultation](#), p106

Some train companies at specific times for specific purposes have been allowed to increase their fares by more than the overall RPI cap. For example, Northern Rail had an agreement with West Yorkshire PTE allowing it to increase regulated fares by RPI+8 from 2007, with a fares basket of 3%; and Southeastern was permitted to increase regulated fares by RPI+3 between 2007 and 2010, with a fares basket of 1%.<sup>26</sup> Conversely, the Competition and Markets Authority (CMA) recently stepped in and capped *unregulated* fares on three routes which form part of the Northern rail franchise (Leeds to Sheffield, Wakefield to Sheffield and Chester to Manchester). This was related to concerns about a substantial lessening of competition.<sup>27</sup>

### 1.3 Rail fares policy

The overall fares structure, what fares are regulated and how they change year-on-year is determined by Government policy. The sections below provide discussion of key issues related to rail fares policy in Britain. Many are longstanding concerns that have been raised in successive reviews since 2003. Where relevant, the sections highlight what proposals have been made and what progress has been made against those proposals.

#### **What is wrong with rail fares and what are the principles of reform?**

Before going into the detail of historical and prospective rail fares reform, it is worth outlining, in basic terms, what is wrong with the current system, what an effective fares system looks like and what the principles of reform should be.

Clearly the most passenger dissatisfaction comes from the cost of fares.<sup>28</sup> However, as this has more to do with the underlying industry costs, fares reform on its own, will not enable a wholesale reduction in fares for passengers.

Much of the discussion around fares reform is thus focussed on the complexity, transparency and lack of flexibility in the current system, which are perceived as being the major weaknesses with rail fares in Britain.

For rail passengers, there are multiple fares options, each with their own detailed terms and conditions, the cost of the ticket is also not easily understood and there are few alternatives by way of competitors if a passenger is unhappy.

When airline passengers go to purchase a fare, the experience is relatively straightforward. There are fewer fare options,<sup>29</sup> the cost of the fares is

<sup>26</sup> in SET's case to pay for domestic services on HS1: ORR, [Fares](#) [archived 1 September 2014]; and [HC Deb 1 May 2012, c1376W](#)

<sup>27</sup> CMA press notice, "[CMA looks to cap fares on three rail routes](#)", 2 November 2016

<sup>28</sup> The [Autumn 2018 NRPS](#), found that nationally the percentage of journeys rated as satisfactory for value for money for the price of their ticket was 46 per cent.

<sup>29</sup> The exact type of fare a passenger can purchase, and the conditions attached to it are, of course, dependent on the airline; but in general, and regardless of the time of day they are travelling, short-haul passengers can only purchase one of two fares (an economy or premium class fare), or in the case of budget airlines, just the one fare, albeit with add-ons.

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better understood<sup>30</sup> and there more competitors available when passengers are not satisfied with the product offering.<sup>31</sup>

Comparing rail and air fares is clearly not a like-for-like comparison,<sup>32</sup> but it does provide a useful benchmark to understand what passengers look for in fares, while highlighting the regulatory and operational constraints the rail industry is under in seeking to change the fares system.

The principles of fares reform are therefore about making the process fairer, easier and more transparent for passengers. This was acknowledged by the Rail Delivery Group, which stated that the principles of fares reform should be:

- **Value for money** – reflects the feedback that fares should make rational sense and that people want greater transparency over what they pay for and what they get
- **Fair pricing** – reflects people’s desire not to have to find workarounds to get the best price and for a guarantee that they are not overcharged
- **Simplicity** – making buying simple whilst retaining customers’ choice. Reform is not about taking choice away, it is about innovating to make it easy to find the right fare
- **Flexibility** – this reflects people’s desire to see different needs accommodated; they want the ability to tailor fares and deals to what they need
- **Assurance** – people want clear, effective, transparent regulation to protect their rights.<sup>33</sup>

While the Government and industry are clear that passengers need to remain at the heart of any reform, the railway is a public asset and require public subsidies to remain viable. Because of this, the financial burden on the taxpayer is an important consideration when implementing fares reform. Any reform to rail fares will have to balance the conflicting needs of passengers and taxpayers in preventing excessive fares growth, while minimising the subsidy requirement, respectively.

This why TfL concluded that “the aim of reform should be to strike a better balance between the public’s desire for fair, reasonable and transparent fares and the industry’s need to raise revenue to fund the railways.”<sup>34</sup>

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<sup>30</sup> The cost of the airfare is generally better understood and corresponds to a combination of the distance travelled, the time and day of the week of travel, the quality of the airline and the time in advance the ticket is purchased.

<sup>31</sup> Given the high competition in European airline sector, where a passenger is dissatisfied with the fare on offer, they can shop around for a better fare. An airline that is offering products that are not perceived as being transparent and offering value for money will simply not survive in the cutthroat airline market.

<sup>32</sup> The airlines operate in a largely unregulated sector, are usually not reliant on taxpayer funding to remain viable and have complete freedom in tailoring their package of fares to their market. They do not have to guarantee network connectivity in the same way rail operators do and where they do, they are done for commercial reasons and are done through alliancing and code share agreements, which are much more negotiable than the fares regulations.

<sup>33</sup> RDG press notice, [Rail industry publishes radical proposals for once-in-a-generation reform of fares system](#), 18 February 2019

<sup>34</sup> Transport for London, [TfL’s response to the RDG fares consultation](#), 29 August 2018, p5

## Regulated fares structures

One of the more basic policy questions is **whether rail fares should be regulated at all**. It should be noted that fares regulation has not always been in existence and has been introduced or retracted based on the ownership and/or structures of the railways. Railway fares regulation originated in the middle of the nineteenth century, but formal regulation was abolished on the formation of the British Railways Board in 1962.<sup>35</sup> Formal regulation was reintroduced following privatisation and the introduction of franchising to ensure market power was not exploited and to provide network connectivity for passengers.<sup>36</sup>

It is still accepted that fares regulation is needed within the current ownership and operational structures and this question has not been dealt with in any meaningful way by fares reviews since privatisation. The Government did, however, as part of their 2013 review into fares and ticketing suggest that a deregulated fares structure would, in theory, be the best way of managing the railways because it would be the “most effective in managing demand, minimising the taxpayer subsidy [and] would encourage strong competition and innovation among trains operators.”<sup>37</sup>

Given that fares regulation seems unlikely to disappear anytime soon, there are more practical questions around **what fares should be regulated and how they should be regulated**. These questions were chiefly addressed as part of the Strategic Rail Authority’s 2003 Fares Review. At the time, saver fares (off-peak fares for leisure travel of about 50 miles and over), standard return fares, standard class weekly season tickets and most commuter fares in and around London, were regulated. The SRA recommended the latter two continue to be regulated to “provide continued protection to passengers in situations where they have little choice about using rail services.” The review identified several problems with the regulation of Saver fares,<sup>38</sup> although no formal changes were implemented.

Prior to 2004, some fares were regulated individually, but others were regulated by controlling the total value of a group of fares known as a ‘fares basket’.<sup>39</sup> After reviewing various options, the SRA opted to regulate all fares by means of two separate fares basket:

- A ‘Commuter Fares’ basket, which contained regulated urban commuter fares; and
- A ‘Protected Fares’ basket, which contained all fares that were individually regulated.<sup>40</sup>

This change was underpinned by SRA research, which found that:

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<sup>35</sup> op. cit., [Research project on fares - Final Report: analysis, recommendations and conclusions](#), p9

<sup>36</sup> HM Government, [New Opportunities for the Railways – the privatisation of British Rail](#), July 1992

<sup>37</sup> op. cit., [Rail fares and ticketing: next steps](#), p26

<sup>38</sup> Strategic Rail Authority, [Fares Review Conclusion](#), June 2003, p5

<sup>39</sup> Ibid., p21

<sup>40</sup> Ibid., p22



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...‘fares baskets’ provide much greater flexibility compared with regulating fares individually, whilst still controlling the level of the fares concerned. This flexibility can be used by operators to reflect market conditions in the fares structure, promoting growth or managing capacity, and to correct anomalies or control overcrowding.<sup>41</sup>

These changes came into effect from January 2004 and regulated fares have fallen into these baskets ever since. The Government considered altering off-peak fares regulation in 2007 but opted against it and would only do so “in future on a franchise-specific basis, when the train operator can demonstrate that it would replace the ‘Savers’ with a single-leg ticketing structure.”<sup>42</sup> The Government again reviewed the fares structures and baskets in 2013 and with respect to off-peak fares, it commented:

We have committed to protecting longer-distance passengers by continuing to require operators to offer a discounted off-peak one month return fare, and by continuing to regulate the price as well as the existence of this fare.<sup>43</sup>

With respect to wider reform of the structures, the Coalition Government eventually came to the view that “structurally the system of fares regulation established at privatisation remains sound.”<sup>44</sup>

There have been more suggestions of reform in recent years, with the Rail Delivery Group (RDG) publishing its report on rail fares reform in February 2019. Its headline recommendation was for the replacement of the “outdated Ticketing and Settlement Agreement with a new set of system regulations.”<sup>45</sup> The RDG believed that the TSA and the other sets of regulations “conflict with one another”. The aim would be to manage the new rules through a “single process” incorporating terms and conditions, as well as regulatory requirements, to ensure compatibility with competition law and regulatory oversight.<sup>46</sup>

With respect to the regulated fares structures, the RDG is seeking to implement a “reformed structure” that would provide more flexibility than is currently offered. The two groups of regulated fares baskets may be adjusted, with the goal being to introduce a “capped system across a range of fares used by commuters instead.”<sup>47</sup> The RDG explained further:

We propose that under a new fares structure, the current price of a 7-day Season Ticket could instead be used to set a ‘cap’ or maximum payable price for travel on a specific journey or geographical area across a week, regardless of ticket used. This would allow customers to buy the right tickets for their needs while knowing the maximum amount that travel would cost them in any one week.<sup>48</sup>

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<sup>41</sup> Ibid

<sup>42</sup> DfT, *Delivery a Sustainable Railway*, July 2007, p99

<sup>43</sup> op. cit., *Rail fares and ticketing: next steps*, p26

<sup>44</sup> Ibid., p27

<sup>45</sup> op.cit., *Easier fares for all*, p11

<sup>46</sup> Ibid., p45

<sup>47</sup> Ibid., p45

<sup>48</sup> Ibid., p48

### The Rail Delivery Group's fares and ticketing review

The RDG is a cross-industry body bringing together passenger and freight rail companies, as well as Network Rail and HS2, to:

...provide services and support to enable [its] members to succeed in transforming and delivering a successful railway. [The RDG] also provide support and give a voice to freight and passenger operators, as well as delivering important national ticketing, information and reservation services for passengers and staff on behalf of member companies.<sup>49</sup>

The RDG launched its fares and ticketing review in May 2018 "to establish a road-map for change to update fares regulation and make things easier for customers."<sup>50</sup>

As part of the review, the RDG, alongside Transport Focus, launched a public consultation to hear the views of businesses, passenger groups, stakeholders, employees and the public on what a future range of fares should look like.

