Full responses to November 2016 consultation on the development of the regulatory framework for the Network Rail system operator

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Introduction

These comments respond to the ORR's consultation on draft guidance on the development of the regulatory settlement for the Network Rail national system operator in CP6. The response is provided on behalf of Arriva plc, its subsidiary Arriva UK Trains Limited and its wholly owned train operating companies (TOCs), Arriva Rail North Limited, Arriva Trains Wales/Trenau Arriva Cymru Limited (ATW), DB Regio Tyne & Wear Limited (DBTW), Grand Central Rail Company Limited, The Chiltern Railway Company Limited (CR), XC Trains Limited (XC) and Alliance Rail. Arriva is a wholly owned subsidiary of Deutsche Bahn AG (DB AG).

Arriva views the Periodic Review (PR18) process as an important element of a coordinated series of activities necessary to ensure that all elements of the Rail Industry structure work together to support the delivery of the vital contribution that rail needs to make to society in the UK.

Therefore, Arriva has played an active part in the Periodic Review process to date and intends to do so going forward. In particular, Arriva is supporting the coordinated industry activity being undertaken by the Rail Delivery Group (RDG).

On this basis, Arriva endorses the responses provided to ORR by RDG relating to the consultation documents issued by ORR to date and confirms that Arriva's views are firmly reflected in the RDG responses.

Regardless, Arriva would like to take this opportunity to emphasis a few key points that have emerged through the work undertaken to date.

Network Rail's System Operation Activities

Arriva welcomes the clarity that ORR has provided with regard to the scope of the proposed direct Regulation of Network Rail's system operation activities – this pinpoints the essential work done by Network Rail's Strategy and Capacity Planning Directorate. Arriva will therefore adopt ORR's terminology and refer to this body as the National System Operator (NSO).

Arriva is very conscious of the key role that the NSO undertakes in leading the industry's long term network planning processes, managing network capacity in the medium term including producing the annual working timetable and in planning short-term access needs for Network Rail. This role has previously not been sufficiently transparent, understood or valued. The focus that ORR is now giving the body undertaking these key

activities can be expected to improve the output delivered and the industry's capability in this area if the right measures and incentives are established.

However, Arriva notes that the NSO is not the only element of Network Rail undertaking system operation activities and remains concerned that these important activities will continue to not receive the scrutiny they deserve given their impact on the cost effectivity delivery of industry outputs. While the system operation activities undertaken by Routes is being addressed by the welcome Route Regulation arrangements ORR are proposing for CP6, Arriva would suggest that additional regulatory scrutiny of the work undertaken by Network Rail's Technical Authority would be beneficial. In line with the approach that ORR are proposing for the NSO, Arriva does not suggest that the scrutiny necessary should be onerous but that it should be more transparent that it has in the past. Specifically, Arriva suggests that, as a first step, Network Rail's Technical Authority should engage with its stakeholders and produce a Strategic Business Plan to detail and make clear to stakeholders:

- The Objectives it is focused on
- The activities it intends to undertake
- How it will measure its progress towards its goals.

However, with direct Regulation of both Network Rail's Routes and the NSO, it is important that there is absolute clarity from the outset as to how these bodies will interact and which body leads on what issues. In addition, the interaction between these bodies and the elements of Network Rail delivering Network Enhancements needs to be established clearly.

Measures of NSO's Operational performance

Arriva feels that the scope System Operation activities that ORR has identified is broadly appropriate. Given the range of these activities, it is important that the measures are a blend of:

- Capability measures
- Effectiveness measures
- Efficiency measures.

However, it is not clear to us that the measures proposed all target the role actually undertaken by the NSO in each area.

With regard to long term planning and the recommendation of projects for changes to the Network, the proposed measures are largely subjective even if they are assessed by stakeholders rather than the NSO itself. It may be possible to design a measure that focuses on the cost/benefit scoring of the proposals that the NSO makes and some measure as to the degree to which its recommendations are attractive to funders.

While Network Rail is considering in more detail the NSO's role as "client" for enhancement projects more clarity as to what this involves is needed before assigning measures to that role. In particular, the role of the Routes in this same area is unclear.

Arriva welcomes the focus on measuring the degree to which the expected train service improvement outcomes of network enhancements are actually realised. Arriva would like to see the intended outputs of enhancements to be clearly laid out at the time that funds are allocated - particularly in relation to any capacity benefits. We would also like the SBP plan outputs for schemes to reflect the actual business case. In previous control periods it has been possible for Network Rail to declare enhancement schemes as successfully delivered without the need to demonstrate the delivery of the actual business case benefits. For example the enhancement scheme of Norton Bridge flyover was to deliver 2 fast line paths each hour from London Euston to the North West. Despite the business case being made on this basis Network Rail has been reluctant to sell the capacity. Arriva has other examples of enhancement schemes being built that have not delivered the business case benefits of the scheme. Arriva would welcome greater scrutiny of the enhancement business case deliverables by the ORR or DfT to ensure that Network Rail is held to account not only for the physical infrastructure completion but also to make sure that the stated business case benefits are also delivered.

Train Planning Rules(TPR) are essential building blocks of the planning process – ensuring that these are accurate and up to date should be assessed directly rather than through complex and indirect measures as suggested. With the increasing extent to which real-time train location data is available and the development of "big data" approaches to processing such information, the NSO should be tasked with developing and deploying an appropriate direct measurement approach. This should recognise that Network Rail is the owner of some TPRs and therefore their accuracy (e.g. junction margins, headways), whilst others are owned by the train operators (e.g. SRTs, station dwell times). There should be an obligation on NR and operators to routinely measure the observed delivery of TPRs periodically to inform a rolling programme of review and refinement perhaps through using "big data" analytics or other statistical processes.

The production of the working timetable on time is a key requirement of train operators – the NSO performance in this area should be measured. Equally, the level of resource that the NSO deploys in delivering this key activity should be monitored to ensure that it remains efficient and effective in this area. Appropriate benchmarks should be used in setting targets.

The NSO should be tasked with continuously developing and deploying approaches that allow the timetable to be systematically optimised to increase network utilisation and operational performance as it is produced – the degree to which the NSO delivers improvements through this optimisation activity should be measured.

Over recent years, all Operators have moved to Access Contracts which include highly flexible definitions of Access Rights. Historically, Network Rail have made very little use of the Access Rights flexibility that they previously had at their disposal. It is important that the new flexibility provided by Operators is used by the NSO in order to increase network utilisation and operational performance. The degree to which the NSO does this should be measured and monitored.

Disaggregation of measurement of NSO's performance

All measures of NSO performance should be disaggregated as far is possible to provide focus on the outputs delivered to Routes, Operators and other stakeholders.

