BRITISH RAIL PRIVATISATION: WHAT WENT WRONG?

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May 2002

Margaret Thatcher, British Prime Minister from 1979 until 1990, yielded to no-one in her enthusiasm for 'free market' economic and social policy in general and privatisation in particular. Under her leadership the country privatised telecommunications, electricity and gas supply, water supply and sewage services, public bus transportation and several other sectors of public service. In addition, most local government services and a range of health service ancillary activities were opened up to competition, leading to contracting-out in many cases and to downward pressure on costs in all.

But even she regarded British Rail as a privatisation too far. Her successor, John Major, was less far-sighted (as well as being burdened with a romantic nostalgia about pre-nationalised British railways). Consequently, in 1996, British Rail was restructured into more than 100 separate businesses and privatised. What had previously been an integrated network bound together in a hierarchical bureaucratic structure with a few modern concessions to divisional decentralization now became an interconnected array of contracts linking companies accountable to their own shareholders and to regulatory bodies.

The regulatory framework set up to oversee the privatised system was quite complex, and has been criticized for that reason. Two regulatory bodies, the Office of Passenger Rail Franchising (OPRAF) and the Office of the Rail Regulator (ORR) were established. In addition, the Health and Safety Executive is responsible for overseeing the railway's performance in the areas suggested by its name. The Labour government which replaced the Conservatives in 1997 recently instituted a Strategic Rail Authority (SRA), which is responsible for developing a long-term plan for the industry and for working with the privatised companies to deliver it, and has replaced OPRAF. The ORR is chiefly responsible for day-to-day regulation of the monopoly parts of the industry, and its role – especially in relation to the privatised infrastructure and service delivery companies – is our main concern in this chapter.

It was a highly complex as well as controversial privatisation, and none of its features was more contentious than privatisation of the network infrastructure – track, signals and stations – which was taken over by company set up for the purpose called Railtrack. Railtrack did not carry out the maintenance and renewal works itself, but inherited contracts with track renewal companies and track maintenance companies that took over British Rail responsibilities privatised around the same time. On the service delivery side, Railtrack also had contracts with 25 train operating companies (TOCs), some of which shared parentage, and they in turn contracted with rolling stock leasing companies. Some of these privatised companies also contracted out various parts of their businesses. The result is that literally thousands of private companies have replaced British Rail under privatisation's fragmented structure. In maintenance alone, for example, it is estimated that around 2,000 firms are involved.[1]

The total proceeds to government of the privatisation were UK£5.3billion, which equates to around three years worth of the increased state subsidies planned as part of the scheme.[2] In the event, subsidies have risen much more than planned, and now there are plans to increase them still further, although the numbers remain unreliable. In January 2002, the SRA unveiled a 10-year investment plan to include around £34 billion from the private sector and around the same amount from public finance. However, on March 5, the *Financial Times* claimed that some money had been counted as both public and private finance, and, therefore, counted twice. The newspaper commented: 'A crunch is approaching for Britain's railway finances. A little over a month after the strategic plan for the railways was published, it looks increasingly out of date. The figures on which it is based face mounting criticism, while rail industry costs are climbing ever higher.'[3]

The future level of public subsidy, therefore, like the future of Railtrack, remains uncertain. Plans for a successor company to Railtrack – which was forced into the quasi-bankrupt limbo of 'administration' when the government decided to cut its own losses by withholding the cash flow of subsidies in October 2001, following a rail safety crisis which exposed chronic deficiencies in maintenance and in the financial capacity of the company to meet its obligations -- are still under consideration at the time of writing.

Whatever the eventual outcome, the increased volume of public subsidy has sat uneasily in the public consciousness with both the decline in service reliability and the fortunes made by some of the privatised company executives in the period since privatisation. An example of the latter is that some of the privatised companies changed hands soon after privatisation for far more than the buyers had paid for them. In one case, a privatised rolling stock company was resold six months after privatisation at a profit of £300m. The deal turned men who had been middle-ranking public service managers into multi-millionaires overnight.

