

Although Informed Sources hasn't had the bandwidth to cover HS2 in general, the new trains have been the occasional exception since the classic compatible sets will run onto the current network. Their procurement will also affect the UK rolling stock market, which is why the lead feature this month takes us into the law courts. Meanwhile it looks as though GBR stands for Going Backwards Rapidly rather than Great British Railways: and the roles of the new Passenger Service Contract concessions are being made up by as they go along.

Siemens challenges HS2 train contract award

GBR: the revolution will be delayed - official

DfT outlines future role for operators

LNER train procurement update

As reported a while back, Siemens is taking High Speed 2 to court over the proposed award of its rolling stock contract to what is now the Hitachi-Alstom Joint Venture. Now that Siemens' complainants' notes have been released, we have one side of the full story - HS2 and the Joint Venture are naturally declining to comment.

However, when writing up long running and complex issues, I always try to include the historical context. In this case it starts in 2017 with HS2's rolling stock industry day.

HS2 had scoured the globe for potential rolling stock suppliers. Of the 14 identified, eight had registered interest, from whom five had prequalified: Alstom Transport; Bombardier Transportation; Hitachi Rail Europe; Patentes Talgo; and Siemens.

Missing from the list was CAF of Spain, who promptly protested their exclusion. Fortunately, in 2018, Bombardier and Hitachi announced that they were forming a joint venture to bid for the contract.

This reduced the number of bidders to four. HS2 reinstated CAF, telling a trade journal, 'In order to ensure the best trains are procured, it is vital that a robust competition takes place'.

With its proposed takeover of Bombardier, Alstom now had a foot in two bids - its own and as a partner in the Joint Venture. Withdrawal of one bid was one of the conditions for approval of the acquisition and Alstom withdrew its own offer.

By January 2021, the technical evaluations were complete. The competition was now down to two bidders, the Joint Venture and Siemens.

On being told that it would not be considered for the final Stage, Talgo called in its lawyers and in March launched a legal action against HS2.

But the claims were never heard. At the end of June it was announced that an out-of-court settlement had been reached. However, the court papers provided further insights into the HS2 procurement process.

With the field reduced to two, the commercial evaluation began and in May Siemens was told that the Joint Venture had been appointed 'Lead Tenderer'. According to Siemens, when the company queried this decision it was told that any challenge was premature and that Siemens could still re-enter negotiations.

Not until 1 October did HS2 inform Siemens that it intended to place the contract with the Joint Venture, with signature then expected on 25 October. According to Siemens, up to then HS2 argued that any challenge would be premature before a decision on contract award was made. HS2 was now saying that there was insufficient time for a court hearing before tender validities expired in January 2022. Because of this Catch 22 situation, Siemens also lodged a claim for an injunction to prevent the contract being awarded before its challenge is heard in court.

Why is Siemens so desperate to block confirmation of the award to the Joint Venture? Because were the contract to be awarded and Siemens' challenge subsequently succeed, the company could be in line only for compensation.

To quote the Claimants Note, 'The successful tenderer is being awarded a global showcase for the most up-to-date high speed rolling stock contract...unless the Court takes a firm interventionist line, Siemens will be confined to an inadequate remedy in damages, only awarded some long time in the future'.

Personally, I have always thought the 'global showcase', promoted by HS2, to be an over-rated red herring. But you can't blame Siemens for throwing everything into the case.

In addition to claimed inconsistencies in the procurement process, Siemens also points to the problems being experienced with new trains supplied to the UK market by the two members of the Joint Venture. Siemens 'understands' that HS2 has a 'Supply Chain Management Team', one of whose tasks has been to 'curate the trade press, gathering stories about HS2's

Tier 1 suppliers, global high-speed rail programs and other industry news in an internal weekly email'.

Did this Team identify any concerns regarding Bombardier and/or Hitachi new trains, Siemens asks? I suppose that depends on whether Modern Railways was on their reading list.

Great British Railways running late

In the October column I published a time-line produced by the Office of Rail & Road (ORR), who you would expect to know about these things. This showed Great British Railways (GBR) taking-over responsibility for track and trains from 2004.

That was then, but according to Informed Sources, in October Network Rail was advised that the legislation is running late. Should we be surprised? Also in that October column, I quoted this warning from the Department for Transport team responsible for creating the Targeted Operating Model (TOM) for GBR.

'It is impossible to know upfront what the best organisational design will be to deliver the policy and outcomes. Policy documents leave open a significant range of design choice including: what is needed to deliver the policy; how that should be done; how to prioritise and trade-off different elements'.

It had been assumed that, instead of a new Railways Act, the GBR legislation would be wrapped up in a new Transport Bill. A second reading towards the end of 2023 was anticipated with the necessary Transport Act coming into force early in 2024.

However, the realisation appears to have struck DfT that before you can draft the legislation you need to have a clear idea of what you need to do. And when it comes to really serious stuff, more serious even than getting rid of ironing-board seats in trains, you have to get to grips with policy.

For example, what will be the policy on granting open access rights in future? Not to mention the protection of current rights holders?

Similarly, GBR will be responsible for creating timetables which will be handed down to the private sector Passenger Service Contract (PSC) holders who, under GBR, will replace the former franchises. How will Open Access operators and Freight Operating Companies fit into the new process of central diktat? And what will be their contractual rights, including challenging a proposed new timetable?

Perhaps the most important aspect of the 1993 Act are the powers it gives the Regulator. Some of these powers may have to be rescinded, but which of them, will, in part, depend on the relationships within the new structure: many of these remain unknown.