Role of NSO's Stakeholders in development of NSO performance measures

NSO Stakeholders have significant insight into the activities undertake by the NSO and the outputs required – as such they should be closely involved in the development of suitable measures of NSO delivery. The current NSO Scorecard, developed without this necessary input, highlights the areas which could be improved by this approach.

Given the scope of the NSO stakeholder group, it is suggested that a "panel" or "working group" be established under the auspices of RDG to deliver this input.

Role of NSO's Stakeholders in holding NSO to account

It is essential that the NSO stakeholders are involved in holding the NSO to account. This could be delivered directly by input from individual customers of activities delivered by the NSO – including Operators, funders and ORR. However, such an arrangement would likely be unwieldy and unsustainable for anything other than either routine transactional interactions or for significant stocktaking reviews. To be effective, the arrangements for Stakeholders to hold NSO to account would need to be systematic. To achieve this requirement, an RDG panel as suggested above could play a role. Network Rail should work with RDG and other relevant Stakeholders to develop and appropriate, cost effective arrangement.

NSO Capital Budget

The approach that the ORR is intending to take with regard to the NSO's financial framework seem broadly appropriate in that it provides sufficient transparency of the costs incurred by Network Rail in this important area to provide assurance that the activity is suitably funded but also delivered efficiently without creating excessive bureaucracy.

Although of significantly smaller scale than that undertaken by Network Rail Routes, capital investment by the NSO is nevertheless important as systems need to be refreshed and new capability created if the NSO is to deliver the improvements in Network performance and capacity that it could drive. In particular, capability to optimise the timetable and keep TPRs up to date will need development while the timetable development process remains too "manual" and could be streamlined significantly either by the full deployment of the capabilities of the existing TPS or by the development of new systems. Ensuring that the NSO is able to support a Digital Railway also needs consideration.

With this background and the opportunities it reflects, it is important that the NSO has access to adequate capital investment funding but that it is also held to account for the delivery of the benefits promised. This would suggest that approaches that are directly linked to the NSO rather than channelled via the Route may be most appropriate. Also, in considering the options that are available to do this, the asset life of the type of investment that the NSO might make needs to be considered. These are likely to be significantly shorter than the asset lives associated with Network infrastructure assets.

NSO financial incentives

It is essential that the NSO is provided with a baseline revenue allowance to ensure that its budget is provided with a degree of protection given the vital importance of the work it does. This will also allow suitable scrutiny of its actual costs to gain an insight as to improvements in its efficiency. In this context, the arrangements should be kept as simple as possible.

While it seems appropriate to directly incentivise the NSO to deliver improved Outputs (particularly capacity and performance outcomes), it will be very difficult to identify the exact the contribution made by the NSO given the myriad of other, often countervailing, factors in play in the same area. Care needs to be taken that any incentive mechanism are correctly linked to the actual purpose of the tool being used. For example linking the NSO incentive regime to Schedule 8 payments or the Capacity Charge (as currently constituted) seems wholly inappropriate given the purpose of the Schedule 8 regime and the associated Capacity Charge mechanism. However, there may be merit in making use of the Volume Incentive (or its successor) which may be more appropriate to a function at least in part focused on strategic and longer term planning.

In considering options for the NSO to charge directly for commissioned work, care must be taken to ensure that there is no risk of "core" work being migrated to "commissioned" work. On that basis, it seems most appropriate that all work undertaken for funders, Regulators and for existing and prospective Operators should be considered as "core" work.

Yours sincerely

Richard McClean
Managing Director
Grand Central Railway Company Ltd.

The Chartered
Institute of Logistics
and Transport

Submission by the Chartered Institute of Logistics and Transport

to the ORR consultation on the development of the regulatory settlement for the Network Rail system operator in CP6

1.   The Chartered Institute of Logistics and Transport is a professional institution embracing all transport modes whose members are engaged in the provision of transport services for both passengers and freight, the management of logistics and the supply chain, transport planning, government and administration. Our principal concern is that transport policies and procedures should be effective and efficient, based on objective analysis of the issues and practical experience, and that good practice should be widely disseminated and adopted. The Institute has a number of specialist forums, a nationwide structure of locally based groups and a Public Policies Committee which considers the broad canvass of transport policy. This submission has been prepared by the Institute's Rail Freight Forum.

2.   We agree that the National System Operator role is crucial to the success of the railway - robust plans for the short, medium and long term are vital and a coordinated national approach to planning and performance is essential. These functions can only assume greater importance as the network becomes busier and the planning of enhancements in response to increased demand for capacity is another role that the NSO must successfully discharge.

3.   It is our view is that it is the outputs of the NSO that are of prime importance and it is on these that measurement and reporting should focus. The costs and assets of the NSO are, relatively speaking, trivial and should not in themselves demand much attention, although we agree that it is important to ensure that NSO is properly funded and resourced to enable it to carry out its crucial role. Similarly, we do not see that the NSO's revenue is, in itself, a meaningful number - its key contribution is in allowing Routes, not least FNPO, to increase their revenue.

4.   We consider that the prime measures for NSO should be accurate and timely delivery of timetables (inc TPR's) and the degree to which more capacity can be obtained from existing infrastructure by better timetabling. This leads on to the development of enhancement options to increase capacity through additional infrastructure. We would not wish to see cost-driven metrics such as number of trains planned per member of staff - the emphasis should be on competence and quality rather than unit cost.

5.   We support the idea of measuring response to requests for paths under short term planning arrangements - this is a crucial part of the freight business, where customer requirements vary from week to week. We consider that a metric of number of requests declined, or not fulfilled in a manner that satisfies customer requirements, would be useful. We do not believe that FOC's (or TOC's) make

vexatious requests for short term paths and it is NSO's response that determines industry success or failure in the eyes of the ultimate customer. We recognise that the reason for a request being declined would be a valid part of the measurement process.

6.   With this exception, we are generally supportive of the measures proposed in Table 2.1, although we think that there are probably too many measures and they will need to be pared back, at least at the outset. We do believe there is considerable merit in an annual customer and stakeholder survey of NSO's performance, since it is made up of a large number of process transactions (timetabling) and a smaller number of strategic studies and projects. As well as detailed metrics, it is important to have a more reflective view from customers and stakeholders on how NSO is performing overall.

7.   We are not convinced that NSO should be measured in a primarily stakeholder-specific manner - much of its work is optimising the network for all users and it is this holistic function that we feel is of prime importance. Clearly, there is a need for governance and we believe this would best be discharged by a Stakeholder Board made up of representative TOC's and FOC's, plus FNPO and end customer representative organisations. We do not believe geographical routes and other suppliers (internal or external) should feature - like any organisation NSO should be 'driven' by its customers.

8.   As indicated above, we do not believe that NSO costs, revenue or asset base are sufficiently large to warrant specific measurement, other than ensuring they are sufficient to enable NSO to discharge its key responsibilities. We do, however, agree that NSO costs should paid out of access charges paid by TOC/FOC's and not levied separately.