Such episodes contributed to a build-up of public disquiet, and public disquiet impacts on the regulatory environment. If a scheme that is supposed to improve services while reducing costs actually leads to worse services and 'fat cat' corporate executives (as they have become known in the significantly disparaging popular vernacular), the environment in which regulation is being exercised is bound to become more political, whether politicians and the regulatory authority like it or not. Therefore, tempting though it might be to try to isolate the technical successes and failures of the British rail privatisation experience from their political context, it makes no sense to do so, because in the real world all these factors impact on each other.

The successes of the reform

That is not to say that there are no discrete technical lessons to be learned from the experience, nor that there have been no successes. Among the improvements since privatisation has been increased investment in new passenger trains, which are gradually replacing the old rolling stock. However, that process was already underway before privatisation, albeit slowly, and it could be argued that the process would have been accelerated under British Rail at lower overall costs had it enjoyed as much subsidy as the TOCs have received.

Another plus – a paradoxical one in the fragmented circumstances – has been the institution of a National Rail Enquiry Service. Although initially understaffed, it increased its capacity in response to fines for early failures to meet call answering targets set by the ORR, and now boasts Britain's most dialled telephone number.[4] Its operation has been a clear regulatory success. Another has been the fact that some (but by no means all) passenger train fares have risen below the rate of inflation, as a result of a combination of requirements laid down at the time of privatisation and effective marketing by the privatised operators.

All three of those factors – new trains, better public information about services and some fare reductions – contributed to what has been the major success claimed for privatisation, increased usage. Between 1996 and 2000, according to numbers provided by the Association of Train Operating Companies (ATOC), passenger journeys increased by 25 per cent and freight volume carried by 40 per cent. (The rise in passenger *services* over the same period was, however, only seven per cent, meaning that space inside trains was being used more intensively, a fact which has undermined service quality in many cases.) Ironically, however -- and, indeed, significantly -- the privatisation designers did not foresee any increase, which is a product of a number of exogenous factors as well as those endogenous ones already mentioned. The causes include Britain's worsening road congestion and rapidly rising petrol prices, coupled with economic growth in the London area (where most of the increased passenger usage has occurred).

In fact, the unplanned increased usage has exacerbated the privatised railway's troubles, because the track usage fees charged to the TOCs by Railtrack were largely fixed. This meant that as more trains wore out more track, Railtrack's costs rose at a much faster rate than its revenues. Coupled with the fact that the privatisation scheme neither imposed investment targets on Railtrack nor empowered the ORR to do so, the inevitable result was a growing maintenance backlog. According to the transport writer Christian Wolmar: 'The regulator tried to address this problem in his access charge review, but could not do so because that would have created another set of wrong messages. (The regulator's) task is, quite simply, impossible. To explain: if the cost of Railtrack's access charges for putting on an extra service to meet demand were very high, then train operators would be reluctant to do so and the new passengers seeking to use the service would be crammed in the same number of trains or carriages. However, if the cost remains low, poor Railtrack has no reward for its extra work. That conundrum is quite simply insoluble.'[5]

That is, perhaps, putting it a little strongly, since there is a possible way out. That is for the system to be entirely marketised, so that TOCs are charged the full access cost by Railtrack's successor, and pass that full cost on to their passengers. Since, in many cases, passengers would be unable to pay, they would forego the service, switching to other modes of transport or not making journeys at all. The impact that would have on other areas of public policy – economic, social and environmental – would clearly emphasise the fundamentally political nature of the challenge of running a railway that cannot simultaneously be profitable and a public service delivering public policy.

In view of the existence of three regulatory bodies – to say nothing of the continuing political responsibility borne by the transport department of the government, and exercised through such interventions as taking Railtrack into administration – it has been suggested that the manifest problems of the privatised rail system have arisen from regulatory confusion. Arguments can be made both ways as to the merits of rationalizing the regulatory institutional structure, but the failure of railway privatisation in Britain cannot seriously be attributed in the main to that problem.

How economic regulation undermined social regulation

A more fundamental cause has been that the whole structure, and the powers of the regulators, have been based on the devolution of more authority to private businesses and market mechanisms than the public service role of the railway can bear. The effect was supposed to be that a combination of contracts and regulation would bind the fragmented structure into a cohesive and effective service, reconciling the efficiencies of private sector provision and competition with the public interest, and facilitating the renewal of infrastructure while reducing public subsidy eventually. It is beyond dispute that, in all these respects, the scheme has failed, and failed spectacularly.