Not surprisingly, according to Informed Sources, faced with this howling chaos the Treasury has yet to agree the new industry model. With an election between now and May 2024, the legislative programme could be lost anyway.

DfT tests the future passenger operating market.

In October, ahead of a virtual meeting with potential train operators, the Department for Transport published a Passenger Service Contracts (PSC) Market Engagement Previews. This meeting was the 'first step towards defining how the private sector can bring their expertise and work collaboratively with GBR to deliver services for passengers through PSC'.

These contracts will include 'strong incentives for operators to meet passenger priorities, while achieving a sustainable cost base'. Ah, yes, costs. Earlier in the foreword it was explained that 'the current investment (sic) to maintain and operate the railway is not sustainable'.

According to the Preview, the PSCs will establish 'a new way of working between the public and private sector', with 'experienced partners collaborating with the GBR team to deliver improved services across the network'. In this role, PSCs 'will allow the private sector to focus on operating services and delivering the best possible customer experience, while building long and beneficial relationships across the sector'.

Until GBR gains its legislative powers, DfT will lead on developing the PSCs. It was expected that the initial competition will be launched by the time the emergency recovery measures agreements end in 2022. Contract award is expected in 2024.

Note that this was written before the likely delay referred to above. Would it be possible to issue an Invitation to Tender (ITT) for a PSC until the legislative framework is established? I can't see any commercial business taking on so much unknown risk.

Roles

With GBR planning timetables, setting fares, selling the tickets and receiving the revenue, and running the network, what does the PSC have left to do?

According to the Market Engagement Preview, a PSC's main responsibilities will be:

* Operating trains to a high level of operational performance

- Procuring, preparing and maintaining rolling stock
- Delivering high standards of customer experience on train and at station
- Acting as a train service operations partner to GBR as it develops and refines its passenger offer.

What stands out in that list of responsibilities is 'procuring, preparing and maintaining rolling stock. But before procurement rolling stock has to be 'specified'.

According to the Williams-Shapps Plan, GBR 'will introduce new design and ride standards that will make sure all new trains are more comfortable'. But whoever specifies the trains, it seems clear that the PSCs will need to retain the full strength engineering capability that TOCs have wielded since privatisation.

So, having assumed from the Williams-Shapps Plan (W-SP) that a PSC was a kind of Franchise-Lite, I am now wondering what other heavy-weight duties it will acquire as reality sets in?

As for who will bid, according to the W-SP, the Government 'expects competition to be far greater than for the old franchises, with simpler procurement, lower costs and no one-size-fits-all approach. Don't hold your breath.

New train TIN-Watch

In addition to the basic statistics, I try to add some value to the data. This month I have looked at miles per day the new trains are operating. There are some comparisons with existing fleets, both before lock down and today. And I couldn't resist a comparison with Class 55 Deltic mileage in the 'Golden Year' of 1963-64.

LNER train procurement update

Back in the February Informed Sources I suggested that for LNER to go out to tender for 10 new trains, when it could buy more Azumas off-the-shelf, was bonkers procurement. Given the on-going structural issues affecting the Azuma fleet, going out to tender now seems a prudent and far-sighted decision!

Three potential suppliers are bidding: CAF of Spain, CRRC from China plus, of course, incumbent Hitachi. A parallel competition is being held to fund the new trains.

There are some tough decisions ahead, both for LNER and the potential funders. An Hitachi contract will come with an assurance that the various problem areas have been re-engineered: East Midlands Railway seems confident with its new Hitachi fleet.

If you are nervous you might want to look at what CAF have to offer. There have been concerns about quality, but the Class 397 is a 125 mile/h intercity electric train ranking well in TIN-Watch and with improving reliability.

Which leaves the Chinese. CRRC has been exhibiting its products in the UK for well over a decade and its high speed trains appear to perform well on its domestic network. But do you want to acquire an unknown quantity for your last procurement for a decade or so?

A really testing procurement exercise for sure. Watch this space.

Roger's blog

As I'm writing this, the long-awaited Integrated Rail Plan has just arrived in my in tray. So that's going to keep me busy.

Fortunately, the results for the Golden Spanners Awards have already been calculated and the spanners for the trophies sprayed, so all I have to do now is collate my presenter's notes for the big day, and try and come up with some pointed remarks from the podium to fuel the banter.

Last year's Awards was a virtual event but next Friday teams from depots across the network will once again assemble in London to celebrate success. With all the strains of working during the pandemic, this year's awards will have been hard won and there have been some remarkable achievements.

For the first time in a very long time I'm getting out and about, with a visit to learn about Network Rail's new operating structure for Anglia. This includes a visit to the Liverpool Street Integrated Electronic Control Centre (IECC) where Resonate's Luminare Integrated Traffic Management system is bringing new capabilities to operations.

I've followed Luminare's development from the very beginning. The first installation on the Great Western Region has now achieved the holy grail of Traffic Management - integrated crew and stock management. An up-date is on my to-do list.

It's been a hard few weeks for the old railway, losing in rapid succession former BR Chairman John Welsby, our contributor Theo Steel and my engineering chum Larry Shore. I have written the obituary for John in our main pages and pay a tribute to Larry in the column.

Like other engineers whose passing I have celebrated, Larry was not famous in the modern celebrity sense. But, as was said of Sir Christopher Wren, 'If you need a memorial, look around'. Sprinter DMUs and Networker EMUs a both part of Larry's legacy.

Meanwhile, once I've absorbed the IRP and finished my presenter's notes for Friday, it's time for one of my favourite tasks, producing the Modern Railways fleet reliability review for January rolling stock special issue.

Roger

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