9.   Conclusion – the Rail Freight Forum appreciates the opportunity to comment on ORR's proposals for the NSO regulatory settlement. We are keen to contribute further and would be happy to be involved in subsequent discussions on this and related matters.

Submitted by:
Daniel Parker-Klein
Head of Policy
The Chartered Institute of Logistics and Transport

January 2017

DB Cargo response to ORR Consultation on the Development of the regulatory settlement for the Network Rail national system operator in CP6

January 2017

1. This is the response of DB Cargo to the ORR consultation on the development of the regulatory settlement for the Network Rail national system operator issues on November 17th 2016.

2. DB Cargo is the largest rail freight operator in the UK and is a wholly owned subsidiary of Deutsche Bahn, the second largest mobility and logistics group in the world. DB Cargo operates over 5,000 trains per month in the UK conveying everything from cereals to coal, consumer products to biomass and petroleum to steel. DB Cargo employs over 3,000 people providing freight, infrastructure, rail support and charter passenger services within the UK and freight services to and from continental Europe via the Channel Tunnel

3. DB Cargo, in common with other rail freight operators, is a wholly private sector activity receiving no material direct government support in the UK. In this respect, rail freight is different to passenger rail as it has a very different, less direct, relationship with Governments, funders and other devolved bodies. In a heavily-capital intensive industry, DB Cargo owns and operates its own assets, including depots and rolling stock, and has invested heavily in new locomotives, wagons and facilities over the years since UK privatisation.

General Comments

4. The rail freight sector is highly competitive, with five main rail freight operating companies (FOCs) competing vigorously in all market segments. However, the rail freight industry's main competition is from road haulage or road based logistics services which set the price and service expectations in almost all market segments.

5. Rail freight customers' requirements are dictated by market demands, and do not align to railway administrative boundaries. Whatever solutions or structures are put in place to address rail cost and efficiency challenges, they must equally be capable of delivering effective, affordable, consistent and aligned services for freight customers. This is a particular challenge for a devolved Network Rail and we recommend that ORR develops and uses a series of "freight touchstones" to reflect on the effect of the developing model (including Network System Operation) as it develops. As examples, these might include consideration of how a long distance freight plan will be planned and operated, how a new terminal will be connected to the network and how a "line of route" enhancement programme (such as F2N) will be developed and managed.

6. DB Cargo supports the development of a strong Network System Operator (NSO) function at Network Rail, with appropriate regulation to support delivery for

customers and operators whose activities cross railway administrative boundaries. DB Cargo strongly believes that the NSO can improve solutions for customers through better capacity utilisation and timetable optimisation.

7. Almost all of the functions of the NSO now defined as system operation are, and always have been, central to the planning and operation of the railways. Over the years they have been organised in many different ways, each with their own advantages and disadvantages for different customers and businesses.

8. The establishment of a specific NSO function as part of Network Rail's devolution process brings essential and timely transparency and focus which is particularly welcome to national operators. Whilst recognising that the establishment of the NSO remains "work in progress" it is of concern that so few details of Network Rail's plan for the NSO have been shared or advised to DB Cargo.

9. With this in mind, DB Cargo acknowledges that the measures and metrics put in place at this stage for CP6 are likely to need review in the light of experience and indeed may need to be adjusted or changed during CP6.

10. The functions of the NSO are critical to the successful operation of freight on the network, recognising its cross route nature, and the basis of customer demand. Freight trains generally operate in response to specific customer demand rather than in anticipation of customer demand; if a customer does not require a scheduled freight service owing to fluctuations in demand or their own production issues, then the train will not run. In this respect freight is very different to passenger rail and freight's use of rail capacity is equally different as a result.

11. It is important that any capacity metric(s) developed recognise this and distinguish between freight and passenger use.

12. The regular day-to-day processes for freight timetabling have improved over the past five years, and freight operational performance on the network is good with Network Rail consistently achieving their regulatory performance target for freight. Notwithstanding these, some issues remain including:

    a. slow progress on identifying and managing strategic capacity;
    b. slow and inefficient freight paths, which inhibit asset utilisation;
    c. difficulty in identifying new or varied freight paths on key routes (e.g. to and from ports such as Felixstowe);
    d. freight train velocity which at less than 25mph on average is unacceptable and compared poorly in comparison with competing modes such as road; and
    e. The need for manual intervention to find solutions to most queries and issues.

13. A relative lack of data (or of transparency) and a relative absence of technology drive an over- reliance on individual knowledge/experience and the need for very considerable manual work. In these respects rail compares poorly to logistics planning within competing modes such as road and contributes to an unfair

perception that rail is old-fashioned, slow and not customer focussed.

14. DB Cargo strongly supports the industry's modernisation agenda and the central role for the NSO in achieving this. Providing adequate incentives for the NSO to invest and help drive a rail modernisation agenda is vital.

15. The NSO is many ways the central pivot of the transformation process of Network Rail, ensuring network benefits and consistency are maximised and that cross-route or national services are not disadvantaged by devolution. However the relationship between the geographic routes, the Freight and national passenger operators route (FNPO) and the NSO remains ill-defined in terms of detail.

16. It is simply not clear what the overall governance structure between the separately regulated parts of Network Rail will be. Neither is there clarity as to how the different parts will work together or what the key processes will be. As an example in the case of NSO, it is unclear what authority (if any) the NSO will have over the planning of engineering access on a co-ordinated basis across routes, which is critical for freight. Areas like this should be clarified, and the respective roles of geographic routes, FNPO and NSO defined.

17. The consultation also suggests that NSO will play a role in enhancement projects, as a client. Further detail and clarity on this is needed. Within the current organisational matrix there are serious and significant weaknesses in the management of cross-route enhancement programmes and it is far from clear whether devolution will improve this – indeed there is risk the situation will be worse. The Southampton – West Midlands Freight Train Lengthening programme is a case study worthy of examination, where the individual routes concerned have made decisions that do not seem to take cognizance of the wider programme objectives and outputs. The details of case studies like this need to be used to drive understanding to clarify the respective roles of NSO, FNPO and geographic routes.

Specific Questions

Q1/Q2/Q3 – Measures

18. DB Cargo agrees that the NSO should have capability-based as well as output-based measures whilst acknowledging that :

    a. agreeing capability-based measures is far from straightforward;
    b. The NSO will not be in total control of what will be delivered.

19. DB Cargo suggests that all measures should be designed to encourage efficiency and productivity in how the NSO undertakes its functions. Where appropriate, the NSO and routes should have aligned or identical measures or metrics.

20. Output based measures should include both the capacity of the network, and the quality of that capacity for users, both passenger and freight. The NSO should

have a specific measure as to how well it is identifying and allocating capacity.