The aim of the review was to set out a possible way forward for reform, with a view to working with Government to implement the changes. The RDG was clear that any proposals were to be neutral in overall revenue terms with no change in average fares, and therefore not requiring any extra taxpayer support for the railway.

The RDG published its [final report](#) in February 2019.

## Regulated fare increases

Rail fare increases are unavoidable for most British rail passengers, with the dismay of farepayers regularly made known at the turn of each year when the annual increases come into effect. This gives rise to the usual debate and criticism around fares and for calls to limit fares increases.

The cost of fares, however, has more to do with underlying industry costs and while some of the costs can be linked back to policy decisions by government, many are beyond their immediate remit. The government's primary remit, when it comes to fare increases, is related to the balance of taxpayer and passenger funding of the railway.

The first round of reform to the way fares increased took place in 1995 after the Franchising Director<sup>51</sup> published a policy note including the proposal to link regulated fares to service quality. He argued that the regulated fares market was "fairly insensitive to changes in service quality" and that there should be a "strong financial incentive to deliver a high-quality service". To this end, he linked "the level of permitted increases to tariff baskets to franchisees' punctuality and reliability". Franchisees would also be able to apply to the Director to increase fares at a faster rate than would otherwise be permitted to fund specific investments.<sup>52</sup>

Just five years later, the way fares increased was revisited as part of the SRA's review. Several changes were announced by the SRA, including

<sup>49</sup> Rail Delivery Group, [About us](#) [accessed 6 April 2019]

<sup>50</sup> Rail Delivery Group press notice, [Rail industry seeks 'root and branch reform' of rail fares regulation](#), 8 May 2018

<sup>51</sup> the Franchising Director at this time was Roger Salmon; the Director was head of the Office of Passenger Rail Franchising (OPRAF)

<sup>52</sup> OPRAF, *Fares Regulation for Franchised Passenger Services: an Explanatory Note*, 1995

the removal of the “ineffective link” between fares and performance from January 2004.<sup>53</sup> As described by the SRA:

Long time lags between performance and fare changes have led to confusion. And – as an incentive for better performance – the policy is redundant because train operators are already held to account under their franchise agreements.<sup>54</sup>

The succession of regulated fare increases since 2004 stems from a decision to rebalance the financial burden of running the railways between the taxpayer and the passenger.<sup>55</sup> This has been supported, in principle, by every government since then.

### **How much do passengers and taxpayers contribute to running the railway?**

Historically there has been considerable (and often year-on-year) variation in levels of subsidy, from 50 per cent of rail funding in 1992/93 to just 15 per cent in 1995/96, reflecting the sales of assets as part of the privatisation process. However, after privatisation there was a consistent increase in the proportion of rail costs funded by the taxpayer, and a pattern of 25–35 per cent subsidy in the second half of the 1990s became 40–50 per cent after 2000. By 2005/06 taxpayers were paying a higher proportion than fare payers.

Information published by the regulator in January 2019 showed that passengers have more recently contributed an increasing proportion of the rail industry's income relative to taxpayers – up from 55.6% in 2010-11 to 64% in 2017-18.<sup>56</sup>

The annual rate of increase for regulated fares was changed to RPI+1 for three years following the SRA review. This was done to “redress the balance between taxpayer and passenger in meeting the industry's rising costs. Most respondents to the consultation agreed that RPI-1% was “unsustainable”.<sup>57</sup>

In its 2007 rail White Paper, the Labour Government offered continued support to a rebalancing of railway funding and argued for a continuation of the RPI+1 regulated fares cap on the grounds that to raise it would “increase revenue, but at the cost of an additional financial burden on passengers”, while lowering it would “reduce the funds available to increase rail capacity, or present taxpayers with a further and very significant subsidy requirement”.<sup>58</sup>

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<sup>53</sup> op. cit., [Fares Review Conclusion](#), p2

<sup>54</sup> Ibid., p5

<sup>55</sup> op. cit., [Fares Review Conclusion](#), p3

<sup>56</sup> ORR, [UK rail industry financial information 2017-18](#), 30 January 2019

<sup>57</sup> Ibid., p5

<sup>58</sup> op cit., [Delivery a Sustainable Railway](#), p96

### Is RPI the right measure to index fare increases?

Regulated rail fares increases are linked with the retail price index (RPI), rather than the consumer price index (CPI). Over the years there have been calls for the Government to move away from RPI as the relevant measure for calculating rail fare increases. In August 2016, Stephen Joseph, Chief Executive of the Campaign for Better Transport, said:

... the Government needs to stop using RPI to calculate ticket prices once and for all. The Office for National Statistics stopped using it in 2013 because it consistently over-estimates inflation and now it's time to apply the same rule to rail fares. Using the consumer price index to set rail fare increases would have little impact on railway revenues, but it would save passengers money and bring fares into line with things like public sector pensions.

Both RPI and CPI measure the rate at which the price of common items, such as bread, beer and cinema ticket, rise. But RPI, unlike CPI, also includes housing costs such as mortgage interest payments and council tax. It has been higher than CPI for years, as the latter accounts for the fact that people will switch to products that have gone up by less.<sup>59</sup> The Office for National Statistics describes RPI as "a very poor measure of general inflation".<sup>60</sup>

There would be revenue implications for train operators from a policy change to index fares to CPI and because of their existing franchising contracts, the Government would have to compensate those operators if it wanted to implement this policy change simultaneously across the network. In response to an October 2017 written question, the Government said it's "use of RPI is consistent with the general indexation approach adopted for many rail industry costs [and that it was] keeping that policy under review."

The Transport Secretary Chris Grayling in August 2018 proposed that the CPI could be used for regulated train ticket rises and annual pay increases for rail.<sup>62</sup> The unions argued against this as it would most likely require union employees to have their pay increases capped at CPI instead of RPI.<sup>63</sup> No formal policy action has been taken since the Transport Secretary's comments.

One of the concerns highlighted in the 2013 review was that with RPI at levels of over 3%, the "flex" had resulted in regulated individual fare rises of over 9%. In response, the Government said that it would reduce the flex of individual fares with the regulated basket from 5% to 2%.<sup>64</sup>

In 2015 the "zero flex" regime was introduced by Government to "restrict their [TOCs ability] to apply 'extreme' rises to individual regulated fares."<sup>65</sup> That is, the regime constrains every individual TOC fare to increase by no more than the fares regulation cap. This remains

<sup>59</sup> ['Season tickets: 2019 annual rail fares could be more than £100 higher'](#), BBC News, 15 August 2018

<sup>60</sup> ONS, [Shortcomings of the Retail Prices Index as a measure of inflation](#) [accessed 8 April 2019]

<sup>61</sup> For more general discussion, see the House of Lords Economic Affairs Committee 2019 report [Measuring inflation](#)

<sup>62</sup> ['Rail fares rises: Grayling pleads with unions and train firms'](#), BBC News, 14 August 2018

<sup>63</sup> *Ibid*

<sup>64</sup> *op. cit.*, [Rail fares and ticketing: next steps](#), p16-17

<sup>65</sup> *Ibid.*, p17

the case today and the Government has not indicated any desire to change this.

### Can the Government freeze rail fares?

Despite the regular calls from passenger groups at the turn of each year,<sup>66</sup> no government, at least since 2004, has ever sought to reduce or freeze fares across the board, or even for a single operator.

While it is theoretically possible to introduce a regulated fares freeze, the budgetary implications for government mean that a freeze – particularly across the whole network – is highly unlikely to occur.

To explain further, as part of the franchising agreement, the government agrees with the train operator how much income it will receive as part of granting them the right to operate that part of the network. This agreement assumes that fares will be adjusted with respect to RPI.

A fares freeze would be contrary to this assumption and would undermine future revenues of the franchisee. Given it is the government that would be seeking to alter the terms of the franchise agreement, it would be liable for compensating the franchisee.

If the government wanted to implement a network wide fares freeze, they would be liable for compensating all their franchised operators and not just for the year in which the freeze was implemented. Fares beyond that first year would have been indexed to an RPI rise in fares from the that first year on. That not occurring would have a compound effect on revenues and would cost the Government significantly more than a year's worth of compensation to operators. As explained by the Secretary of State in evidence to the Transport Select Committee:

The problem with a fares freeze is that if your costs continue to go up every year, and you continue to pay more to your staff, you build a long-term and growing underlying problem within your own finances. Over a period of time, you are sucking a cumulatively larger and larger amount out of the money available to run the network. The only way of counteracting that is that people who do not travel on the railways have to pay more and more taxes to provide a counterbalance.<sup>67</sup>

The Transport Select Committee, in its rail timetabling inquiry, also recognised the practical obstacles to implementing a fares freeze but still urged "industry and Government to consider all options to keep any regulated fares increase in 2019 to a minimum, particularly on parts of the network worst affected by the timetabling crisis."<sup>68</sup>

London Mayor Sadiq Khan has called on the Government to follow his suit in freezing fares.<sup>69</sup> It should be noted that the fares freeze implemented by the Mayor has put additional budgetary strains on TfL.<sup>70</sup>

<sup>66</sup> Campaign for Better Transport press notice, [Calls for a fares freeze as next year's rail fares are announced](#), 15 August 2018

<sup>67</sup> Transport Committee, Oral evidence: [Rail timetable changes](#), HC 1163

<sup>68</sup> Transport Committee, [Rail timetable changes: May 2018](#), Seventh Report of Session 2017–19, p32

<sup>69</sup> ['In London, rail fares have frozen but the service has improved. The government could do the same'](#), The Independent, 2 January 2019

<sup>70</sup> ['Deficit of £2.7bn piles pressure on London mayor Sadiq Khan to ditch fares freeze'](#), The Times, 12 December 2018



## Fare complexity

The current set of fares have not been developed based on the passenger requirements of today, or even those of the recent past. They have been developed through a combination of historical, market and regulatory factors.<sup>71</sup> Arguably one of the most influential factors contributing to the current offering of fares is the need to maintain whole-of-network connectivity, despite the rail network being effectively split up into several different operating businesses. The result of this is that train operators collectively set up as many as 100 million through-fares each year, the “overwhelming majority” of which are never used because they relate to journeys which are never made.<sup>72</sup> This has given birth to fare anomalies, which passengers regularly find “illogical, unfair and confusing.”<sup>73</sup> So much so, that up to 35% of people for whom rail travel is an option are put off by the complexity of fares.<sup>74</sup> Some of the long-standing frustrations raised by passengers are listed below.