The ORR, charged as it is with delivering more reliable and, if possible, cheaper passenger services, has been obliged to engage with this complex process of inter-connecting contracts, but in the nature of the set-up, some of its interventions were bound to make matters worse. For example, the ORR was empowered to levy penalties on the TOCs for delays to services. The TOCs had an obvious incentive to pass that charge on to Railtrack by showing that its performance, rather than theirs, was the cause of late running trains or cancellations. A tension between safety and performance was, therefore, built into the heart of the contractual and regulatory structure of the industry, and this is why the flaws of the project can be seen most effectively by examining the safety failures as a microcosm of the whole experience.

Safety is the issue that has brought the privatised system to the brink of collapse. It is often said that rail travel remains far safer than any other mode of transport used in Britain. It is certainly safer (in terms of deaths per units of distance travelled) than private motoring, and might be safer than (privatised) bus and internal air travel as well, although it is hard to tell because the sectors do not have a common standard of accident reporting. (For example, a pedestrian stumbling on a station staircase having bought a ticket would count as rail accident, whereas a similar misfortune befalling a would-be passenger at an airport prior to embarkation would not count as a flying accident.)[6] What is certain is that the current crisis in the privatised railway was caused by a series of accidents which between them killed about as many people over a three year period as die on the roads of Britain every week. The reaction to them has much to do with the national psyche' s failure to be as appalled by carnage on the roads as on the rails, but that in turn is a function of the very reasonably higher standards expected of public service, together with the place of rail travel in British culture. These considerations impact on the political dimension of rail safety.

Railtrack imposed thousands of speed restrictions on the TOCs after a high speed inter-city express travelling from London to Leeds was derailed at around 160kph because a section of a rail broke (into around 300 pieces) as the train passed over it. It was the third fatal train crash since privatisation, and the previous two caused a greater loss of life, killing a total of 38 passengers and crew. However, Hatfield' s broken rail became emblematic of the systemic failure as a whole, not least because Railtrack' s reaction to it produced the speed restrictions which led to a collapse of service reliability from a level already significantly worse than before privatisation. In 2001, the number of train cancellations rose to 165,000, nearly three times the level of 1999, and that number does not begin to count the hours lost in delays to the nearly one billion passenger journeys made by rail in Britain annually, nor to freight services that have become so unpredictable that even the Post Office – rail' s major customer – has switched more of its business to roads that are already the most congested in Europe.

Why public subsidy has increased

Reducing public subsidy was central to privatisation' s rationale, but the hope of doing so proved ephemeral. The numbers are as complex as the privatised railway' s structure and a small industry has grown up in interpreting them, but most observers agree that government subsidies to rail have roughly doubled since privatisation. The private operators have, however, lived up to expectations that they would shrink the workforce and seek to cut costs. Rather than enhancing efficiency, this cost-cutting has undermined the system. All the TOCs as well as Railtrack and the maintenance companies cut jobs, causing problems ranging from cancellations due to too few drivers being available to dangerous unstaffed stations.

Railtrack acknowledges that, because of cost-cutting following privatisation, ' it is true to say that a lot of experience did leave the industry' . The Association of Train Operating Companies (ATOC) also admits that some companies let too many drivers go, and that new drivers receive less training than they did during British Rail's day. The shortage is now being tackled, says an ATOC spokesperson, and the reduced period of training was justified because driver training is now tailored to the particular types of services operated by particular companies.

How labour deregulation undermined social regulation

A further unforeseen consequence of cutting the number of staff while increasing the number of services has been that the train drivers' union has driven hard bargains, securing much higher wages. Now the less skilled workers in other unions want proportionate increases, a demand that has led to further commuter misery because of industrial action in support of it.

Pay is not the workers' only concern. In the case of track and signals maintenance, the effects of staff reductions have been compounded by the replacement of a trained, integrated and knowledgeable workforce with an unstable structure of contractors and sub-contractors. Again, the numbers are disputed, but a conservative estimate based on what little information the companies provide – financial and other transparency has been another of privatisation' s victims – is that the maintenance companies cut their staff by about a third. The privatised companies' commitment to commercial secrecy is such that maintenance workers who would once make a virtue of sharing valuable information among themselves were ordered not to do so with employees of rival contractors.

