

## RDG PR18 working group

### Note of meeting held on 27 March 2017 at RDG's offices

**Attendees:** Phillippa Andell (Network Rail), Emily Bulman (ORR), Richard Clarke (DB Cargo), Robert Cook (ORR), Bill Davidson (RDG), Guy Dangerfield (Transport Focus), Lindsay Durham (Freightliner), Richard Evans (RDG), Russell Evans (First Group), Susanna Hawkins (DfT), Nigel Jones (DB Cargo), Daniel Lafferty (Transport Scotland), Martin Leggett (ORR), James Mackay (RDG), Adam Mantzos (Brockley Consulting, on behalf of Network Rail), Helen McAllister (Network Rail), Richard McClean (Arriva), Sam McClelland – Hodgson (ORR), Raj Patel (GTR), Peter Swattridge (Network Rail), Mark Thompson (DfT), Ben Worley (Network Rail).

**Apologies/not present: N/A**

Agenda items	Lead
1. RDG response to ORR Consultation on the Financial Framework	RDG
2. Presentation of Cost Allocation work	NR
3. Accountability framework for CP6	ORR

### RDG response to ORR consultation on the financial framework for CP6

1. The group discussed RDG's draft response to the financial framework consultation.
2. The group was supportive of five year control periods, particularly because this provides some level of certainty against which to plan their businesses. More broadly, it was noted that there was often uncertainty within the industry as Network Rail's delivery plans are subject to regular change.
3. There was some unresolved discussion about whether RPI was the appropriate measure of inflation to apply.
4. There was support for the continuation of ring fenced funds, though there should be a high level of transparency over how these are used.

### Presentation of cost allocation work

5. Brockley Consulting presented its latest analysis, commissioned by Network Rail, from its review of the current approach to allocating infrastructure costs to operators. The latest work looked at the implications of extending the cost allocation methodology used in the original Wales pilot study to the rest of the network.

## FINAL - AGREED

6. The work considers how this methodology could change each train operator's allocation of costs compared to the current Fixed Track Access Charge (FTAC) methodology, in order to provide a more accurate reflection of actual costs caused by each operator. The initial results show the new methodology would drive substantial changes in cost allocations for some operators, if it were to be adopted. For example, some operators' allocations could vary by as much as c. +/-40% under the revised methodology, with long distance intercity services, Northern Rail, and freight experiencing the most dramatic changes. For operators of a diverse range of services (e.g. FGW), changes were less significant.
7. It is important to note that even if this new methodology was adopted to allocate costs to operators, the initial results presented do not represent the level of charges operators would actually pay. All franchised passenger operators are held harmless to changes in charges through their franchise agreements. Any fixed charges payable by freight and open access operators would be subject to the market can bear test which ORR will undertake, which would effectively act as a cap on what these operators would pay.
8. Broadly, the key drivers of costs were found to be where operators ran on 'complex' parts of the network (particularly hilly terrain where earthworks and tunnels are more common, as well as urban areas) which cost more to maintain, and on 'quiet' sections of the network where the fixed costs of each track section were shared between fewer trains.
9. Network Rail had also considered applying avoidable costs on the basis of variable frequencies across the day, but this was found to make little difference (-3.5% to +2%). This was mainly because service frequencies across track sections tended to change uniformly across operators (i.e. all operators tend to run more services at the same times across the day) – only the relative difference between operators (rather than the overall level) had an impact on allocation.
10. A concern was expressed about the implications of this work for freight, in particular if the results of the Network Rail work were to feed into the ORR's charging regime. It was also suggested that DfT should strongly consider undertaking a similar analytical exercise to properly understand the cost impact of road freight. Network Rail stressed that this work is not proposing that all the costs attributable to freight are charged. The extent to which operators contribute toward Network Rail's fixed costs is ultimately a separate policy decision, to be decided by ORR.
11. It was stated that the climate of uncertainty around the future of charges was serving as a block to investment by open access operators.

## Accountability framework for CP6

12. ORR presented slides on the accountability framework. For CP6, ORR was looking to facilitate an increased role by customers in holding Network Rail to account. However, operators highlighted the lack of effective levers that they feel they have to influence Network Rail to deliver. The example of performance trajectories in CP5 was noted, whereby DfT had separately agreed targets with both Network Rail and the TOCs, but which Network Rail did not then meet. Current relations were largely bilateral and informal, but it was felt that a more structured system would benefit operators, with escalation to the ORR as the ultimate recourse.
13. It was perceived by some that regulatory action had not been effective in addressing some of the issues which reached formal regulatory enforcement. However, it was acknowledged that these were inevitably the most intractable issues, and that the escalator process had been effective at preventing many issues from reaching this stage.
14. The challenges of regulating routes given that the network licence applies to Network Rail as a whole was discussed. The group was in strong agreement that financial penalties on Network Rail were ineffective. The use of scorecards as a reputational incentive was felt by some to have potential, but it was felt that this approach would need to be supported and, if necessary, enforced, by ORR.
15. There were some concerns that the Freight and National Passenger Operator route (FNPO) would not have sufficient levers over the geographic routes on which it relies, but Network Rail noted that it would control substantial funding. There were also some considerations about how minor operators (or minority operators within a route) would get their perspective heard by Network Rail. The accountability structures of the National System Operator (NSO) were also recognised as requiring different treatment to the geographic routes.
16. Some participants felt that there was a potential role for some variant of a 'supervisory board' in holding Network Rail to account, but that such a board would need some formal powers. The Freight Recovery Board was noted as an example of regulatory action which had been particularly effective, as it gave customers the ability to require actions from Network Rail (where these were reasonably practical).

## Other business and next meeting

17. **ACTION** – A query was raised by Russell Evans as to whether the market-can-bear tests being developed by ORR include operators' costs as well as demand factors – Emily Bulman to confirm. *Post-meeting note: Emily has now confirmed this.*

FINAL - AGREED

18. **ACTION** – There are a substantial number of ORR items for discussion at the next meeting. The Chair will consider arranging an additional meeting to provide time for all discussions.