- **Number of fares** – at face value, the category of fares available, namely advance, premium and off-peak fares appears reasonable. But in completing a transaction, a passenger can be confronted with several more fares – including operator restricted fares, premium fares, super off-peaks, directional fares and discounts for returns – that are often attached with detailed conditions of carriage. The terms can also vary between operators.
- **Through-fare pricing** – the cheapest fares, particularly in the long-distance market, for each part of the journey may total to less than the through-fare identified by standard ticketing systems.
- **Cost of single fares** – while Anytime fares are often priced on a single-leg basis (i.e. with the single priced at half the return), it is common for a return off-peak fare to be only marginally more expensive than a single. In other cases, where different ticket types are used for each leg, two singles can be cheaper than a return. This is a long-standing inconsistency which can be explained mainly by the fact that off-peak fares for long-distance travel were designed by BR for the “weekend away” market, which would typically have involved a return.<sup>75</sup>
- **Distanced-based pricing** – the standard fare per mile was abandoned by British Rail pre-privatisation in favour of a more market-driven (i.e. ‘willingness to pay’) approach, setting fares for each journey according to levels of demand. Nevertheless, some passengers still perceive there to be inconsistencies when they would expect fares to be roughly consistent on a distance basis, particularly when it comes to the cost of singles against the cost of returns. Steer Davies Gleave, in a 2011 review, recommended

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<sup>71</sup> op. cit., [Research project on fares - Final Report: analysis, recommendations and conclusions](#), p4

<sup>72</sup> op. cit., [Research project on fares - Final Report: analysis, recommendations and conclusions](#), pi

<sup>73</sup> op.cit., [Easier fares for all](#), p24

<sup>74</sup> Accent and PJM Economics, *Fares Structures and Simplification – Advance Fares*, 2016

<sup>75</sup> op cit., [Rail Fares and Ticketing Review: Initial consultation](#), p63

avoiding a return to a distance-based model, as did the Government in its 2013 review.<sup>76</sup>

- **Regional discrepancies** – in addition to fares not aligning with distance, there can also be discrepancies for what are perceived to be similar fares across different parts of Britain. For example, commuting is consistently more expensive in London than in other cities.<sup>77</sup> Other fares may be “artificially” low because a poor-performing train operator in the early years of privatisation was not permitted to increase fares at the same rate as other franchisees.<sup>78</sup>

There have been attempts since privatisation to rectify these anomalies. Even though the SRA acknowledged the passenger concern around the complexity of fares in 2003, it believed that:

...more can be done to make different categories of fare much easier to communicate for both passengers and retail staff. The SRA intends to work with train operators and ATOC to make sure that the terminology used to describe particular categories of tickets and (where appropriate) the terms and conditions for similar products, are properly co-ordinated between operators.<sup>79</sup>

In its 2007 White Paper, the Labour Government declared its intention to “ensure that the fares system is simplified to make the railway easier to use and to improve the confidence of passengers in the system”.<sup>80</sup> As part of this, the Government proposed reducing the number of fare types and ensuring a commonality of ticket names, regardless of operator. This would “make it easier for passengers to decide which fare is the right one for the journey, to get a sense of price, and to work out whether or not there is a cheaper option available”: ‘Anytime’ would always be most expensive, ‘Off Peak’ cheaper, and ‘Super Off Peak’ the cheapest.<sup>81</sup> The new fares structure was introduced in two parts: in May and September 2008.<sup>82</sup>

In his May 2011 report on rail value for money, Sir Roy McNulty acknowledged that fares were still complex and recommended that the Government undertake a ‘full review’ of fares policy and the fares structure to address:

... the overall complexity, anomalies, regional imbalances, season ticket pricing and all other relevant factors as these are affected by regulation. The overall aim would not be to see fares rise overall, but to move towards a system which is seen to be less complex and more equitable, and that provides information which passengers can understand and have confidence in.<sup>83</sup>

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<sup>76</sup> op cit., [Research project on fares - Final Report: analysis, recommendations and conclusions](#), piii

<sup>77</sup> Ibid., pii

<sup>78</sup> op. cit., [Rail fares and ticketing: next steps](#), p61

<sup>79</sup> op. cit., [Fares Review Conclusion](#), p25-26

<sup>80</sup> op cit., [Delivering a Sustainable Railway](#), p10

<sup>81</sup> Ibid., p97

<sup>82</sup> ATOC press notice, “[ATOC announces simpler rail fares](#)”, 24 April 2008

<sup>83</sup> DfT, [Realising the Potential of GB Rail Report of the Rail Value for Money Study: Summary Report](#), May 2011, para 6.4.1; [full report](#) available on the Gov.uk archived website

The Coalition Government broadly accepted these proposals<sup>84</sup> and in its 2013 review it recognised that the existing system was confusing but did not outline any substantive changes to addressing the fares complexities. Instead, it commented that “there is a strong case for continuing to support this mixed approach”.<sup>85</sup>

The Government did, however, explore the possibility of single-leg fares for long-distance travel, which is said was “better and fairer for passengers and it remains our aspiration for the longer term.”<sup>86</sup> This would have enabled the regulation of longer-distance tickets for off-peak travel on a ‘single leg basis’ to end the situation where an off-peak single can be as little as 10p cheaper than the corresponding off-peak return. This would also allow passengers to combine a peak with an off-peak ticket, or a full-price “buy on the day” with a discounted Advance ticket. However, the Government said that it was not affordable to roll this out for the whole of the network. It said that it would launch a pilot on a major intercity route or routes to “measure how passengers respond in practice...to inform an assessment of the affordability and sustainability of adopting this approach network-wide.”<sup>87</sup>

The Government also committed to a trial of new advance fares arrangements that would enable them to be purchased up to 15 minutes before departure, rather than 23.59 the evening before.<sup>88</sup> The Government's proposals led to CrossCountry being granted approval for an 18-month trial to make of Advance tickets available for purchase up to 10 minutes before departure from their station via CrossCountry's smartphone app and up to 15 minutes before departure via their website and telesales retail channels. In March 2015 Transport Focus published a report showing that passengers were very favourable towards the scheme, though there were some concerns. CrossCountry has been given permission to sell these tickets permanently, and the Department for Transport has said that it would consider requests from other train operators wishing to introduce them.<sup>89</sup>

As at December 2016, CrossCountry remained the only operator offering advance fares 15 minutes before departure. As part of the DfT's *Action Plan for Information on Rail Fares & Ticketing*, a commitment was made to ensure “customers will be able to purchase cheaper Advance tickets on the day of travel from longer distance operators.”<sup>90</sup> By September 2017, 9 train operators had introduced the ‘Advance Purchase On Day’ ticket, allowing passengers to buy a discounted ticket up to 15 minutes before their journey, where previously they had only been able to buy it up to the day before.<sup>91</sup>

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<sup>84</sup> [HC Deb 19 May 2011, cc520-21](#); and DfT, [Reforming our railways: Putting the customer first](#), Cm 8313, 8 March 2012, p17, para 2.7

<sup>85</sup> *op cit.*, [Rail Fares and Ticketing: Next Steps](#), p28

<sup>86</sup> *op. cit.*, [Rail fares and ticketing: next steps](#), p29

<sup>87</sup> *Ibid.*, p20

<sup>88</sup> *Ibid.*, p30-31

<sup>89</sup> Transport Focus, [Buying Advance tickets on the day of travel: what do passengers think? Summary report](#), 9 March 2015, p7

<sup>90</sup> DfT, [Action Plan for Information on Rail Fares & Ticketing](#), December 2016,p5

<sup>91</sup> DfT press notice, [Rail ticketing progress report: passenger experience improved but more work to be done](#), 21 December 2017

Despite the several attempts by government and others to eliminate the frustrations and anomalies in the fares system, in most cases, proposals for change came to nothing and many of the frustrations above remain embedded within the current system.

The RDG have once again sought to review the current system and with respect to fares complexity, the headline change proposed is for the “unbundling’ of fares, through a move to a single fare as the basic unit of all pricing in the new system.”<sup>92</sup> This would work using:

...algorithmic rules underpinned by regulation to allow and encourage the best combinations of single leg fares for return, through (allowing travel from any point on the network to another regardless of operator) and multi-journey tickets.<sup>93</sup>

### **Flexible & part-time season fares**

Season fares continue to be offered based on people working a 5-day week. Improved technology and changing workplace and wider societal cultures have meant that either part-time and flexible working are much more common today than they were when the current rail fares framework was developed.

There has been little progress in this area since it was first raised by the Labour Government in its 2007 White Paper, when it explored the possibility of smart ticketing enabling:

...more flexible fares to be introduced, which will assist and encourage passengers to tailor their travel. Products could include season tickets with different numbers of days in the week (such as three or four-day tickets), fares that reward travel outside the busiest times, or pay-as-you-go type fares.<sup>94</sup>

The issue was discussed, at length, in the consultation document for the 2013 review but in the end the Government only committed to setting up a trial, opting not to pursue widespread implementation across the network on cost grounds.<sup>95</sup>

The South East Flexible Ticketing (SEFT) programme was pinpointed by Government in the review as the scheme to pilot the new flexible ticket types that reward shoulder-peak and part-time travel”.<sup>96</sup> The initial ambition was flexible season tickets for part-time workers, to be available by the end of 2014.<sup>97</sup> In June 2014, the Department produced a revised business case to the SEFT programme. As described by the NAO:

The main change to the objectives of the Programme was that it removed the aim to enable passengers to buy flexible part-time season tickets. Instead, it stated that the aim of the Programme was to provide the infrastructure to enable flexible tickets, but

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<sup>92</sup> op.cit., [Easier fares for all](#), p12

<sup>93</sup> Ibid

<sup>94</sup> op cit., [Delivery a Sustainable Railway](#), p56

<sup>95</sup> op. cit., [Rail fares and ticketing: next steps](#), p19

<sup>96</sup> Ibid., pp18 & 21

<sup>97</sup> NAO, [Investigation into the South East Flexible Ticketing Programme](#), HC 1130, Session 2016-17, 20 April 2017, p5

that passengers' ability to buy flexible tickets would depend on changes to government policy on fares.<sup>98</sup>

