

23 August 2013

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Dear Richard,

I was grateful for the opportunity on Tuesday 30 July 2013 to explain the Authority's responsibilities, as defined by the Rail and Transport Safety Act 2003, in the context of the Periodic Review 2013: Draft determination of Network Rail's output and funding for 2014-19. The Authority is required by this Act to secure the maintenance of an effective and efficient police force to police the whole of the railway network and to defray the expenses of the police force through police service agreements. In determining the terms of police service agreements, the Authority aims to ensure that in each financial year the expenses of the Authority including those incurred in defraying the expenses of the police force, are as nearly as possible, equivalent to the income of the Authority and the amount of the contribution to the expenses of the Authority made by each customer in a financial year approximately reflects the nature and extent of the functions likely to be undertaken in that year in accordance with the customer's police agreement.

The Act requires the Authority to issue at the beginning of each year a plan setting out the proposed arrangements for policing the railways during the year and this is to include the priorities for the year, the financial resources which the Authority expects to be available and the proposed allocation of resources. The Authority is required to set a budget to deliver the plan. The budget and plan must be consistent with the relevant three year Strategic plan which sets out the Authority's medium term and long term strategies for policing the railways during that period. In developing the strategy, plan and budget the Authority is required to consult and did so with your office, receiving support for the strategic objectives in the plan.

In view of the above statutory requirements it is not within Network Rail's power to control their policing costs since these are decided by the Authority. Since the Authority is required to secure and maintain an effective and efficient police force it must scrutinise the medium term financial plan, which underpins the strategy and the budget, to ensure that it and the budget is taut and realistic. This it does through the Strategy, Policing Plan and Finance Committees before the strategy, policing plan and budget are agreed by the Authority. The membership of the Authority, that is the chairman and deputy chairman together with those with knowledge and experience of the provision of railway services and those with knowledge and experience of the passenger interest have considerable financial and commercial experience. The detailed scrutiny they provide, in order to respond to the repeated and consistent challenge by Network Rail and the train operating companies, ensures that the budget is austere and no more than is required to finance the policing plan that the Authority, following consultation with industry, has decided is necessary.

As a consequence of this scrutiny the BTP has introduced more efficient ways of working. The Authority's control of the budget together with the improved performance of the force with respect to reducing disruption and improving passenger confidence illustrates this. In scrutinising the medium term financial plan and the budget, the Authority have taken into account the Winsor Review recommendations, the requirement to maintain a funded pension scheme for police officers and staff, together with the financial implications of the changed assumptions incorporated in the Authority's strategy for policing 2013-19.

It is therefore illogical to set Network Rail an efficiency target on the basis that is suggested in paragraph 12.41. The Authority decides the necessary level of policing for the whole network which includes Network Rail, freight and train operating companies and the budget to do this. Through a cost allocation model, the detail of which we are happy to explain, the Authority determines Network Rail's contribution to maintain the effective and efficient policing of the railway by BTP. It is not therefore possible to make an arbitrary reduction to Network Rail's contribution since this will require an increase in the contribution of the freight and train operating companies if the required level of policing is to be delivered. Furthermore the relative contribution of Network Rail, freight and train operating companies is driven in the cost allocation model by proxies such as passenger footfall, passenger kilometres and presence on the network which are a function of relative demand and the capability to satisfy it. Network Rail's contribution to policing the railway is therefore not controllable by Network Rail..

It is also incorrect to state in footnote 203 that Network Rail is a member of BTPA and one of its directors is also a representative on the Board of

BTPA. The relationship of Network Rail with BTPA is that of a PSA holder and in accordance with the Act; it is the Authority that determines the level and cost of policing. Network Rail cannot trade performance for reduced cost. The director from Network Rail who is a member of the Authority is so by having knowledge and experience of providing railway services; he is not a representative, he contributes to the Authority's decision making process as a member of the Authority not as a director of Network Rail.

In view of the above it is inappropriate to entitle table 6.6 'Our determination of British Transport Police costs for CP5' since it is the Authority by statute that determines British Transport Police costs. Furthermore the content of this table should reflect the Authority's published figures which are:-

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
£m nominal	202	208	215	221	-	-

On average, over the last 4 years, Network Rail's allocated cost of policing has been 37.32%¹ of the total Police Service Agreement charge. Using this Network Rail's nominal charge is assessed as:-

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
£m nominal (actual)	75.4	77.6	80.2	82.5	-	-

Its charge at 2012/13 prices is:-

	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19
£m Prices. RPI 12/13 2.8% thereafter 2%	73.3	73.9	74.9	75.8	-	-

It is however appropriate to take a view as to the benefit that Network Rail will derive from the improved performance to be achieved by the Authority attaining its strategic objectives, the 20% reduction in crime, the 20% reduction in disruption and the 10% improvement in passenger

¹ Network Rail's share was 36.69% 2010/11, 37.56% 2011/12, 37.64% 2012/13 and 37.4% 2013/14

confidence within the tightly drawn resource envelop described in the medium term financial plan

Furthermore it should be noted that the achievement of these targets within the resource envelope decided by the Authority contributes to the Authority's share of delivering the McNulty targets by bringing the cost of policing down from 0.34 pence to 0.28 pence per passenger kilometre and which also contributes to the reduction of subsidy from 7.3 pence per passenger kilometre to between 5.3 - 4.9 pence per passenger kilometre.

I would be grateful if the above points are reflected in the ORR's final determination OF Network Rail's output and funding for 2014-19.

Yours sincerely

A handwritten signature in black ink that reads "Andrew Figgures". The signature is written in a cursive style with a long horizontal stroke at the bottom.

Andrew Figgures CB CBE
Chief Executive