21. It may be that some measures or metrics are better expressed as relative improvements rather than absolute numbers.

22. Any outputs or outcomes should be sufficiently disaggregated where possible such that the impact can be assessed as a minimum on a sector (freight) basis. It would be helpful if key customer routes/corridors could also be measured and the detail of this can be agreed between operators, the FNPO and the NSO.

23. Equally there has to be some relationship between the NSO's measures and the day/day railway. Disaggregation by geographic route where possible may thus be helpful where NSO activities are delivered by the routes.

24. The approach to stakeholder involvement needs to be aligned with that for the geographic routes and the FNPO route to avoid duplication or black holes, and to ensure alignment. There is as yet no clarity of the overall governance structure, how the different elements fit together and will work together or how freight should best be involved.

25. Wherever possible existing industry forums and mechanisms should be used to minimise the administrative burden and cost of introducing the new NSO and other elements of the new Network Rail structure.

26. The NSO will perform a critical role for DB Cargo and DB Cargo would expect a direct relationship with the NSO as well as the FNPO.

27. DB Cargo agrees that is vital that the NSO's stakeholders can influence the operational measures of the NSO. The scorecard needs to consider the areas of the NSO's scope that are important for rail freight, particularly how the NSO;

      a. supports new business development;
      b. improves the efficiency of paths;
      c. identifies new usable capacity on the network; and
      d. implements a robust strategic capacity process.

28. DB Cargo is in agreement with the measures in the table below which have been previously suggested by the freight sector. We note there is broad alignment with the measures in Table 2.1, with the exception of measures to improve the efficiency of freight paths which should be included.

Measures	Possible metrics
Capacity allocation, identification and optimisation	• Train slots offered to satisfy customer requirements • Root and branch timetable analysis • Programme of strategic capacity development • Delivery of outputs (e.g. capacity) or outcomes resulting from enhancements – which requires clear statement of the expected benefits.
Timetable optimisation	• Average freight train speed (10% increase?) and / or other measures of freight efficiency – possibly measured every timetable change. • Root and branch timetable analysis (as above)
Customer satisfaction	• Helping operators to deliver – measured by customer survey
Performance	• Delay minutes caused by planning errors per 100 miles
Adherence to milestones	• LTPP programme – possibly measured by Independent Reporter. • Timetable production – measuring quality as well as quantum of formal responses. • Access planning, e.g. adherence to T-12

29. DB Cargo acknowledges that the task for the NSO in developing new measures acceptable to all operators, the NR Board, the ORR and Governments will be far from easy, may take time and involve trade-offs and compromises. Where this happens, complete transparency of the issues will be vital to avoid any misinterpretation of events.

30. Ongoing high-level engagement with the NSO will be necessary in CP6 to review the performance of the NSO, oversee its capital investment plans and discuss how stakeholders can help develop and support better outcomes. Currently there is no such high-level industry forum to consider these issues, particularly in relation to the train planning function of the NSO.

    Notwithstanding the observation in paragraph 24, DB Cargo would support a new Sponsorship Board for the NSO with strong operator, including freight, involvement.

Q4/Q5 – Financial Framework

31. We agree that NSO must be sufficiently funded both for its day to day activities and also for necessary capital expenditure, which we anticipate will be mainly IT and system related. However these costs can themselves be considerable, with complex business cases and the NSO must be staffed and funded to allow these to be developed.

32. DB Cargo believes that the NSO ought to – and in time will – have a greater role in enhancement planning and clienting that many currently acknowledge; the NSO will need to be adequately funded and resourced to carry out such a role.

33. DB Cargo agrees with the ORR conclusion that direct charges on operators to fund the NSO are not appropriate.

34. Having said all this, DB Cargo also recommends that also the regulation of NSO, and all non-asset owning parts of Network Rail should not become over-complex. It is important that the NSO faces outwards to its customers – both operators, end users and routes rather than focussing on the ORR or Governments.

35. It is equally evident that the quantum of the NSO budget will be an order-of-magnitude smaller than the geographic routes and DB Cargo agrees that the ORR's final approach to the NSO must be proportionate in terms of cost and regulatory burden – e.g. in terms of reporting.

36. DB Cargo is not convinced that linking financial incentives to revenue would result in the desired effects for two reasons;

    a. A high proportion of the NSO cost base will be fixed (at least in the short term) and will not easy vary with volume;
    b. Any financial incentive linked to revenue would equally need to be linked to the wider set of measures and outputs, not least to protect quality and efficiency – for example it would be inappropriate if a financial measure centred solely around the number of paths created without regard to the quality of those paths or the downstream effect on operational performance. It may be more appropriate to leave financial incentives to later control periods, once the establishment of NSO is concluded and stable.

DB Cargo   January 2017

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17 January 2017

By e-mail

Dear Siobhán,

Thank you for the opportunity to respond to the ORR's consultation document, *Development of the regulatory settlement for the Network Rail national system operator in CP6*. We welcome both the ORR's overall direction, as well as the highly collaborative way in which it has sought to develop its approach to this important issue.

High level comments on system operation

As we have set out in our response to the Initial Consultation Document and the working papers on System Operation, we support the establishment of a National System Operator (NSO). We regard an effective NSO as an essential foundation for achieving the Government's overriding objective of an industry that works for passengers and freight customers by optimising the use of capacity, and helping to improve performance and reliability.

To achieve this, the NSO must be appropriately governed and empowered and must support efficient and effective devolution to Network Rail's routes. It will also be important that it can effectively respond to the expectations of private investors and support new delivery models for investing in railway infrastructure. With this in mind, it is particularly critical that Network Rail has the right operational and data systems in place and is able to use them to inform effective decisions, both strategic and operational. Amongst other things this should enable benchmarking of the routes' performance, informing trade-offs on capacity allocation, driving efficiencies and updating the industry's often outdated performance systems. We consider that it is important that the regulatory regime provides clarity about how it will support this throughout the Control Period.

With respect to regulation more generally, we agree there is an overwhelming case for a focused and tailored approach to regulating the NSO in PR18; we support the ORR's proposal that there will be a separate settlement for the NSO and that a key element of assessing the NSO's strategic plan should be the extent to which the NSO has effectively

engaged with and reflected stakeholder priorities.[1] We also agree with the high-level objectives ORR sets out for the NSO settlement in paragraph 1.9 of the consultation document. The Department's response to the ORR's working papers 2 and 3 on system operation[2] set out our detailed objectives for the NSO. These objectives will form the basis of the Department's engagement in the development of the scorecard for the NSO and in how NR designs and implements greater route devolution.

Finally, we note that the regulatory focus on the discrete NSO function is relatively new. We consider that it is important that the regulatory regime preserves sufficient flexibility to enable changes to be made to its scope and functions should it prove necessary in the light of experience.