The first phase of a smart ticketing programme was rolled out on the Govia Thameslink Railway (GTR) franchise in October 2015,<sup>99</sup> with a trial of flexible fares in earmarked at the end of 2016.<sup>100</sup> In terms of the progress that was made on introducing flexible and part-time fares on GTR, the Government stated that:

GTR undertook a trial on two routes (Horsham to London and Radlett to London) where passengers with a season ticket who travelled at off peak times were offered cashback for each journey undertaken. The results of that trial were that there was limited uptake of this offer and it did not deliver the outputs required. GTR will be rolling out wider enhancements to the Key smartcard throughout 2018, and the Department is working with GTR to consider alternative options and trials for introducing part time season tickets on the Key.<sup>101</sup>

The roll-out of part-time season tickets on GTR has stalled and "discussions continue [between the DfT and GTR] regarding undertaking a trial."<sup>102</sup> While progress has been slow on GTR, other franchises operators have started introducing flexible season fares. c2c have a Flexi-Season on a smart card. Arriva Trains Wales have introduced a Mobile Multi-Flex product for customers in Cardiff and the surrounding areas.<sup>103</sup> According to the Government, several existing franchises have commitments to develop part time seasons as part of their franchise.<sup>104</sup> For example, South Western and West Midlands franchises include the announcement of a new flexible season ticket which will benefit people working fewer than 5 days a week.<sup>105</sup>

Flexible and part-time fares are clearly desirable products for passengers but introducing it is likely to have a detrimental effect on the finances of Government. For example, on GTR franchise, "any revenue impact is the responsibility of the Department as all GTR farebox revenue passes to the Department under the GTR contract."<sup>106</sup> This situation would be slightly different on other franchises that are not under a management contract. In any case, as the net effect on franchise revenues is likely to be negative,<sup>107</sup> Government will have to bear this cost if they wish to make in-franchise changes to introduce part-time and flexible ticketing.

## Demand management

Demand on the rail network is at its greatest during the morning and evening peaks. The need to cater for this daily swarm of commuters is what places the greatest investment demands on the network. Yet the fares system offers very little financial incentive for commuters who can

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<sup>98</sup> Ibid, p14

<sup>99</sup> '[GTR rolls out first phase of network-wide smart ticketing](#)', *Rail Technology Magazine*, 1 October 2015

<sup>100</sup> '[GTR to produce report on feasibility of flexible ticketing](#)', *Rail Technology Magazine*, 21 November 2016

<sup>101</sup> [Govia Thameslink Railway: Tickets: Written question - 121931](#)

<sup>102</sup> [Govia Thameslink Railway: Tickets: Written question - 206778](#)

<sup>103</sup> [Railways: Tickets: Written question - 134790](#)

<sup>104</sup> [Railways: Franchises: Written question - 234180](#)

<sup>105</sup> [Railways: Tickets: Written question - 134790](#)

<sup>106</sup> [Govia Thameslink Railway: Tickets: Written question - 206779](#)

<sup>107</sup> op. cit., [Rail fares and ticketing: next steps](#), p18



travel earlier or later to do so. The season fare, for example, is “blind” to both the number of times a week it is used and to the time of day it is used for travel.<sup>108</sup> There is no “off-peak” season fare, so early/late commuters must pay to use the network during the busiest period even though they do not actually do so.

This issue was raised initially raised in the SRA’s 2003 review, as they observed that “fares regulation is too blunt an instrument to be used directly to control overcrowding.”<sup>109</sup> It even raised the prospect of smart-ticketing as being a means to facilitate ‘peak’ and ‘shoulder-peak’ pricing, where passengers save money if they travel on less loaded trains at the shoulder of the peak, and pay slightly more on trains at the height of the peak. The SRA concluded:

If this spread travel to work more evenly over a slightly longer period, this might bring lower levels of overcrowding, more efficient use of rolling stock, and therefore lower costs. The SRA intends to carry out some research into this possibility, and if appropriate carry out a trial on one part of the London rail network.<sup>110</sup>

Very little progress was made on this in the aftermath of the SRA’s report. The Coalition Government examined the issue of demand management through fares pricing in its 2013 review and concluded that:

We do not believe that current structures sufficiently encourage or allow train operators to offer new fares and tickets that could enable them to make better use of capacity, in particular by offering commuters greater financial incentives to travel on less busy services.<sup>111</sup>

If commuter demand could be “smoothed”, even within the 7-10am and 4-7pm windows, this would enable capacity to be used more effectively and could allow more people to travel by rail overall.<sup>112</sup> However, as explained in the 2013 review, the situation would unlikely be uniform across the network:

The scope for demand management through price-setting to postpone the need for large infrastructure schemes is likely to vary significantly by route as well as other factors. For example, on mixed-use lines, where tracks are shared between intercity, commuter and freight services, addressing capacity constraints in just one market may not resolve longer-term capacity issues.<sup>113</sup>

Several options were raised in the 2013 rail fares and ticketing review, including a ‘shoulder-peak’ discount on travel in the slightly quieter periods at either end of the rush hour, which could “encourage some commuters to change the time they travel in return for a cheaper fare and more comfortable journey.”<sup>114</sup> The Government also suggested

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<sup>108</sup> op cit., [Rail Fares and Ticketing Review: Initial consultation](#), p35

<sup>109</sup> op. cit., [Fares Review Conclusion](#), p12

<sup>110</sup> op. cit., [Fares Review Conclusion](#), p27

<sup>111</sup> op. cit., [Rail fares and ticketing: next steps](#), p17

<sup>112</sup> DfT, Rail Fares and Ticketing Review: Initial consultation, March 2012, p41

<sup>113</sup> op. cit., [Rail fares and ticketing: next steps](#), p41

<sup>114</sup> op. cit., [Rail fares and ticketing: next steps](#), p19

allowing train operators to charge a premium in the 'super peak', which it believed would "boost efficient capacity utilisation, which in the medium to longer term could help curb overall fare rises."<sup>115</sup> However, the Government stated that:

...our current analysis shows that the proportion of passengers likely to change their time of travel is relatively low. This may be because they are unable to change – due to job or caring commitments – or simply because they do not consider the financial incentive sufficient to warrant changing their routine.<sup>116</sup>

It clearly understood the political sensitivity of any pricing changes on commuter routes, describing it as a "significant change to fares regulation."<sup>117</sup> In the end, it opted against introducing such pricing, adding that "[we] are at the early stages of considering this and it is not something the Government would commit to without a much better understanding of the likely impacts."<sup>118</sup> As such, it committed to a trial to "assist us in providing practical evidence of the extent of passenger behavioural change."<sup>119</sup>

This has re-emerged as an issue during the RDG fares review. The RDG observed that for long-distance markets, rather than commuter markets, "regulation of these fares at very specific time bands of travel" has resulted in an inefficient utilisation of services across the network.<sup>120</sup> The RDG have proposed a revised peak pricing system for long-distance markets that would:

...mean lower fares for at least some Peak services, but with some slightly higher fares for busier services in the current Off-Peak period, designed to encourage better spreading of demand so that everyone can travel in more comfort.<sup>121</sup>

As part of the review, RDG commissioned KPMG to complete a piece of work to understand how a new peak pricing system would impact on demand across the network. KPMG's modelling showed that demand on long distance travel could be smoothed and reduce overcrowding by up to a third on some services (figures below).<sup>122</sup>

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<sup>115</sup> op. cit., [Rail fares and ticketing: next steps](#), p19-20

<sup>116</sup> Ibid

<sup>117</sup> op cit., [Rail Fares and Ticketing Review: Initial consultation](#), p46

<sup>118</sup> Ibid

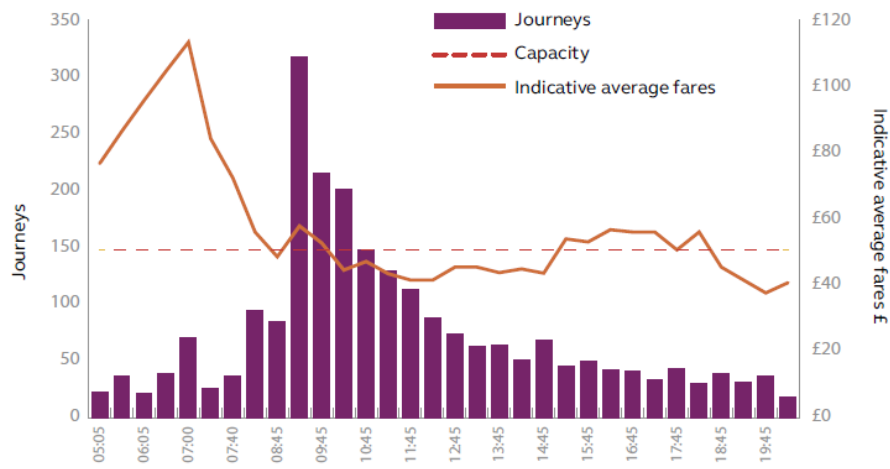
<sup>119</sup> op. cit., [Rail fares and ticketing: next steps](#), p20

<sup>120</sup> op.cit., [Easier fares for all](#), p50

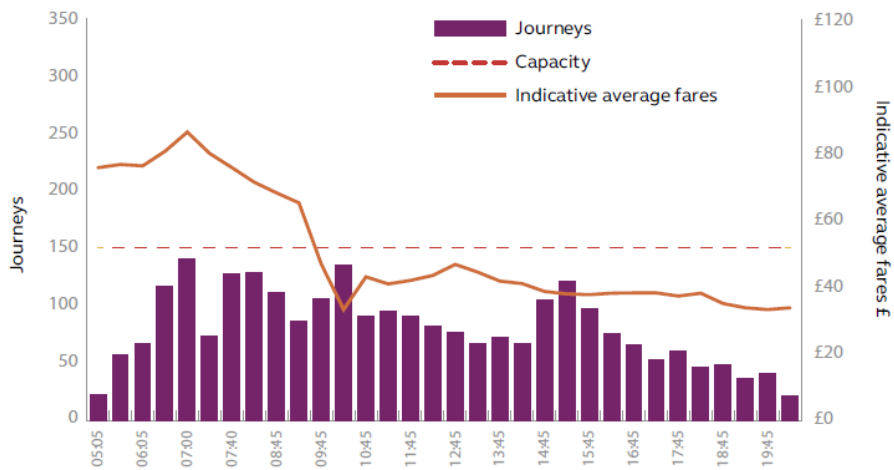
<sup>121</sup> Ibid., p13

<sup>122</sup> op.cit., [Easier fares for all](#), p51

**Under the current system<sup>123</sup>**



**With a reformed system<sup>124</sup>**



<sup>123</sup> Ibid

<sup>124</sup> op.cit., [Easier fares for all](#), p51

## 1.4 Prospects for fares reform

Many of the issues above are longstanding concerns that have been consistently raised in successive fares reviews since 2003. In most cases, substantive reform has not occurred. There appear to be three overarching reasons why this has been the case:

- 1 **The cost to Government** has been arguably the greatest obstacle to achieving successful implementation. Most of the fares changes, particularly fares freezes and part-time season fares, would have a determinantal impact on the revenue of the franchised operators. Any in-franchises changes would have to be agreed with these operators, with the Government required to recompense them for foregone earnings. The cost was flagged as a key reason why the Coalition Government were unwilling to pursue widespread reform in 2013.
- 2 **The sheer complexity of the untangling the regulations and agreeing them with operators.** The TSA, which is in itself a complex document, is then supplemented by the with franchise agreements to make up the fares regulation in place today. As was observed by the RDG in their review, the regulatory framework has not been trimmed back over the years, with further layers being added since privatisation.<sup>125</sup> Rewriting these regulations is not a straightforward task and needs to be initiated by Government to do so. They would then need to be agreed commercially with the different operators across the network. No attempt has been made to rewrite the regulations following any previous reviews.
- 3 **The political palatability of these changes.** Almost any change to a fares system will create winners and losers and as Steer Davies Gleave observed is likely "to be seen as 'unfair'".<sup>126</sup> While, in theory, the efficiencies of running the railway would be improved, the political repercussions of implementing these changes seem to have proven too great for governments since privatisation. This was evident when the Coalition Government raised the prospect of adjusting commuting fares in 2013 to better manage peak-period demand.

### What will come of the RDG review?

The latest round of proposals has been made by the RDG, who have highlighted that potential benefits that could be delivered by their "root-and-branch reform",<sup>127</sup> including "an additional 300 million journeys on services with capacity for growth over a ten-year period."<sup>128</sup> The headline recommendation out of the report was that the TSA regulations need replacing and that reform would take place over two broad stages:

Stage One: Industry and government work together to reform the way that fares are worked out. This means government replacing the outdated Ticketing and Settlement Agreement

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<sup>125</sup> op.cit., [Easier fares for all](#), p9

<sup>126</sup> op. cit., [Research project on fares - Final Report: analysis, recommendations and conclusions](#), piii

<sup>127</sup> op.cit., [Easier fares for all](#), p9

<sup>128</sup> op.cit., [Easier fares for all](#), p52

(TSA) with a new set of regulations that underpin the overall fares system.

Stage Two: With these new system regulations in place commercial changes will then need to be agreed with operators, reflected in new pricing regulations written in to their government contracts.<sup>129</sup>

Other specific changes have emerged out of the review and the RDG have indicated that they “want to work with government to begin reforming regulation and set-up a series of real-world trials over the next year to further test and refine how the propositions would work in practice.”<sup>130</sup> Several trials were committed to at the back end of the 2013 review but, in most cases, were ultimately not delivered in a meaningful way and certainly did not lead to wider spread reform across the network. If the RDG trials were successful, commercial contracts would then need to be revised and agreed with TOCs and Government, with the ambition to have “rolled out operator by operator across the network over the next 3-5 years.”<sup>131</sup>

TfL, in their submission to the RDG fares consultation, suggested that more substantial reform was required and argued that “to get the most benefit from a change as radical as contactless, requires equally radical changes to fare structure.”<sup>132</sup> They were sceptical about “technical adjustments to fares regulation”, which “alone seem unlikely to deliver the step-change in the transparency of fares that is being demanded.”<sup>133</sup>

It is difficult to make an authoritative assessment as to what changes will be implemented following the RDG review. When it comes to the three obstacles outlined above, it is not clear whether any of them have fundamentally changed to make fares reform more practically or politically deliverable. For example:

- 1 **Cost to government** – any widespread and immediate introduction of fares reform will be at considerable expense to government. While the current Government has shown a willingness to incorporate changes into new franchise agreements, it is not clear whether there is an appetite to do this immediately across the network. Further, the terms of reference of the RDG review may preclude such changes from happening. In particular, the proposed changes in the RDG review are meant to be ‘revenue neutral’. Widespread implementation of part-time fares, for example, would appear to be incompatible with fares neutrality.
- 2 **Complexity of the framework** – The layers of contractual complexity that underpin the fares system, as well as the diverse fares offering, means that any reform is not straightforward to implement. Much of this regulation is in place to enable through-ticketing and to ameliorate potential conflicts between competing operators. Within the current industry structure, these problems

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<sup>129</sup> op.cit., [Easier fares for all](#), p44

<sup>130</sup> op.cit., [Easier fares for all](#), p15

<sup>131</sup> Ibid

<sup>132</sup> op.cit., [TfL's response to the RDG fares consultation](#), p11

<sup>133</sup> Ibid., p4

remain and some form of regulation would be required to manage these conflicts and to provide whole of network connectivity for the passenger. It is therefore not clear what the new regulations will look like and how they will be made compatible with the current industry structure. As noted by Transport Focus' Anthony Smith "current fares regulation does stand in the way of achieving much of this."<sup>134</sup>

- 3 **Political palatability of the changes** - While demand management using more nuanced fares pricing is theoretical feasible and would arguably result in a more efficient use of the network, it is a highly political area of policy. Given the fortunes of commuters of late, and in the context of ongoing calls for fares freezes, it is not clear whether the Government will be ambitious enough to implement this sort of reform, which will inevitably create winners and losers. Changes to fares pricing structures may be more realistic for long-distance markets.

In any eventuality the RDG are of the view that these changes will be implemented within three to five-year timeframe.<sup>135</sup>

## The Williams Review

The Williams Review may be the window of opportunity for fares reform, following possible wider industry structural reform; although the prospect of substantial reform is uncertain.

### What is the Williams Review?

On the 20 September 2018, the Secretary of State [launched](#) what the Government described as a "sweeping review to transform Britain's railways". The review — led by independent chair Keith Williams, the former British Airways chief executive and deputy chairman of John Lewis Partnership — will consider all parts of the rail industry, from the current franchising system and industry structures, accountability, and value for money for passengers and taxpayers.

The [terms of reference for the Review](#) were published on 11 October 2018 and it was made clear that recommendations from the Review should support the delivery of:

- commercial models for the provision of rail services that prioritise the interests of passengers and taxpayers
- rail industry structures that promote clear accountability and effective joint-working for both passengers and the freight sector
- a system that is financially sustainable and able to address long-term cost pressures
- a railway that is able to offer good value fares for passengers, while keeping costs down for taxpayers
- improved industrial relations, to reduce disruption and improve reliability for passengers
- a rail sector with the agility to respond to future challenges and opportunities.

The Review's remit does not include the infrastructure and services that should be provided by the railway. It will therefore not reconsider public investment decisions made through existing franchise agreements, Control

<sup>134</sup> op. cit., [Rail fares and ticketing: next steps](#), p5

<sup>135</sup> op.cit., [Easier fares for all](#), p15



Period 6 commitments, High Speed 2 and other major projects, or spending decisions that will be made through Spending Review 2019. The Government has also said that the recommendations should avoid negative impacts on the public sector balance sheet and / or creating additional government expenditure beyond reasonable transition costs. Additionally, the Government has stated that:

...the Review's recommendations must be practical and deliverable. It should ensure improvements for passengers are prioritised as soon as possible, while recognising the challenges of delivering significant change within current legal and regulatory frameworks. It should consider how to reform the sector over the short, medium and longer term, and how legislative and regulatory change might support necessary reform.

The review will conclude with a White Paper in autumn 2019 to coincide with the Department for Transport's settlement at Spending Review 2019. The implementation of reforms are planned to start from 2020. The formal call for evidence was launched on 6 December 2018.

The nature of possible fares changes may depend on what is recommended at the back end of the review. Rail fares regulation is a corollary of the rail structure and ownership models of the day. If the Williams Review only recommends minor changes, it is not clear that more fundamental reform of fares will be possible.

If substantial reform is recommended, such as vertical integration such that operators and infrastructure managers would be under one business unit, a more radical rethink of the fares structure might be more likely. That said, there would almost inevitably be a requirement to maintain through-ticketing, which is one of the primary reasons the current regulation was introduced in the first place. Further, the terms of reference of the Williams Review preclude any reform that would result in a financial loss to government<sup>136</sup> and may in turn, preclude major fares reform.

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<sup>136</sup> Specifically, the [terms of reference](#) state that "Recommendations should avoid negative impacts on the public sector balance sheet and/or creating additional Government expenditure beyond reasonable transition costs."

## 2. Ticketing

In some ways ticketing across the national rail network has progressed since the early days of privatisation, for example through smart-ticketing. In others ways it has not and the tangerine “magstripe” ticket is still required on many rail journeys. A general overview of the ticketing arrangements on the national rail network is outlined below. It should be noted that the precise ticketing and transactional arrangements vary depending on the operator and route taken. Ticketing between the national rail network and devolved jurisdictions, such as London, also vary; though the latter is not addressed in this paper.

The ticketing arrangements on the national rail network is underpinned by the TSA, which all train operators (including non-franchised, open access operators) are required to adhere to as a condition of their operating licence issued by the Office of Rail Regulation (ORR). As well as some clauses in franchise agreements, these arrangements ensure rail services operate as an integrated network.<sup>137</sup>

The ORR has a regulatory remit “to keep markets under review and to take appropriate measures where we identify a detrimental effect on users and funders”. This includes ticketing and it has conducted reviews in recent years, the details of which are briefly outlined below.<sup>138</sup>

Policy reform is primarily the government’s responsibility by managing changes to the TSA. Individual operators have sought to innovate in the way they offer ticketing but are constrained by their regulatory obligations. The main aspects of reform when it comes to ticketing relate to simplifying the process of buying a ticket (Section 2.1) and introducing new technology, such as smart-ticketing (Section 2.2).

### 2.1 Buying tickets

#### Method of purchase and provision of information

Traditionally, the main method of purchasing a ticket was at a station office. Passengers can now buy rail tickets using other sales channels run by either the train operator itself or a third-party retailer. These include self-service ticket machines, online, staff on the train, telephone or travel agent.