Railtrack has admitted that 'adversarial relationships' have caused problems but has threatened legal action over being taken into administration. Its shareholders (who include some railway workers) feel they have been scapegoated for privatisation's failures. The company has pointed out that it inherited years of neglect and that infrastructure capital spending will be more than three times higher this financial year than in the last year of British Rail.

In any event, Railtrack is to be replaced, but as yet it is not clear what will replace it. Public opinion polls show large majorities in favour of renationalizing the whole system, but the government appears most likely to reconnect the 'wheel-rail interface' by setting up a new infrastructure management company, perhaps not-for-profit, largely owned by the TOCs. Whatever transpires, and whatever it achieves, there are some other problems that will be harder to solve, and they have much to do with how labour has been organised in the privatised system.

A key idea behind fragmentation and privatisation was that market mechanisms guarantee more effective transmission of information than can be achieved by hierarchical bureaucracies. The expected result was a more efficient system. What this left out of account was the integrity of the rail network as a knowledge system, and how this depended on flows of information – both formally and informally -- between people sharing trust-based relationships. 'The railway used to be organized on a logical, geographical basis with a hierarchical management structure in which everybody knew his or her responsibilities,' independent rail safety consultant Peter Rayner has commented. 'There was one set of instructions and one timetable, bearing the Operating Manager's name, which everybody worked to. It was a time-serving, uniformed hierarchy -- somewhat old-fashioned, maybe -- but with safety running through it.'[7]

Before privatisation, says Rayner, a former British Rail senior operating manager, 'when an accident happened, everyone was dedicated to the task of finding its cause to prevent recurrence. Staff, trades union representatives and managers alike worked to this end. There was no doubt on the site of an accident who was in charge, and no delay in clearing the lines. Over the years, lessons were learnt from each accident; each one brought about an improvement in equipment or procedures.'

The changing ethos in British railways after privatisation undermined these processes of vertical and horizontal dissemination of information and experience. Severing the 'wheel-rail interface' by separating responsibility for the system's infrastructure from responsibility for operating services was one major factor in this, but the 100-plus companies that immediately resulted from the break-up represent only the tip of the iceberg. Underneath, the privatised maintenance system soon rested upon layers and layers of sub-contractors, each making money out of hiring the next down the food chain until, at the base -- where the work is and done where the greatest strength is needed -- labour is casualized and individualized.

The consequences have been vividly described in the *Financial Times*, a newspaper not noted for its hostility to privatisation: 'The first consequence was the breakdown of the old comradeship, which used to mean that problems were easily spotted, repairs made, and people could talk to each other. Track workers operated in gangs and knew their stretch of rails like their own back gardens. Instead, workers became nomadic, moving to the next job with little or no local knowledge and instructions not to talk to rival workers except via a supervisor miles away. The second big problem was a growing lack of control over the staff and their work. There have been complaints of sub-contractors recruiting workers out of pubs to fill gaps on the night shift.'

How contracts passed the buck

The tragic consequences of the new priorities could be seen in the second of Britain's post-privatisation train crashes, at Ladbroke Grove in London, in October 1999. The collision between an incoming inter-city express and an outgoing local commuter service killed both trains drivers and 29 passengers, and injured many more. The immediate cause was that the driver of the latter train, only three weeks into the job, missed a danger signal. Had the train been fitted with an automatic braking system as used elsewhere in Europe, at least the speed at impact might have been reduced, but investment in the technology was an early victim of privatisation.

That driver had not been the first to pass that very signal at red. Other drivers had reported that the signal was badly positioned and easy to miss because of overhanging cable and sunlight reflection. In fact, the problem had been the subject of a series of meetings, including site meetings, between representatives of TOCs, Railtrack and its maintenance contractors. Each had incentives to pass the cost of dealing with the problem to each other, with the result that meetings were followed by letters and letters were followed by memos in a sort of caricature of the worst kind of bureaucratic buck-passing. Privatisation 'broke traditional bonds and practices of passing on skills and experience,' as the *Financial Times* put it, and at the same it 'introduced hard-nosed commercial tensions into relationships that often needed to be co-operative,' with the result that 'today the railway industry employs hundreds of people just to fight over who is to blame for every minute of delay to trains.'