Specific questions raised by the ORR

What are your views regarding our proposals on i) using, amongst other things, capability-based measures of the NSO's operational performance; and ii) the extent to which NSO operational performance measures should be disaggregated (e.g. to each route or operator)?

The proposal to include capability based measures is welcome. DfT would like to see the NSO develop its capability, resources and skills across the range of activities it undertakes, but specifically in order to provide:

- Advice and analysis that is targeted and timely, in order to support DfT's key decisions in respect of franchising, major projects/fleet procurements and future network and/or systems investment.
- Increased insight and options for making better use of the existing network in the short or medium-term without the requirement for significant infrastructure investment – the opportunities and implications of offering more capacity, journey opportunities, better performance and lower costs - and identification of efficient solutions. This could include specific studies into capacity as well as a wider range of studies or reviews.
- The range of pan-network services that will support effective route devolution, and ensure that cross-route passenger and freight operators benefit from a more devolved railway.

With respect to the disaggregation of operational performance measures, we consider that it is essential that these are delegated to route and to operator level. This approach should increase the accountability of the NSO, both to the routes and to operators, helping to facilitate a more joined up approach.

What role should the NSO's stakeholders play in informing the development of NSO operational measures performance and in holding the NSO to account over CP6?

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[1] The issue of stakeholder engagement is considered in more detail in the DfT's response to the ORR's consultation on its draft guidance to NR on its strategic business plans.
[2] http://orr.gov.uk/__data/assets/pdf_file/0007/23200/pr18-stakeholder-responses-to-working-papers-2-and-3.pdf

We consider that the NSO should be required to engage effectively and regularly with stakeholders such as freight operators and passenger representatives, both during the strategic business planning process and on an ongoing basis (most particularly in the context of the scorecard process).[3] We also consider that it is vital that the NSO fully and effectively engages with the routes in a thorough manner, supporting substantial route devolution and better enabling the routes to deliver for their customers. This reflects our strong view, as discussed above, that the regulatory framework must support close working between the NSO and its customers, make it easier for stakeholders to engage with the NSO and promote effective joint working. The NSO can also play an important role in ensuring a strategic approach to engineering possessions, for instance through facilitating dialogue between routes to ensure the best outcomes for customers in terms of network availability and mitigating against the simultaneous closures of key corridors.

In respect of DfT's relationship, in its capacity as a franchising authority and funder, with the NSO, our view is that direct DfT input into the NSO scorecard and a strong bilateral relationship with the NSO will be the most effective way to hold the NSO to account, building on the broader process of engagement around the scorecards. This reflects the likelihood that we will have some fundamental requirements in respect of the NSO, which we will particularly want to be reflected in the approach to the scorecards (e.g. taking a more strategic approach to planning major engineering work to ensure passengers are not unduly affected, such as by keeping open at least one of the Intercity corridors between London and Scotland).

What are your views on our initial ideas regarding the possible NSO measures, as set out in Table 2.1?

Our view is that it would be beneficial to create balanced incentives with respect to the trade-offs between capacity, cost and performance.

We agree with the issues and measures in Table 2.1 and that the issues in Box 2.2 are a good starting point, reflecting key issues which the regulatory framework needs to address; of these, we particularly note the importance of the regulatory regime supporting the alignment of incentives between the NSO, Network Rail generally and operators.

More generally, we note that certain system operation outcomes may be influenced by the decisions of parties other than the NSO, and that this will need to be taken into account. Our view is therefore that, in general, measures focussed on the timeliness and quality of NSO outputs are likely to be the most useful. For example, these may include Timetable Planning Rule (TPR) improvement activity within certain timescales following project closure, or following notification by stakeholders of TPRs which are out of date or in need of revision.

Do we need additional mechanisms regarding the NSO's capital budget? Should the NSO be subject to financial incentives so that its revenue varies to reflect the success of its performance?
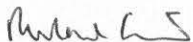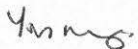
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[3] In this regard, we note the approach taken by National Grid to stakeholder engagement, to which you refer at footnote 13 of the consultation document. We consider that approach has much to recommend it.

We agree it is important the NSO is appropriately encouraged to undertake investment in systems – as we note above, ensuring appropriate data and systems are in place effectively is critical to ensuring the NSO's capability. To achieve this in a proportionate manner, we consider that there are significant merits to a system involving some degree of proportionate change control in the event of a proposal for NSO capital funding to be changed.

We also support the principle of setting a separate baseline revenue allowance for the systems operator as a means of providing some protection for the NSO budget, improving transparency and driving the NSO's focus on its efficiency and capability. However, as set out in our response to the ORR's working papers 2 and 3 on system operation, our view is that management and reputational incentives are more likely to be fruitful than financial incentives at this time.

Concluding remarks

An effective system operator is critical to delivering a railway which is focussed on what its users need and expect. We welcome the ORR's approach to this issue and look forward to continuing to work closely with both NR and ORR to maximise the opportunities in this area, delivering an outcome which benefits users, communities and funders.

Richard Carter

Development of the Regulatory settlement for the

Network Rail national system operator in CP6

Response from Drax Power Limited

Drax Power Limited ("Drax") is the operating subsidiary of Drax Group plc and the owner and operator of Drax Power Station in North Yorkshire. The 4,000MW station consists of six separate units, which together can produce around 7-8% of UK generation. Three of these units have been converted to run on high density wood pellets (biomass). Drax is a predominantly renewable generator, having completed the largest, single site decarbonisation project in the EU.

Drax is heavily committed to rail and to optimising its use of the national infrastructure to deliver its business objectives. It welcomes the opportunity to contribute to the consultation on the Regulatory Settlement for the Network Rail National System Operator in CP6.

Context

Drax is presently undertaking a project to improve its rail operation and deliver Higher Velocity for its services; in particular on its biomass flows from Liverpool, Immingham, Tyne and Hull. This has involved working closely with NR and FOC planners and the detailed scrutiny of planning and capacity issues. Drax believes that achieving higher average velocity for freight will deliver several benefits, namely:-

- More efficient use of the available rail network capacity;
- Lower costs for Network Rail and FOCs;
- improved resource utilisation;
- Environmental improvements through lower emissions and better air quality; and
- Creating opportunities for growth on the network.

From this work it has become clear that getting an efficient WTT Plan is crucial to delivering network efficiency and unlocking capacity. In turn, the building blocks of the Plan such as the Sectional Running Times and Timetable Planning Rules must be up to date for the Plan to work effectively. In the recent past we have found a significant lag between network enhancements being delivered on the ground and the TPRs being amended to allow the Plan to deliver their benefits (see Appendix).

