

Danny Price
General Manager – Sponsored Services
Surface Transport
Transport for London

From: [REDACTED]
Director – Advocacy,
Nations and External
Relations

16 December 2021
By email

Dear Danny

Access to River Thames Piers

As you are aware the Competition and Markets Authority (CMA) approached Transport for London (TfL) following complaints shared with the CMA by Andrew Rosindell MP and Keith Prince AM this summer. Since our first contact in July we have engaged with you to develop our understanding of the river boat services offered by different operators and the access they have to piers on the River Thames. Alongside our engagement with TfL, we have met with representatives of a group of river boat operators.

Thank you for being open and receptive to our questions about TfL and its subsidiary London River Services' approach to licensing and granting access to its eight piers on the River Thames. As you know, the CMA's role is to make markets work well in the interests of consumers, businesses and the economy, and it is on this basis that we have engaged with TfL to discuss river transport on the River Thames.

Following on from our discussions, the CMA thought it would be helpful to set out possible approaches that TfL should consider in developing its approach to managing its piers to the benefit of river users, by fostering competition between operators.

In other modes of transport, such as bus, the Docklands Light Railway, London Overground and cycle hire, private firms contribute to TfL delivering its network but do so through periodic open competition.

TfL does not own all of the piers on the River Thames and we recognise that some piers owned by others are potentially key elements to the development of any

prospective transport network on the River Thames. Furthermore, TfL's role in promoting the use of the river sits alongside the role and functions of the Port of London Authority. This means that TfL does not have the same levers and functions as it does for other modes of transport in its network.¹ The mixture of public and private ownership of piers on the river further complicates TfL's ability to shape how river boat services are integrated into the wider TfL network.

It is therefore important that where TfL does have the ability to foster competition, it should do so. Its stewardship of its pier assets gives it significant opportunity to encourage competition between operators– with the benefits accruing to passengers. TfL is effectively a market shaper and, as such, has a range of obligations to its stakeholders, including passengers and taxpayers as well as river boat operators. Steps TfL can take to achieve this include engaging with potential operators to ensure TfL's strategic vision is understood and that TfL understands their concerns and being open to and encouraging bids for contracts to operate services from a range of operators.

The CMA and TfL have discussed a range of issues and we summarise those discussions and our advice:

- **Delivering new services using competition** – TfL has opened up new services to competition and has allowed operators to compete to provide those services – the competition to operate the temporary Hammersmith Bridge replacement service being a key example. This is welcome and TfL should assess whether it can use this approach in other situations, including in relation to existing services. Where TfL identifies potential or actual under-provision of services on parts of routes, it should where possible put in place open competition for the opportunity to provide those services and ensure that there are no barriers to potential competitors being able to participate.² This might be achieved through tender design, such as size of any package of tendered services, or notifying the market in advance of anticipated tender opportunities to allow operators to decide whether to invest in capacity and capability to participate in upcoming procurement exercises.
- **Targeting incentives to deliver policy objectives** – TfL has waived pier landing fees in cases where operators operate high-frequency services throughout the day, and in particular during the morning and evening peak. This approach has been understood by the complainants to be a way to incentivise 'commuter' rather than leisure services. However, as TfL recognises, there is not a clear delineation between operators of commuter

¹ TfL also works alongside the Port of London Authority in managing and developing transport links on the River Thames.

² This would be particularly relevant where a new route might not initially be commercially viable and TfL wishes to support the service through an initial subsidy.

and leisure services, particularly during the middle of the day and at weekends. Given the importance of securing early morning and evening services, TfL should consider aligning any incentives, such as waiving fees, more closely with the services which it wishes to encourage, as it does for services which it directly subsidises.

- **Openness and transparency** – one of the complaints that we have heard from river boat operators is that they believe that the terms of access to TfL’s piers are not the same for all operators. TfL confirmed that to incentivise regular, high-frequency services, it offers preferential terms to some operators. Rival operators believe that this means there is not a level playing field. TfL has said that these terms are open to any operator that can meet its minimum service requirements. However, these requirements are not currently shared with operators and from our correspondence with Andrew Rosindell and Keith Prince we understand these have not been provided when requested by either themselves or operators. We recommend that these minimum service criteria should be published or made available on request to improve transparency. Improved openness and transparency will act as a signal, helping operators understand what services TfL wants to encourage the market to supply.

We understand from our discussions that TfL is keen to hold more open dialogue with operators and stakeholders on the River Thames and we strongly support this and the need to engage with all operators. In particular we would encourage TfL to publish any minimum requirements that would give access to its piers on enhanced terms.

- **Market shaping through contract design** – where TfL puts in place contracts with operators it provides certainty of respective responsibilities and provides businesses with confidence that they can generate a fair return in exchange for any necessary investment. However, care needs to be taken to ensure that the duration of any contractual relationship is not excessive in the circumstances and that rival operators are not prevented from competing.
- **Managing scarce capacity** – TfL’s piers are predominantly in central London and are subject to high levels of demand. There is therefore a legitimate need to manage capacity and access to piers. However, there needs to be careful consideration of how that capacity is allocated. As highlighted above, the basis on which capacity is allocated should be openly communicated and new entrants should have an opportunity to put forward new and innovative services. TfL may wish to ensure that operators do not simply ‘cherry-pick’ the most profitable routes, and so pier access should be granted on an objective basis.

While it may not be possible to provide access to all piers to all operators at all times, TfL should work with operators to identify where there is capacity.³

- **Removing restrictions on payment facilities** – some operators using TfL piers have complained that they have been prohibited from selling tickets using contactless payment methods and that they are restricted to selling tickets from kiosks. The requirement to have dedicated manned kiosks adds an additional overhead to these businesses.

Given the significant changes to payment systems and the increased prevalence of contactless payments, any restriction on payment methods may have a potential impact on the ability of other operators to compete. TfL should similarly be wary of allowing some but not all operators access to the Oyster payment system.

There are clear advantages to river boat passengers from being able to use the Oyster smartcard as a means of payment. While there may be technical challenges where there are multiple operators on a pier, TfL should be mindful of the impact and potential signalling effects of allowing only some operators access to its payment infrastructure. Those operators who are able to take payment via Oyster card might, for example, be perceived to be a more fully integrated part of the TfL network and have a competitive advantage.

- **Using TfL's bargaining power and influence** – while TfL has control over its own piers, it should consider whether and how it can work with other pier owners to encourage access on fair terms for all operators. This would allow competition to develop, with the potential to improve choice, lower prices and provide better quality and more frequent services. By opening up more piers to more operators, TfL would also have greater ability to work with operators to potentially develop and shape a strategic planned network of routes along the River Thames. TfL should liaise with the Greater London Authority and London Boroughs on the River Thames to ensure, to the extent possible, that any future piers are accessible to all operators. Where piers are expected to be unable to offer sufficient capacity to all operators, TfL should aim to encourage pier owners to offer access through open competition.

³ A parallel and more complex approach is available on the national rail network whereby open access rail operators can seek to introduce additional services over and above franchised services.

I hope this helpfully outlines our views and we would be happy to discuss further as TfL's approach to pier access develops.

Yours sincerely

[REDACTED]

Director – Advocacy, Nations and External Relations

[REDACTED]

[\[REDACTED\]@cma.gov.uk](mailto:[REDACTED]@cma.gov.uk)