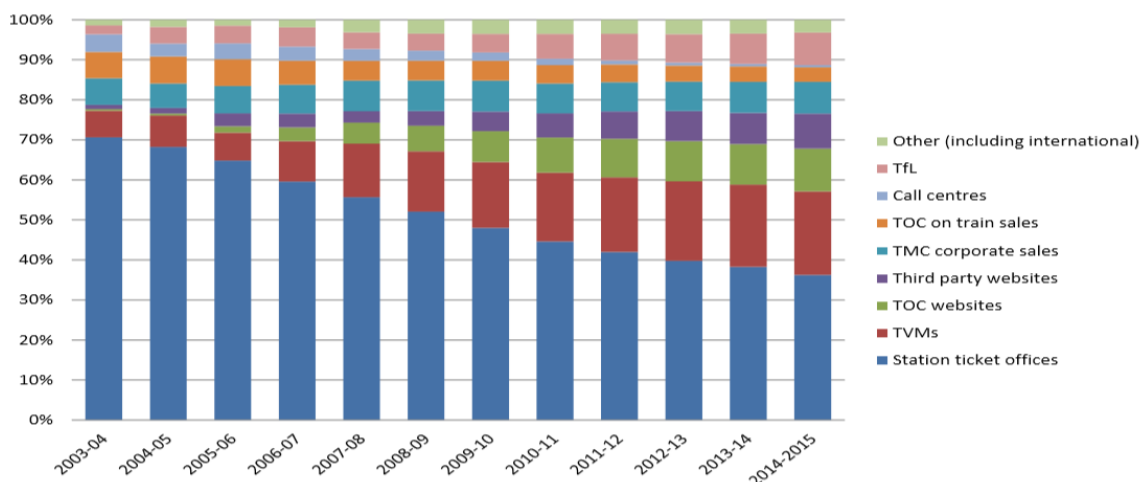
With respect to the sales channel and based on the latest publicly available data, station ticket offices remain the most popular place for passengers to buy rail tickets, with those purchases accounting for nearly 40% of all ticketing revenue. The popularity of ticket vending machines (TVMs) and the internet have risen in recent years, accounting for around 20% of revenue respectively (figure below).

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<sup>137</sup> op. cit., [Rail Fares and Ticketing Review: Initial consultation](#), p99

<sup>138</sup> ORR, [Retail Market Review – Conclusions](#), October 2016, p3

### Gross receipts by retail channel, 2003/04 to 2014/15 (% of total receipts)<sup>139</sup>



Passengers' use of sales channels tends to vary considerably by the purpose of the journey. In the London & South East and the regional markets, station ticket offices and TVMs are most popular. In the latter, buying tickets on the train is also popular. In the long-distance market, third party retailers' websites are most popular, followed by TOC websites and station ticket offices.<sup>140</sup>

### Retailer sales by selling channel and carrying sector, 2014/15<sup>141</sup>

	Long-distance		London & South East		Regional	
	£m	%	£m	%	£m	%
<b>Online third-party retailer</b>	606.1	19%	150.6	3%	87	8%
<b>Call centre third party retailer</b>	18.5	1%	3.1	0%	1.8	0%
<b>Travel management company</b>	608.1	19%	103.5	2%	46.6	4%
<b>TfL</b>	-3.2	0%	798.2	17%	0	0%
<b>International</b>	21.3	1%	5.1	0%	3.2	0%
<b>Station ticket offices</b>	728.3	23%	2065.8	45%	465.3	44%
<b>TVMs</b>	298.9	9%	1047.3	23%	154.2	14%
<b>TOC websites</b>	765.2	24%	185	4%	87	8%
<b>Call centre TOCs</b>	13.9	0%	7.2	0%	7.5	1%
<b>On train</b>	74.2	2%	124.7	3%	153.7	14%
<b>Other</b>	49.8	2%	129.1	3%	58.4	5%
<b>Total</b>	3181.2	100%	4619.6	100%	1064.7	100%

No single method perfectly suits passengers or industry universally, with each method offering pros and cons in terms of their suitability now and in the future:

- **Ticket offices** – they tend to provide the most customised and personal service for passengers, but from an industry point of view are expensive to run. The McNulty Rail Value for Money

<sup>139</sup> ORR, *Retail Market Review – Emerging Findings*, June 2015, p24

<sup>140</sup> Ibid, p25

<sup>141</sup> Ibid, p25

Study identified ticket offices as a major area of cost inefficiency in the rail industry.<sup>142</sup> As more and more passengers switch to self-service, the comparative cost of selling tickets through ticket offices will increase further.<sup>143</sup>

- **Ticket machines** – are popular for routine, familiar purchases and many passengers recognise that they can offer a quick and convenient way to purchase a ticket. But they do not always sell the full range of tickets, can fall short of passenger expectations in terms of functionality and leave the passenger confused in choosing the best ticket for an unfamiliar journey.<sup>144</sup> For more information about the passenger experience using ticket machines, see the ORR's [March 2018 research into passengers' experience of TVMs](#).
- **Online** – it can provide a fast and convenient way of buying tickets and an opportunity to shop around for good deals. Information about different fares types can also be more helpful and easier to access than is the case with ticket machines. However online retailing has some of the same shortcomings as ticket machines – the use of jargon, the full range of tickets not being available, and functionality varying in quality.<sup>145</sup>
- **Contactless** – is the most convenient way of purchasing a ticket and is the cheapest to administer for operators. Contactless ticketing is not widely available across the network and is not always suitable for certain types of journeys, particularly for longer-distance journeys. For journeys with higher fares, passengers want to know exactly what they will be charged before swiping in. Moreover, neither Oyster nor “wave and pay” contactless bank cards can store the wider range of tickets available on the national rail network, such as seat reservations and first-class tickets.<sup>146</sup>

Overall passenger satisfaction with ticket-buying facilities at stations currently stands at 77%.<sup>147</sup> Research by Passenger Focus has found that passengers want the ticket-buying experience to be:

- **quick** – they do not want to queue at ticket offices or machines;
- **easy to use** – they want websites and self-service ticket machines to be user-friendly in terms of accessing and navigating information;
- **convenient** – they want to be able to buy a ticket at the time and place that is convenient for them; and
- **clear and straightforward** – they want to be confident that they've bought the most appropriate ticket for their journey; this means being presented with (and guided through) a clear set of

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<sup>142</sup> DfT, ORR, [Realising the Potential of GB Rail – Final Independent Report of the Rail Value for Money Study](#), May 2011

<sup>143</sup> op. cit., [Rail Fares and Ticketing Review: Initial consultation](#), p42

<sup>144</sup> Ibid., p73-74

<sup>145</sup> Ibid., p77

<sup>146</sup> Ibid., p28

<sup>147</sup> Transport Focus, [National Rail Passenger Survey – Autumn 2018](#), 29 January 2019, p7

options and clear information about the restrictions that apply to different tickets, avoiding rail industry jargon.<sup>148</sup>

Transport Focus worked with Great Western Railway (GWR) to understand rail passengers' expectations with regard to the future of ticketing. A report summarising those views of passengers was [published in March 2019](#).

In terms of recent Government policy action in this area, the Coalition Government in its 2013 review made its intention to promote a "shift towards more efficient forms of ticketing such as better 'self-service' ticket machines, websites and apps".<sup>149</sup> It stated that it wanted to phase out "magnetic stripe tickets within the next 10-15 years to reduce the cost of running our rail network, but without reducing customer service."<sup>150</sup> To achieve this, the Government proposed the following initiatives:

- a Code of Practice on ticketing information;
- an improved approach to the way it manages approvals for changes to the ticket offices;
- a market review by the Office of Rail Regulation to consider whether the current market for selling train tickets is operating as efficiently as possible;
- publication of annual "mystery shopper" surveys; and
- a stronger and more focused approach to quality and customer service in franchises including ticket retail.<sup>151</sup>

Most, if not all, of these intentions were followed through on by Government:

- The ORR and Association of Train Operating Companies jointly produced a [Code of Practice on retail information for rail tickets and services](#). The primary purpose of this is to provide guidance for train operators and third-party retailers "on, and promote best practice in, meeting consumer law and industry standards associated with the provision of information to passengers in connection with the sale and use of rail products and services."<sup>152</sup> The ORR followed up with an audit of train company websites against the Code of Practice. The ORR [published its findings of this audit](#) in March 2017, concluding that "most of the information is provided that passengers are likely to need when planning journeys and buying tickets"; although it did find that "there were exceptions to this, with some information not always being available or suitably prominent."<sup>153</sup>
- ORR's Retail Market Review commenced in February 2014 with a [call for evidence](#). It was followed in June 2015 with an [interim set](#)

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<sup>148</sup> op. cit., [Rail Fares and Ticketing Review: Initial consultation](#), p71

<sup>149</sup> op. cit., [Rail fares and ticketing: next steps](#), p33

<sup>150</sup> Ibid., p63

<sup>151</sup> Ibid

<sup>152</sup> ORR, ATOC, [A Code of Practice on retail information for rail tickets and services](#), 25 March 2015

<sup>153</sup> ORR, [Audit of train company websites against the retail information code of practice](#) [access 15 April 2019]

[of findings and recommendations](#). The ORR eventually published a [final conclusions document](#) in October 2016.

- [Action plan for information on rail fares and ticketing](#) was published in December 2016, with a specific set of actions to be delivered the DfT, ORR and industry. A progress report to this action plan was published by the DfT in December 2017, with overall sentiment of industry that reasonable progress had been made in the 12 months following the publication of the action plan.
- ORR published the first of its annual mystery shopper surveys into [ticket vending machines in February 2017](#). This was conducted to investigate the extent to which they were meeting the needs and expectations of passengers, and to examine whether transactions led to the purchase of a more (or less) expensive ticket than was required for their journey.<sup>154</sup> It was followed up with a [survey and report the following year](#).

2018 ORR research found that 91% of users would have bought the most appropriate ticket for their journey, up 11% from 2017. Of the 9% who might have bought the wrong ticket, 6% would have paid too much, down from 13% in 2017, and 3% would have got a ticket without the necessary flexibility, down from 6% .<sup>155</sup>

## Price guarantee

One of the issues with the current ticketing arrangements is that passengers may not necessarily be purchasing the cheapest or most suitable fare available.

The Labour Government in its 2007 White Paper said it would ask the rail industry to back a new 'price promise', in effect that if passengers were pointed to one deal when there was a better deal on offer, they would be refunded the difference, and that operators would be asked to give passengers 'fair credit' where they accidentally boarded the wrong train for their ticket type.<sup>156</sup> This price promise was not implemented across the board in the aftermath of the White Paper's publication.