Against this background we believe that the production of the Plan by the NSO is the key activity to delivering the ORRs key objectives of "efficiency" and "better use". Delivering a more efficient Plan has the potential in some cases to deliver capacity benefits quicker and more cheaply than physical enhancements to some parts of the network. This is the context in which Drax has prepared its response to this and other consultations from ORR.

Response

We agree that there needs to be an incentive on the NSO to manage the network more efficiently. Whilst NR has removed thousands of unused paths in the Plan, we have found paths which were redundant or hardly ever used which blocked capacity. For example, light engine moves associated with paths that had been removed, paths which provided twice the capacity needed by the traffic, and instances where two operators had valid (and different) paths for the same traffic.

We agree in principle that the NSO should have a separate regulatory settlement as its activities are key to network efficiency, open access and competition, and its effectiveness can massively influence the costs of train operators and freight end users. We believe that whilst the LTPP is important the Medium Term System Operation function is key and should be the main focus of the NSO settlement.

The settlement must, however, be appropriate to the size and function of the NSO and not impose an excessive administrative burden on an already over stretched body.

Q1. What are your views regarding our proposals on i) using, amongst other things, capability-based measures of the NSO's operational performance; and ii) the extent to which NSO operational performance measures should be disaggregated (e.g. to each route or operator)?

Capability-based measures should help to ensure that the NSO has knowledgeable and experienced staff with the necessary tools to perform their function. We believe that capability based measures are more appropriate for the Long Term System Operation function, whereas Outcome based measures are vital for the Medium and Short Term System operation.

For end users of freight to have confidence in the NSO operational performance measures they should ideally be disaggregated by freight customer as the demands of bulk customers can be very different to intermodal. This is the freight equivalent of disaggregating by Route for passengers.

Disaggregating the performance measures by route would be useful providing it doesn't create distortion or a conflict of priorities or activities. For example, if there is unequal weighting of performance measures between routes or operators, this could inadvertently create a focus on one route or operator, over another.

Q2. What role should the NSO's stakeholders play in informing the development of NSO operational measures performance and in holding the NSO to account over CP6?

We believe it is crucial that stakeholders are involved in order to ensure that the measures are relevant to the NSO's customers whether they are the Routes, FOCs or freight end users. It is crucial that the definition of stakeholders includes freight end users as these are the decision makers who choose to move their goods by rail, road or another mode; or indeed not to move at all if the offering is not viable. The

success of the future rail freight business relies on these end user decision makers having:-

- confidence that the network capacity exists to move their products/goods;
- access to competitive end to end journey times;
- secure rail paths which allow efficient and cost effective use of resources; and
- confidence that the rail industry recognises that it is a key element of their supply chain.

In this context, we are disappointed that ORR has not included freight end users, or even the RFG, in the list of stakeholders in paragraph 2.5 of the consultation.

Q3. What are your views on our initial ideas regarding the possible NSO measures, as set out in Table 2.1?

The measures all appear relevant but are there too many? If these are independent activities carried out by different personnel in the NSO it may be appropriate. However, if they interact and there is a small amount of resource that is critical to several measures, then the performance of the whole NSO could rest on a few individuals. If such resource is of a highly specialist nature and of limited availability, there may be little that the NSO can do to avoid sub-standard performance against these measures.

That said, we agree with most of the measures proposed in Table 2.1 and would add specifically in respect of freight the following:

1. average freight schedule velocity;
2. percentage of WTT freight paths actually utilised;
3. planned engineering possessions not used;
4. freight service requests refused due to no capacity;

The measures must be constructed carefully so as to avoid providing perverse incentives or un-intended consequences. For example rewarding the NSO for the number of paths planned may not be appropriate if those paths are of poor value. For example, paths in the timetable for services that run once a month but which block other traffic, or numerous short passenger trains which carry few passengers and eat capacity. It is strange to note that the trend for freight over recent years has been toward fewer, longer trains whereas for passengers it has been the reverse.

Drax is concerned that the wrong measures could encourage defensive behaviour by NSO as identified in the document. Drax saw evidence of a 'fear of freight' when developing its plans to move biomass from Immingham and Liverpool to the power station. NR cited a lack of capacity and the effect on passenger train performance as reasons initially why it could not accommodate the projected traffic. A detailed study of the routes eventually identified capacity and the traffic was introduced successfully without the feared detriment to other services.

Q4. Do we need additional mechanisms regarding the NSO's capital budget, to ensure the NSO is properly incentivised to undertake capital expenditure?

Any financial mechanisms should:

- be simple, low burden, and recognise where accountability lies;
- help deliver the technological improvement needed to enhance production of the Plan;
- provide the people resources needed to do the job in terms of numbers, skill levels, and rewards which ensure retention.

We believe that the NSO needs to invest in technology to enhance it capability to produce an efficient Plan which optimises use of the available network capacity. The incentive to do this should be provided through the outcome measures and not through a mechanism such as RAB which seems heavy handed for a relatively small business unit.

It is unclear what is meant by 'properly incentivised' to undertake capital expenditure. Once performance measures are agreed the NSO would appear to be the body that is best qualified to decide how this can best be met. If this requires capital expenditure they should present a detailed cost-benefit analysis for each of the investments (if appropriate this could be an investment case to meet a pre-defined hurdle rate). A decision can then be made which projects go ahead and the capital budget becomes fixed.

The capital budgets need to be underpinned with evidence such as quotations for hardware and resource plans for labour. There also needs to be a transparent agreement on contingencies that are included in the budget. It appears that the third option (memorandum account) would allow spend to be moved between years, which would be helpful for longer term projects to avoid a hiatus or accelerating spend to avoid budget being lost.

Q5. Should the NSO be subject to financial incentives so that its revenue varies to reflect the success of its performance?

In principle we agree with monitoring the impact of NSO activity on operational performance of the railway. However, we are concerned that financial rewards or penalties for their performance could have a detrimental effect. If their performance is above standard then who meets the cost of the financial reward and what is it used for. A reward has to be paid for and will ultimately increase the cost of rail to tax-payers, passengers and freight end users.

Alternatively, how would they pay a penalty for failure? If this led to cost cutting isn't there a risk of even worse performance i.e. a downward spiral? Our perception is that the teams which produce the Plan are not over resourced. Whilst there may be a case for a management reward for success, we are concerned that any form of revenue reduction for a less than satisfactory performance would lead to cuts in headcount which would worsen performance further.

Conclusion
We believe that:-

- the NSO is crucial for the delivery of an efficient railway which optimises use of the available capacity;

- that it can deliver some 'virtual enhancements' by making better use of the available infrastructure, by rationalising under used or redundant paths and offering higher velocity, better quality freight schedules;
- in principle the NSO should have a separate regulatory settlement as its activities are key to network efficiency, open access and competition; and
- the settlement must, however, be appropriate to the size and function of the NSO and not impose an excessive administrative burden.