'Safe working of the network is hardly possible in such a climate,' John Hurst, British Rail's former organizational development manager, told the public inquiry into the Ladbroke Grove disaster. 'Merely taking steps of a technical and operational nature, in light of any particular disaster, will not address this underlying malaise which will inevitably chronically manifest itself in new disasters.'

Tragically, Hurst proved correct. On October 2000, one year and 12 days after the Ladbroke Grove crash, came the Hatfield derailment. Again, it was an accident waiting to happen. More than a year earlier, a health and safety report had indicated a 21 percent increase in broken rails compared to the year before. On August 12, 1999, the ORR had written to Railtrack demanding an 'action plan' to deal with the problem. Again, correspondence went back and forth between Railtrack and the ORR, and to and fro between Railtrack and its maintenance contractors, and, no doubt, also between the contractors and their sub-contractors. This continued for the rest of the year, despite the fact that by September 1999, in response to the company's admission that it was faced with 'rail nearing the end of its life in high-tonnage routes', the regulator had retorted that the increasing incidence of broken rails 'does not seem to suggest that the rail was nearing life expiry, but that it was already at, or even beyond life expiry.'

So the general and urgent problem of broken rails across the network, especially affecting high-speed routes, was well known. Worse, it was known that the particular rail responsible for the Hatfield crash was cracking. Again, the companies concerned had extensively discussed what to do about it. Eventually, Railtrack awarded a contract to one of the companies that had bought up British Rail's maintenance division, and the new pieces of track were duly delivered to the site in April 2000. Now the problem was to arrange a 'track possession slot', which is a time, agreed between all the interested rail companies and the ORR, when the work is done. But, with conflicting incentives, they could not agree, and this was a systemic failure. In the case of the cracking Hatfield track, another seven months of delay resulted, as yet more correspondence went in and out of Railtrack to negotiate the date and duration of the necessary 'track possession'. Finally, the renewal was scheduled for November 2000 - which turned out to be a fatal month too late.

The Hatfield crash led to the departure of Railtrack's chief executive, Gerald Corbett, who had been honest enough to admit: 'There is a tension between shareholder interests and public service obligations. The only way we can make profits is by not doing the things we should do to make the railways better.'[8]

It appears that the situation will get worse before it gets better. According to an investigation carried out by *The Observer* newspaper and published on December 30, 2001, 'Britain's railways are on the brink of a catastrophic safety breakdown, with senior executives warning that much of the network is worn out and that even the most basic repairs are not being carried out.'

Postscript: On May 10, 2002, the fourth fatal train crash since privatisation brought the role of maintenance work sub-contracting to the top of the agenda of problems caused by privatisation. Seven passengers were killed when a train was derailed at high speed at Potters Bar station, near London. Track maintenance, and particularly the sub-contracting system of carrying it out, was again at the centre of the ensuing inquiry. It was found that what caused the crash was that nuts holding in place ' points' – the mechanisms enabling tracks to change direction – had come loose.

- An earlier version of this article appeared as a chapter of *Democracy, Social Dialogue and Regulatory Reform: Learning from privatisation policy failures*, a paper for the global union federation Public Services International (PSI), whose sponsorship of the research is gratefully acknowledged.

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[1] 'Why an accident like Hatfield was waiting to happen', Juliette Jowitt, *Financial Times*, February 22, 2001.
[2] The numbers for both the rail privatisation proceeds and post-privatisation subsidy levels are not straightforward, and estimates depend on methods of calculation. The estimate given here is drawn from a number of sources, but principally from information contained in *Broken Rails: How privatisation wrecked Britain's railways*, Christian Wolmar, Aurum Press, London, 2001.
[3] ' Strategic plan begins to look out of date' , Juliette Jowitt and Chris Giles, *Financial Times*, March 5, 2002.
[4] *Broken Rails: How privatisation wrecked Britain's railways*, Christian Wolmar, Aurum Press, London, 2001, p.193.
[5] *ibid,* p.246.
[6] Information kindly provided in comments on an earlier draft by Christian Wolmar, the transport writer
[7] Botched sell-off sent railways into crisis', Peter Rayner, *The Observer*, October 10, 1999.
[8] Interview on BBC Radio's *Today* programme, December 17, 1999.