In response to its 2017 mystery shopper exercise, the ORR called on train operators to introduce a price guarantee, refunding passengers who find that they could have bought a cheaper ticket. It argued that:

This is necessary to build trust and demonstrate they are responding to passengers' needs. It's essential train companies learn lessons from the research and adopt good practice. This includes providing clear information on the range of tickets available and their restrictions and validities, such as peak or off peak.<sup>157</sup>

At that time 12 train companies agreed to introduce a voluntary TVM Price Guarantee whereby they will refund the additional costs where a passenger could have purchased a cheaper ticket. All 17 train

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<sup>154</sup> ORR, ['Measuring Up' – Annual Rail Consumer Report 2018](#), 9 July 2018

<sup>155</sup> ORR, [Research into Passengers' Experience of Ticket Vending Machines](#), March 2018

<sup>156</sup> *ibid.*, p97

<sup>157</sup> ORR press notice, ["Rail Regulator calls for ticket machine price guarantee"](#), 10 February 2017



companies that operate TVMs have now made this commitment. The ORR are collecting data to monitor the effectiveness of this remedy.<sup>158</sup>

## 2.2 Smart ticketing

Improving ticketing technology has benefits for both the passenger and the industry. From the passenger's perspective, it can make their journey smoother and there is potential for fares to be more tailored to the passenger based on their needs when a smarter ticketing system is in place.<sup>159</sup> From an industry perspective, a simpler journey has the benefit of potentially inducing demand onto the network and increasing revenues. It can also reduce the transaction and administrative costs of processing tickets, while providing more accurate information about actual journeys made on the network, allowing revenues to be allocated more accurately between operators.<sup>160</sup>

Rolling out new ticketing technology on the national rail network is primarily the responsibility of the Government, in collaboration with the train operating companies.<sup>161</sup> This is because tickets need to be compatible across several parts of the network and cannot always be introduced as discretely as they might be able to in metropolitan areas, such as London and Manchester, where ticketing is the responsibility of the relevant local or combined authority.

### How is the technology progressing?

To respond to the changing needs of customers and the city, London has implemented several changes to ticketing, putting it at the forefront of introducing new technologies. Changes to ticketing technology introduced by London include:

- magnetic stripe tickets in the 1970s;
- zonal fares and Travelcards in the 1980s;
- the Oystercard in the 1990s;
- PAYG in the 2000s; and
- contactless payment card acceptance over the last 10 years.<sup>162</sup>

Since introducing contactless payment in Autumn 2014, TfL has observed that:

...there has been dramatic growth in fare payment using contactless cards and mobile devices equipped for contactless payment using Apple pay and Android pay. The use of Oyster PAYG has been falling as quickly as the use of printed tickets.<sup>163</sup>

The national rail network has followed in London's path, with the most common form of smart ticketing the smartcard, an electronic device with a chip which stores a ticket which can be checked or 'read' by a

<sup>158</sup> ORR, 'Measuring Up' – Annual Rail Consumer Report 2018, 9 July 2018, p17

<sup>159</sup> For more discussion around the passenger benefits of smart-ticketing, see: op. cit., [Rail Fares and Ticketing Review: Initial consultation](#), p29-30

<sup>160</sup> op. cit., [Rail Fares and Ticketing Review: Initial consultation](#), p30

<sup>161</sup> op. cit., [Rail fares and ticketing: next steps](#), p25

<sup>162</sup> op. cit., [TfL's response to the RDG fares consultation](#), p3

<sup>163</sup> op. cit., [TfL's response to the RDG fares consultation](#), p10

scanner or 'reader'. Other forms of smart ticketing in use now include mobile phone and bar code. Contactless payment has been introduced by some retailers.

In terms of where ticketing is headed, in February 2017 RDG set out its blue print for the 'age of the digital train', which includes Bluetooth and biometric ticketing to potentially replace the traditional 'tangerine' ticket in the future.<sup>164</sup> TfL believe that their model of contactless ticketing could be implemented across the UK, with it catering for 90% of all rail journeys. It suggests that "ticketing and ticket retailing are now on the verge of obsolescence."<sup>165</sup>

## Central government and national rail ticketing

The Integrated Transport Smartcard Organisation (ITSO), an organisation supported by the DfT, was established in 1998 to "develop an open specification and standards so that smart ticketing could be used across different types of public transport and transport operators."<sup>166</sup> ITSO has been central Government's main means of advancing technology on the national rail network.

As part of its July 2007 White Paper, the Labour Government announced that it had embarked on a seven-year programme with the rail industry to:

- introduce ITSO smartcards on rail in major cities;
- integrate the new ITSO ticketing with TfL's Oyster product in London;
- roll-out ITSO smartcards more widely across the network; and
- enable passengers to purchase tickets that can be sent to mobiles, or printed out remotely, for long distance routes.<sup>167</sup>

The Labour Government published its smart and integrated ticketing strategy in December 2009 to "shape the delivery of smart integrated ticketing systems across England over the next five to ten years."<sup>168</sup> It had the immediate goal of seeing:

...integrated, multi-modal smart ticketing schemes in the major urban areas in England by 2015. The expectation is that these schemes can form the base for further expansion with the majority, if not all of the country similarly covered by 2020.<sup>169</sup>

Key actions were outlined in the strategy to work toward that goal and included:

- establishing a dedicated smart ticketing team in the DfT;
- a committed to a short-term increase in resourcing and strategic input into ITSO Ltd;

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<sup>164</sup> RDG press notice, "[Rail companies set out blueprint for age of the digital train](#)", 7 February 2017

<sup>165</sup> op cit., [TfL's response to the RDG fares consultation](#), p11

<sup>166</sup> op cit., [Investigation into the South East Flexible Ticketing Programme](#), p12

<sup>167</sup> op cit., [Delivering a Sustainable Railway](#), p100

<sup>168</sup> DfT, [Smart and Integrated Ticketing Strategy](#), December 2009, p1

<sup>169</sup> op. cit., [Smart and Integrated Ticketing Strategy](#), p3

- the provision of £20m of funding to the nine largest urban areas in England (outside London);
- an additional payment of 8% Bus Services Operator Grant from April 2010 for buses equipped with ITSO smart ticketing infrastructure;
- the production of an integrated ticketing best practice guide in 2010; and
- sponsoring the £60m ITSO on Prestige (IOP) project which will enable the entire Oyster 'estate' to read ITSO smart tickets.<sup>170</sup>

The Coalition Government made a commitment in its 2011 sustainable local transport White Paper to delivering infrastructure to enable most public transport journeys to be undertaken using smart ticketing by 2014.<sup>171</sup> £45m was subsequently announced by the Chancellor in his 2011 Autumn Statement to initiate the South East Flexible Ticketing (SEFT) Programme. Attempts had been made to require train operating companies to implement smart ticketing schemes as part of new franchise agreements. However, "progress was slow and take-up was low."<sup>172</sup> By 2012 only South West Trains, East Midlands Trains and Southern had smart ticketing schemes available in the south-east of England that were compliant with the ITSO standards.<sup>173</sup> SEFT was initiated "to provide a more coordinated delivery approach and provide funding for the infrastructure and the development of a central back office to process rail journeys on smartcards."<sup>174</sup>

In its 2013 fares and ticketing review, the Coalition Government recognised that a "fully smart-enabled network [was] still some way off"<sup>175</sup> It did outline its vision for smart and integrated ticketing:

Long-term, we expect smart technology, which includes ITSO, cEMV and NFC, to be dominant, with passengers having the choice of using their mobile phone, bank card or smartcard to travel.

The Government said that its delivery plan to achieve its vision would be broadly split into three phases:

- 1 Deliver the South-East Flexible Ticketing (SEFT) Programme.
- 2 Further DfT-led smart delivery programmes centred on towns and cities with a large rail commuter base, from 2015-16 onwards.
- 3 Complete the smart enablement of the network.

The review also confirmed the Government's intention to mandate continued use of the ITSO specification and require that all new readers must be capable of recognising both ITSO smartcards and contactless bank cards.<sup>176</sup>

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<sup>170</sup> Ibid., p3-6

<sup>171</sup> DfT, [Creating Growth, Cutting Carbon: Making Sustainable Local Transport Happen](#), January 2011

<sup>172</sup> op. cit., [Investigation into the South East Flexible Ticketing Programme](#), p8

<sup>173</sup> Ibid, p12

<sup>174</sup> Ibid, p8

<sup>175</sup> op. cit., [Rail Fares and Ticketing Review: Initial consultation](#), p31

<sup>176</sup> op cit., [Rail Fares and Ticketing: Next Steps](#), p60

### South East Flexible Ticking Programme

The DfT launched the South East Flexible Ticketing Programme in January 2012 “to expedite the equipment of commuter routes running into London to enable early roll-out of smart and innovative ticketing” and to enable a significant uptake of smart and flexible ticketing.<sup>177</sup>

The programme has not achieved on its original ambitions and the NAO commissioned an investigation into, with a final report published in April 2017. Several of the original ambitions of the DfT, as well as subsequent findings of the NAO, are outlined below:

- The aim was to have flexible ticketing in place on 11 franchises running services into London by 2014. By April 2017, the Programme enabled five of the 11 train operating companies running services into London to offer season tickets on smartcards. At the time of the NAO report, only one of the five train operating companies offered flexible season tickets.
- The programme had aimed to achieve 95% take-up of smart-season tickets. The data showed that 8% of all season ticket sales in the 12 months up to March 2017 on participating train operating companies were on smartcards.
- The Department spent £54 million on the Programme, compared with the original budget of £45 million. In April 2016, the Department estimated that it would cost a total of £96 million to deliver the full scope of the Programme as set out in the 2014 business case.<sup>178</sup>

The Programme was paused three times and reset twice, and each time the scope was reduced and the budget revised.<sup>179</sup> In total and as at April 2017, the Department had spent at least £120 million on smart and flexible ticketing on the national rail network in the south-east of England. This includes the £66 million spent on making ITSO compatible with TfL’s smart ticketing system.<sup>180</sup>

For full details and discussion of the progress of the SEFT programme, see the NAO report [Investigation into the South East Flexible Ticketing Programme](#).

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<sup>177</sup> op. cit., [Investigation into the South East Flexible Ticketing Programme](#), p13

<sup>178</sup> Ibid., p9

<sup>179</sup> Ibid., p10

<sup>180</sup> Ibid., p9

### 3. Rail cards

Section 28(3) of the [Railways Act 1993](#), as amended, requires that all TOCs participate in the following mandatory schemes:

- [Young Persons \(16-25\) Railcard](#) (for young people aged between 16 and 25 and students in full time education);
- [Senior Railcard](#) (for those over the age of 60); and
- [Disabled Persons Railcard](#) (for those with severe disabilities).