Appendix

Examples of TPRs not being updated are:

- Hull docks branch double track restored yet planners were still using timing rules for a single line for some time after the work was delivered,
- Doncaster North Chord delivered on time but none of the FOCs had planned to use it and so trains were still routed via Askern. After opening this was compensated by booking trains to sit on the Chord for 20 minutes to wait for the old schedule) and
- NE Lincolnshire re-signalling delivered in December 2015 but certain SRT not amended until December 2016 WTT.

<u>Freight Transport Association response to November 2016 consultation on the development of the regulatory framework for the Network Rail system operator</u>

Further to ORR's consultation http://orr.gov.uk/__data/assets/pdf_file/0020/23195/pr18-development-of-the-regulatory-settlement-for-the-network-rail-system-operator-in-cp6.pdf our comments are as follows:

Q1 What are your views regarding our proposals on i) using, amongst other things, capability-based measures of the NSO's operational performance; and ii) the extent to which NSO operational performance measures should be disaggregated (e.g. to each route or operator)?

Yes, this would seem to be the correct approach. It is of course important to include the FNPO Route and its interfaces with the other (physical) routes.

Q2 What role should the NSO's stakeholders play in informing the development of NSO operational measures performance and in holding the NSO to account over CP6?

It is important that the needs of freight stakeholders are included.

Q3 What are your views on our initial ideas regarding the possible NSO measures, as set out in Table 2.1?

These seem broadly correct. What is important from a freight perspective is that freight operates across routes (most freight flows cross a route boundary). While the ideas presented elsewhere of route based output enhancements and benchmarking are welcome, for freight a corridor based approach around end-to-end freight flows is crucial. What is certainly unwelcome for freight due to its added administrative complexity is proposals for route-based charging.

Q4 Do we need additional mechanisms regarding the NSO's capital budget, to ensure the NSO is properly incentivised to undertake capital expenditure?

From a freight perspective what is particularly important is that enhancement schemes are delivered in a co-ordinated manner that deliver end-to-end journey time, capability, and capacity improvements over end-to-end corridors for the particular freight flows concerned.
Also, that the needs of freight as a cross (Network Rail) route boundary operation are catered for at a practical level regarding timetabling, disruptive engineering network access, diversionary routing capability and capacity. In this regard the development of the System Operator role is key. It is also important that passenger train franchising (particularly in a context of devolution of funding) recognises the timetabling and pathing needs of freight to offer customer service.
Further it is important to reiterate that unlike passenger which while privately delivered is to a state franchise specification, freight is (apart from some modal shift grant) a

private sector activity. Rail freight runs in response to customer demand, passenger in response to a state / funder specification of service. Demand for freight can and does change, dramatically so at the moment with the premature ending of coal traffic. This means that the axis of freight operation around container traffic and aggregates is likely to move geographically southwards and on to the more congested parts of the network. This brings on to a further set of related points: cost, access, velocity. For rail freight to win more market share (and even to retain existing business) in the markets seen as potential for growth (deep sea and domestic retail intermodal) costs to the end user must come down, access for new traffic to the network must become easier, and end-to-end journey times must improve. Road freight is constantly improving its price (and environmental) efficiency. Rail must do likewise. It is therefore vital that efficiencies that affect price inputs such as network enhancements and OMR and FOC efficiency see their way to the customer as cost reductions. Cost increases such as happened with freight Track Access Charges in the last Periodic Review must not be repeated as they seriously damaged customer confidence in freight. It must never be assumed that a particular traffic is "captive" to rail: if costs or service levels shift against rail then customers will seek innovative means of using other transport modes that offer cost savings.

Q5 Should the NSO be subject to financial incentives so that its revenue varies to reflect the success of its performance?

Potentially, so long as this does not operate in a perverse way regarding performance risk imported by secondary as opposed to primary operators and the treatment of these different operators in regards to cross-route disruptive engineering access along e.g. key freight corridors.

Please feel free to contact me if you wish elaboration on any points.

The Freight Transport Association represents the transport interests of companies moving goods by rail, road, sea and air. Its members consign over 90 per cent of the freight moved by rail and over 70 per cent of sea and air freight. They also operate over 220,000 goods vehicles on road – almost half the UK fleet. The main rail freight operating companies belong to FTA as do the major global logistics service providers operating in the European and UK market.
FTA's Rail Freight Council includes all parties to the rail freight supply chain, including rail freight operating companies, Network Rail, wagon builders, logistics service providers and bulk, intermodal and retail shipper customers.

Regards,

Chris MacRae

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Chris MacRae FCILT
Head of Policy – Rail Freight and Scotland
Freight Transport Association

Development of the regulatory settlement for the Network Rail national system operator in CP6

Introduction

Freightliner welcomes the opportunity to respond to the ORR's consultation on the development of the regulatory settlement for the Network Rail system operator in CP6. The national system operator (NSO) is one of the most important functions within Network Rail and is a key interface that operators have with Network Rail.

The NSO's role in supporting the industry has traditionally been quite hidden and there exist opportunities to improve outcomes. We therefore strongly support the decision for a separate settlement for the NSO in CP6 to give it equal standing to the devolved Routes. By turning the spotlight onto the NSO it will be possible to measure and monitor performance and better support the NSO to improve outcomes.

The consultation clearly outlines the functions of the NSO, breaking it out into short, medium and long-activities. Freightliner supports the activities assigned to the NSO and it is helpful that the scope of the function has been clearly detailed.

There does appear to be a degree of fluidity surrounding its future scope. We are aware that Network Rail initiated its *SO: Fit for the Future* programme in June last year, as part of a review of its system operation functions. Freightliner has not been involved in this programme and it is unclear whether the outputs of this workstream will change the structure of the NSO.

The development of the NSO scorecard will likely influence the ORR's NSO reporting and monitoring requirements and could shape the regulatory metrics. The consultation notes that the NSO has started discussions on the dashboard of measures. To date we have not been involved in any discussions on these measures, although we expect to be involved in the engagement process as part of the development of the NSO Strategic Business Plan. We expect that these measures will span all NSO activities and urge Network Rail to consider the draft metrics identified in this consultation document when proposing their dashboard of measures.

Responses to questions

Q1: What are your views regarding our proposals on i) using, amongst other things, capability-based measures of the NSO's operational performance; and ii) the extent to which NSO operational performance measures should be disaggregated (e.g. to each route or operator)?

There are a number of factors pointing at the need to use capability based metrics to measure the NSO's performance. While outcome based metrics would be preferable, capability based metrics may be more appropriate in some areas given the infancy of the NSO function and the fact that it is not always fully responsible for outcomes.

