

3 September 2014

Valentina Licata
PR13 Programme Executive
Office of Rail Regulation
One Kemble Street
London
WC2B 4AN

Dear Valentina

Periodic Review 2013: Draft Determination of Network Rail's outputs and funding for 2014 – 2019

Greater Anglia's comments on ORR's Draft Determination issued on 12 June 2013 follow. We note that the Draft Determination relates to delivery of Network Rail's outputs for the forthcoming Control Period and therefore primarily for Network Rail to address.

We are concerned to note that there remain several issues of principle (such as Capacity Charge and the volume incentive) still outstanding at this stage of the Periodic Review. We hope that in concluding these matters ORR continues to engage fully with the industry after 4 September, prior to issuing its Final Determination.

We also note that the Draft Determination appears less demanding than previous periodic reviews and it ultimately sets outputs which, on the whole, are not radically different in scope from the outcome of PR08.

Enhancement schemes

Greater Anglia welcomes the opportunity to work more closely with Network Rail, in order to shape and influence the output of these schemes. We believe it is absolutely essential that the industry develops solutions that are joined up and that deliver for all parties and we welcome ORR's recognition of this in the Draft Determination.

We want to understand in detail how the mechanism that allows TOCs greater involvement in the earlier stages can actually be realised as we note many schemes and their scope and costs have been left open. TOCs need to be involved at an early stage to enable us to be able to influence the cost and scope of the projects, though greater collaborative working.

We welcome the commitment to maintain network capability and improve it when enhancement works take place. The latter we believe Network Rail has noticeably failed to deliver on the East Anglia route in recent years where unprecedented levels of engineering work have been undertaken during CP3 and CP4 but few tangible enhancements in capacity, station facilities or journey times for the route have been gained for the access Network Rail has enjoyed.

We note however our dissatisfaction with the way in which Network Rail developed the SBP and the poor level of engagement TOCs were able to achieve in the process and would urge ORR to improve this prior to the commencement of the process for PR18. We believe this has led to significant omissions in Network Rail's Strategic Business Plan (SBP) in relation to planned infrastructure enhancements for East Anglia. There are no line speed or capacity upgrades for the Great Eastern Main Line (GEML) included in the outputs, other than minor Crossrail-linked works at Bow Junction. This is a significant omission which completely ignores the very clear expectations and aspirations of regional stakeholders as outlined in the recent document "Once in A Generation – a rail prospectus for East Anglia", which identifies key strategic investment priorities such as increased capacity on both the Great Eastern and West Anglia lines; increased line speeds (on the GEML in particular); capacity and line speed improvements on the Felixstowe to Nuneaton corridor to enable the delivery of both freight and passenger service enhancements (between Ipswich and Peterborough and between Norwich and Cambridge); longer term electrification of key routes and a number of other short and long term priorities for service upgrades across the region.

<http://www.newanglia.co.uk/Assets/Files/Content/Rail%20prospectus%20for%20East%20Anglia.pdf>.

Many regional stakeholders wrote directly to the ORR in the early part of 2013 when Network Rail published its draft SBP, clearly stating their desire for two specific GEML upgrades: increased capacity (through installation of long loops north of Chelmsford) and line speed improvements to secure quicker journey times. Yet no provision for these aspirations has been made in CP5 despite a very strong economic, social, environmental and political case for these enhancements.

An East of England Development Agency 2010 study (undertaken by Atkins) into investment in GEML suggested economic benefits of £3.7bn would result from significant enhancements to capacity, line speed and service quality. This report followed a Transport Economic Evidence Study in 2008 which showed that the GEML was the rail route in the region which most justified upgrades in terms of its impact on the wider regional economy.

Over 360,000 new houses are planned for Cambridgeshire, Essex, Norfolk and Suffolk by 2031. The region is one of only two net contributors to national GDP, its main line directly serves the City of London and has major potential for economic growth as well as demonstrable stakeholder desire to see rail upgrades as a way of generating sustainable development. This demonstrates there is a real case and a strong market for railways in the region and for investing in the network to meet that market potential.

Furthermore Network Rail's own London and South East Market Study suggests growth of 32% in passenger numbers using the GEML by 2023 and between 52% and 75% by 2043, before any additional growth that enhancements might generate.

Greater Anglia believes it is essential to take into account these likely rail demand trends, regional development plans, potential economic conditions, predicted housing and job growth figures and other wider factors that may influence rail service patronage, in deciding future investment plans and the actual outputs to be delivered. When you then add in the clear priorities set out by all key stakeholders in the region, who are united in seeking realistic capacity and line speed improvements on the GEML by 2019, there is a compelling case for these enhancements to be facilitated. We believe that some line speed improvements could be achieved in CP5 using the national Passenger Journey Improvement Fund (for which £300M has been allocated in CP5).

Asset Management

Greater Anglia welcomes the additional funding for asset management and we support all ORR's proposals to incentivise Network Rail gain a better understanding of the level of risk, the condition of embankments and structures, and to improve maintenance, inspection and monitoring processes. We also welcome that a number of outputs relate to improvement of Network Rail's knowledge of its asset base and incentivise good management practices in this area.

With regard to other network assets, Greater Anglia supports ORR's commitment to ensuring Network Rail's asset management continues to improve. We believe this is key to achieving the HLOS requirement for 92.5% PPM at the close of CP5. We would urge ORR to monitor closely its proposed CP5 indicator in relation to Depots given that depots are fundamental to TOCs' operational plans and delivery of its timetables and therefore are key drivers in delivery of PPM targets.

Access Charges/Financial Incentives

Greater Anglia notes that the Draft Determination sets out that Route-based Efficiency Benefit Sharing (REBS) will be the default position for new franchises, but will not apply to existing franchises or direct awards as a result of No Net Loss No Net Gain provisions.

