Dear Meg,

Public Accounts Committee report – Govia Thameslink Railway’s Profit Cap

Thank you for your letter of 27 June 2019.

I share the Committee’s concerns about transparency. We release as much information as we can about the commercial arrangements in place with our franchise operators, recognising this is an issue of legitimate public interest.

However, a statutory restriction applies to the release of such information. The Railways Act 1993, which governs the Secretary of State’s franchising powers, states in Section 145 that unless an exemption applies, information of this nature should not be disclosed without the consent of the operator.

The Department has tested whether in this instance, GTR would be content for details of the profit cap to be disclosed. GTR has confirmed that it regards this information as commercially sensitive: its principal owning Group has never disclosed the detailed forecast breakdown of each part of its rail operations – which includes UK and international franchises. GTR’s view is that this information is market sensitive as they have provided investors with a profit range over the life of the franchise and not specific details about the phasing of that profit and to do so now would attract unhelpful and potentially misleading speculation from the financial market, which values consistency in disclosures.

I appreciate this may be disappointing to the Committee. Aware of the public interest in transparency, I have considered carefully the statutory constraints and market sensitivity of disclosure. Given the statutory restriction on disclosure without consent, which exists to maintain confidence that the Department will respect the confidentiality of commercially sensitive information provided as part of the franchising process, I conclude that it is not possible to provide the further information you have sought.

As to your underlying concern around operators making a profit when passengers are receiving a poor level of service, I can repeat that GTR has made virtually no profit from this franchise so far. To provide an incentive for GTR to deliver good operational and commercial performance, it is right that they should be able to make some profit during the final years of the franchise, subject of course to satisfactory performance being achieved. This profit, however, is capped at a lower level than previously and GTR’s own disclosure
that the total profitability over the life of the franchise will be between 0.75% and 1.00%, as compared with an expected level of 3% which demonstrates that the Department has acted to ensure that the operator has paid a significant financial penalty for past failures of performance.

I hope this further explanation is helpful.

Yours sincerely,

Bernadette Kelly CB
Permanent Secretary