The obligations to participate in these schemes is formalised under the terms of their franchise agreements. TOCs are also required to participate in any local authority concessionary fare scheme providing there is no loss to the train operator. All other rail cards are commercial schemes and include:

- [Family & Friends](#) and [HM Forces](#) railcards (which existed under British Rail);
- the [Network Card](#) (which covers the south-eastern region of England and is confined to passenger operators serving that area);<sup>181</sup>
- [GroupSave](#) (which was launched in July 1999 to target car-size parties who do not usually use the train); and
- the [Two Together](#) railcard, for two named people travelling together aged 16 or over. The voluntary discount card schemes operate on similar principles to the mandatory card schemes, and the national schemes are governed by the same scheme council.

In terms of administering the rail card schemes, the TOCs all send a representative to the scheme council, which is responsible for the administration of all the national cards, both mandatory and voluntary. The council in turn elects a scheme management group to undertake the majority of the work. The council agrees the conditions of the schemes and they then have to be approved by the Secretary of State. Subject to certain minor variations, the schemes are standard in form. All participants in the schemes are required to sell, honour and otherwise operate the relevant railcards.

Card revenue in respect of discount card sales is allocated to carriers pro rata to their share of revenue from fares bought with the relevant card. All participating carriers are subject to minimum marketing requirements which oblige them to ensure that discount cards are sold and promoted at sites such as designated stations and, in respect of certain discount cards, by RDG-licensed travel agents. Each participant's share of the marketing budget (fixed by the scheme council) and other costs incurred in connection with the operation of each scheme is set according to its share of revenue in the preceding year arising from the sale of fares to holders of the relevant discount card. There are special provisions for setting and reviewing initial marketing contributions from new entrants. To ensure that scheme costs, voting rights and revenue

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<sup>181</sup> it has a separate scheme council composed of the TOCs operating in the south east; it was introduced in 1986 by the then Network SouthEast division of British Rail to stimulate demand for off-peak travel, it was not made mandatory at privatisation but the TOCs in the south east continue to offer it

are calculated and allocated fairly, a participant is required to allow all other participants in the same scheme access to information on the aggregate sales of discount cards and the tickets purchased with the cards.

The idea of a 'national' railcard has been floated over the years, but no government has ever proposed one, largely on economic grounds.<sup>182</sup> The main policy development in this area has been the introduction of the [Millennial Railcard](#). The rail discount card was first promised by the chancellor in his Budget in 2017<sup>183</sup> and was eventually rolled out on the network on 2 January 2019.<sup>184</sup> For a £30 fee, the new railcard will offer similar benefits to the Young person's 16-to-25 railcard but for those aged between 26 and 30. Journeys starting before 10:00 will carry a minimum fare of £12. But unlike the card for younger passengers, that minimum fare will also apply on weekdays throughout July and August.<sup>185</sup>

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<sup>182</sup> e.g. op cit., [Fares review conclusions](#), para 7.3 and [How fair are the fares? Train fares and ticketing](#), Ev 137

<sup>183</sup> ['Budget 2017: 'Millennial railcard' isn't a done deal, whatever Chancellor Philip Hammond may say](#), *The Independent*, 22 November 2017

<sup>184</sup> ['Millennial' railcard finally on nationwide sale](#), *The Independent*, 2 January 2019

<sup>185</sup> [Railcards: How can young people save on train fares in 2019?](#), *BBC News*, 2 January 2019



## 4. Penalty fares

Fare evasion costs the railways £240 million every year.<sup>186</sup> There are reports that up to a third of passengers were failing to buy tickets and that up to one in 14 passengers failed to buy a valid ticket on some suburban routes in London.<sup>187</sup> Train operators charge penalty fares to deter people from travelling on railway passenger services without first purchasing a valid ticket for their journey.

A penalty fare is a supplementary fare, it is not a fine.<sup>188</sup> The majority of TOCs have penalty fare schemes.<sup>189</sup> Those that do not, use the [National Rail Conditions of Carriage](#), Condition 7 of which specifies that if you travel on a train without a valid ticket you are liable to pay the full single or return fare for the journey you have made or wish to make and you are not entitled to any discounts or special terms which would otherwise apply. Condition 7 is waived if for any reason you were unable to buy a ticket for your journey or if it was indicated that a ticket could be purchased on a train. No TOC is obliged to introduce a penalty fare scheme but any that does must first submit the scheme to the Secretary of State for approval.

The relevant legislation applying to penalty fares is section 130 of the [Railways Act 1993](#), as amended.<sup>190</sup> This gives the Secretary of State and Scottish Ministers the power to make regulations with regards to penalty fares. These can include things like who can be charged a penalty fare, who can make the charge, where and how much they can be.

The *Railways (Penalty Fares) Regulations 1994* ([SI 1994/576](#)), as amended, made under section 130, provide for operators to recover unpaid penalty fares as a civil debt. They also state that passengers may be charged a penalty fare or prosecuted for a given offence, but not both; and that it is an offence for a passenger to refuse to give his or her name and address if an authorised collector asks them to do so. The regulations also allow the regulator to make further rules about penalty fares. The rules currently in force were published in 2002.<sup>191</sup>

There are a number of connected offences:

- Under section 5 of the [Regulation of Railways Act 1889](#), as amended, it is an offence to fail to provide proof of one's right to travel or to give one's name and address to a relevant person (maximum penalty £500 fine). It also gives relevant people the right to detain anyone who does not comply with the above.
- Under section 5 it is also an offence to travel or attempt to travel on a railway without having previously paid the fare, and with

The [Penalty Fares Rules](#) and [Penalty Fares Policy](#) can be found on the archived Department for Transport website.

The industry-agreed [Approved Code of Practice on Arrangements for travel ticket irregularities](#) is available on the National Rail website.

<sup>186</sup> DfT press notice, "[DfT reforms penalty fares to better protect rail passengers](#)", 10 December 2016

<sup>187</sup> "A third of rail passengers are dodging their fares", *The Times*, 24 September 2016

<sup>188</sup> [HL Deb 25 January 2000, c1415](#)

<sup>189</sup> in 2005 there were 12 TOCs with such schemes, see: [Regulatory Impact Assessment to the Railways \(Penalty Fares\) \(Amendment\) Regulations 2005](#), April 2005, section 4

<sup>190</sup> the *British Rail (Penalty Fares) Act 1989* established the original penalty fares regime

<sup>191</sup> SRA, [Penalty Fares Rules](#), May 2002; previously the [Penalty Fares Rules 1997](#)

intent to avoid payment thereof; or having paid the fare for a certain distance, 'knowingly and wilfully' proceeds by train beyond that distance without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof; or having failed to pay the fare, gives in reply to a request by an officer of a railway company a false name or address. The maximum penalty is a £1,000 fine or 51 weeks' imprisonment.

- Under section 46 of and Schedule 9 to the [Railways Act 2005](#), as amended, it is an offence to breach the [Railway Byelaws](#).<sup>192</sup> The maximum penalty is a £1,000 fine. Byelaws 17 and 18 states that no person shall enter a compulsory ticket area on the railway or any train for the purpose of travelling on the railway unless they have with them a valid ticket and that they must hand over their ticket for inspection and verification of validity when asked to do so by an authorised person. It provides for certain exceptions.

Regulation 5 of the 1994 Regulations states that the amount of any penalty fare which may be charged under Regulation 4 ('charge to a penalty fare') is £20.00 or "twice the amount of the full single fare applicable in the case, whichever is the greater".<sup>193</sup> In practice, this means the full single fare to the next station at which the train calls.

The penalty fares guidance had last been updated in 2002. The new independent appeals process saw the existing guidance, made up of three documents, reduced down to one simple document, which has been [published by the Rail Delivery Group](#).

## Appeals to penalty fares

Previously, passengers who have been given a penalty fare could appeal against the decision through one of two appeals bodies: the Independent Revenue Collection and Support (IRCAS) or the Independent Penalty Fares Appeals Service (IPFAS). These bodies made the final decision on individual appeal cases based on their DfT-approved codes of practice.<sup>194</sup>

In February 2015 the Government published a consultation paper on changes to the appeals process. The Government announced the outcome to the consultation in December 2016, including its intention to take forward the following changes:

1. "Stopping the clock" on the 21 day deadline for payment when an appeal is received by an appeals body. Combined with simplifying the rules related to deadlines for payments and appeals, this will help passengers when they appeal a penalty fare.
2. Requiring all Penalty Fares appeals bodies to become independent of Train Operators and owning groups. This will create a clear

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<sup>192</sup> the current byelaws were made by the SRA and confirmed by the Secretary of State on 22 June 2005

<sup>193</sup> last amended in 2005, see: *Railways (Penalty Fares) (Amendment) Regulations 2005 (SI 2005/1095)*; and: DfT, *Amendment of Railways (Penalty Fares) Regulations 1994*, August 2004; before it left office in May 2010 the Labour Government consulted on further changes, but nothing came of it, see: DfT, *National Rail penalty fares rules policy and charge change consultation process*, 4 November 2009

<sup>194</sup> *IAS - Approved - Code of Practice for Appeals*; and *IPFAS Penalty Fare Appeals* [both accessed 3 March 2016]

separation between those that issue penalty fares and the organisations who consider and process appeals.

3. Improving the Penalty Fares appeals system by adding a third stage, where appeals will be considered by an independent appeals panel. Providing passengers with further safeguards if they feel they have been unfairly issued with a penalty fare.
4. Train operators and appeals bodies will be required to provide data on penalty fares appeals. This will strengthen DfT oversight of penalty fares appeals bodies and operators who issue penalty fares.<sup>195</sup>

The Government reported in November 2017 that the industry had “already taken steps towards this objective and the Independent Penalty Fares Appeals Service is currently in the process of winding down consideration of penalty fare appeals.”<sup>196</sup>

The Government formally laid the new regulations implementing the new independent appeals process on 15 March 2018. The [Railways \(Penalty Fares\) Regulations 2018](#) came into effect on the 6 April 2018. As detailed in the [explanatory notes](#) accompanying the regulations:

This instrument makes provision for the charging of rail penalty fares for travel or presence in a compulsory ticket area without a valid ticket. It sets out the circumstances in which a penalty fare can be charged and the appeals process that operators must put in place in order to charge penalty fares.

Passengers can now make an appeal against a penalty fare by visiting the [penalty services](#) or [appeal services websites](#).

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<sup>195</sup> DfT, [Summary of responses and government response to changes to the rail penalty fares appeals process consultation](#), 10 December 2016, pp5-6

<sup>196</sup> [Railways: Penalty Fares: Written question - 112721](#)

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