Greater Anglia does not support ORR's proposals for downside cost risk-sharing via the REBS mechanism because TOCs are not in a position to have significant influence or control of Network Rail's risks or costs. The McNulty report was clear that TOCs are generally efficient at controlling their own costs so we are not convinced that penalising TOCs for items not within their direct control would be an effective incentive. We note, however, TOCs are provided with the means to opt-out of the mechanism.

We also note ORR's intention to continue to promote examination of the possibilities of moving TOCs onto total cost risk, including FTAC, for consideration in PR18 and beyond.

Greater Anglia is concerned about proposals that would see TOCs directly exposed to infrastructure cost risk, based on the model of other regulated utilities. This would represent a substantial change to the current framework and we have yet to be supplied with any assessment of the potential impact on bidder confidence. Rather than exposing costs onto total cost risk, it may be more prudent to explore opportunities for some cost risk sharing, which of course would need further dialogue with stakeholders and funders.

Greater Anglia notes that the Draft Determination proposes that Capacity Charge rates are unchanged and uprated for inflation or an alternative proposal put forward by the RFOA might be suitable also for passenger operators. Greater Anglia received the ORR's recent letter outlining this alternative proposal and, whilst we continue to support the principle that the Capacity Charge should continue to allow Network Rail to recover its marginal cost of accepting additional traffic onto the network we do not consider this alternative proposal has demonstrated sufficient merits or been subject to the requisite industry scrutiny to be considered as a viable option at this stage. Abellio Group is involved in the RDG Contractual and Regulatory Reform Working Group which is now reviewing Capacity Charge, volume incentive and Schedule 8 collectively and we look forward to receiving the outputs from that process.

Indexation

Absent from the Draft Determination, apart from a cursory mention of the intention to set out some details in the implementation consultation, is ORR's proposal to change the indexation methodology for both TOCs and FOCs. Whilst at an early stage the proposal was subject to very limited discussion at the VTAC working group, we believe this is a fundamental change to the charging framework and therefore should have been subject to much wider industry debate and discussion prior to its inclusion in the implementation consultation.

Whilst we broadly support the principle of having a single method of indexation for TOCs and FOCs, Greater Anglia regards the proposal as overly complex and seems to be designed to address issues from a few years ago when far greater volatility in RPI existed. In any case, Greater Anglia believes a company the size of Network Rail is far better placed to manage this risk than TOCs. TOCs and other businesses in the commercial environment are not generally held harmless from the effects of inflation and we are not convinced that it is appropriate Network Rail should be totally shielded from it either.

We also ask ORR to consider that any changes or increases in complexity to the current indexation provisions will inevitably import additional risk to franchises, not only in calculating the value of bids for new franchises, but also agreeing a CP5 Qualifying Change for existing franchises because of the difficulty it will impose upon

agreeing up front what the impact of this “true-up” mechanism is and, as DB Schenker has already demonstrated to the VTAC working group, it actually makes charges potentially more volatile.

Performance Outputs/Possessions & Performance Regimes

Greater Anglia welcomes the requirement for all TOCs to achieve a minimum PPM of 90% by the end of CP5 (and 92.5% PPM at a national level) however we note there is no proposal to apply this requirement at individual service group level. Whilst this will be beneficial to the industry and passengers alike, we see the main risk associated with this being that Network Rail may focus on improving poorly performing operators at the expense of those who already achieve levels of PPM in excess of this figure. We would like further clarity on how Network Rail plans to achieve this 92.5% outturn and we seek assurance from ORR that the 90% must be delivered without letting other output measures deteriorate, and that this PPM target does not become a disincentive for Network Rail to allow continued traffic growth on its network. It is therefore key that the national PPM improvements contemplated by the Draft Determination continue to be supported by the regulatory incentives framework.

To this end Greater Anglia has engaged and informed ORR and Network Rail processes extensively on the recalibration of Schedule 8 benchmarks and payment rates. We have also worked closely with Halcrow on its review of the data relating to our own service groups and we are confident that as a result of this, and the wider industry engagement, ORR’s Final Determination will ensure that the Schedule 8 CP5 benchmarks are challenging, realistically achievable and most importantly consistent with the performance outputs that Network Rail is funded to achieve.

Greater Anglia welcomes the decision to retain compensation in the performance and possession regimes at the full financial impact of disruption, as this sends strong signals to Network Rail about the impact of disruption on our business and our customers. We particularly support ORR’s decision not to amend the SPP threshold which, despite Network Rail’s concerns, has been shown to be a vital fall-back provision used by TOCs only when they are able to demonstrate material uncovered losses as a result of poor performance.

We also welcome ORR’s proposals to introduce compensation to TOCs for late notice amendments and cancellations to engineering work, as Network Rail’s behaviour in this respect has noticeably deteriorated on Anglia route during the current control period.

In principle we wholly support ORR’s view that compensation for rail replacement operations should leave TOCs cost-neutral in this area and not create perverse incentives. However we note that with the fairly recent announcement regarding the imminent removal of the BSOG from October 2013, we anticipate the cost of TOCs’ rail replacement operations to increase considerably after that date. With ORR’s statement in the Draft Determination to reduce EBM payment rates by a significant

GreaterAnglia

percentage, we now consider this to be a new area of risk for new franchises and would hope that the ORR takes the loss of BSOG into account in its Final Determination.

Finally Greater Anglia wishes to take this opportunity to endorse ATOC's response to the Draft Determination which was produced following active engagement with its members during the consultation period.

We look forward to ORR's consideration of these matters in its Final Determination.

Yours sincerely

Catherine Rowe
Track Access Manager