It is more important that the measures, be they capability or outcome based, reflect the range of NSO activities and ensure that it is properly incentivised. Importantly that drives the need for a balancing metric that considers how well the NSO is identifying and allocating capacity in order to ensure that the right trade-offs are made between cost, performance and capacity. The NSO plays a vital role in supporting better use of capacity on the network and this should take prominence over performance and other measures in its scorecard.

The NSO has a range of different stakeholders, including freight and train operators, ORR, Network Rail Routes, funders and LEPS. These groups have different expectations of the NSO and there will be times when the NSO needs to trade-off the aspirations of the different stakeholders.

The diverse range of stakeholders points at the need to be able to disaggregate the performance measures to a fairly granular level. For instance given the freight aspirations for journey time improvements, improved allocation of capacity and a robust strategic capacity process we would hope that many of the measures can be disaggregated to a freight level.

It should be noted that given the diversity of stakeholders and their differing aspirations, it may not be possible to entirely capture how well the NSO is performing by way of a scorecard. This highlights the importance of regular high-level, strategic engagement with the NSO, to monitor performance and help improve outcomes.

Q2: What role should the NSO's stakeholders play in informing the development of NSO operational measures performance and in holding the NSO to account over CP6?

It is important that the NSO's stakeholders have the opportunity to influence the NSO operational measures. To date Freightliner has not been involved in discussions on these measures, although we expect to be involved in the engagement process for the development of the NSO Strategic Business Plan.

Without strong engagement of stakeholders in the development of the performance measures, there is a significant risk that the metrics identified will not measure the outputs that are important to operators. This was the case with the *Network System Operator Dashboard: 2016* that was shared with the RDG SO working group in October last year. This dashboard tracked a number of metrics that were not particularly aligned to the activity of the NSO, or a priority for operators. The dashboard tracked metrics including passenger rail satisfaction, passenger safety and the number of cancelled passenger trains. While undoubtedly important the NSO only has a very limited ability to influence these measures. The dashboard also failed to include many of the key measures that are important to our business. Strong engagement with stakeholders is important to ensure that suitable operational measures of NSO performance are identified and tracked.

As discussed above, the diversity of the NSO's stakeholders, their differing aspirations and the use of capability-based metrics increases the need for strong engagement and oversight of the NSO. There are already a number of existing industry forums which oversee some of the NSO processes. These are generally collaborative forums focussed on the outcome of the specific process (for example the Event Steering Groups help to oversee the smooth transition of timetable changes). These existing forums are generally process-driven and are not strategic sessions; they do not consider how well the NSO is performing against the scorecard and/or regulatory measures nor do they identify opportunities for potential improvement.

Freightliner recognises the concerns that some stakeholders have about introducing another industry meeting into a crowded calendar, however whilst there is a forum that discusses long term planning (Planning Oversight Group) there is no existing forum that engages with the NSO with regard to the train planning element of the SO at a strategic, high-level. We would be concerned if the regulation of the NSO was not accompanied by a regular strategic NSO working group or strategic panel that oversees its performance in managing capacity efficiently. This forum would likely include all the different stakeholders. We would expect this forum to be an opportunity to review the performance of the NSO and to discuss how stakeholders can better support the NSO to improve outcomes.

Furthermore, as the NSO is expected to manage trade-offs, potentially between different stakeholders, there is the need for a collaborative approach to be taken – in order for stakeholders to understand a) what the trade-offs involve and b) provide a forum for the stakeholders to assist the NSO in reaching the appropriate solutions.

Freightliner also expects that the NSO will produce an annual report discussing its activities over the previous period and providing a detailed report on performance. Currently the NSO activities are somewhat hidden within Network Rail's Annual Return and that should not be viewed as a suitable alternative. However as the annual report would be likely considered a reporting tool it does not replace the need for high-level engagement.

Q3: What are your views on our initial ideas regarding the possible NSO measures, as set out in Table 2.1?

Freightliner appreciates the ORR sharing potential metrics within the consultation. We do recognise that they are still work-in-progress, but we welcome the opportunity to respond at this early stage.

We also note the complexity in compiling metrics that cover all the NSO activities and reflect the aspirations of the many stakeholders. It is clear that for many of the NSO activities, it will be difficult to develop objective measures. It that respect, it may be beneficial to focus in on a capacity allocation metric – noting that much of the focus on the NSO was in recognition of the need for a balancing metric that considers how efficiently capacity has been allocated and understand whether there is scope to improve utilisation through timetable optimisation.

Focussing on such a capacity allocation measure will better allow Network Rail to make the appropriate trade-offs between performance, capacity and cost.

Capacity allocation

As discussed above it is important that the NSO's performance metrics reflect the range of activities it performs in order to ensure that it properly incentivised. The current lack of a balancing metric that considers how well the NSO is identifying and allocating capacity can result in performance being over-incentivised. While important, we strongly believe that the NSO's role in managing capacity allocation outweighs its role in delivering strong performance. The metrics identified for the NSO in CP6 provide an opportunity to construct a more appropriately balanced scorecard.

Based on the draft TRL report, it is clear that coming up with a metric that measures how well the NSO is allocating and identifying capacity on the network will be problematic. A metric that considers the difference between notional capacity and capacity in use will be complex and costly to calculate and given that it is based on homogenous rolling stock and standard stopping patterns it will be both unrealistic and of limited value.

Applying such a formulaic approach to measuring capacity on a busy, mixed use railway with different types of rolling stock, passenger services with different stopping patterns as well as freight services that operate at different speeds is not practical. Doing so could be detrimental to freight as it could result in faster, or more homogenous passenger services being prioritised. TRL has recognised this issue, although it is not clear how developing a second and separate 'notional capacity' figure for freight would work on mixed use lines.

Despite the difficulties, a balancing metric is still vitally important to incentivise the NSO to consider how optimally capacity is being used and to undertake root and branch timetable reforms to identify opportunities to deliver more capacity on the existing network.

The TRL report did highlight some potential metrics that are worthy of further analysis, notably train metres per hour measured at various locations across the network. Given freight trains are often significantly longer than passenger services (up to 775 metres in length) this could create an appropriate balance to compensate for their different speeds and characteristics. Such a metric

would also send out the right signals about train lengthening and the key information should already be available through the TOPs and Trust systems. We would support the further investigation of this metric, which tracked over time, could measure how capacity is being used.

As we have highlighted in previous consultation responses, root and branch timetable optimisation analyses have in the past (e.g. following the West Coast Main Line upgrade in 2008) increased the efficiency of the timetable and increased the number of train paths available. A programme of similar, and on-going, analyses across the network could yield similar results and a simple metric to track this could record how such a programme is progressing.

Satisfaction survey measures

Freightliner notes that many of the proposed metrics for the NSO activities rely on stakeholder satisfaction surveys. With the difficulty in objectively measuring many of the NSO's activities it is understandable why this is proposed. However, in our experience surveys are not always an entirely accurate way to objectively measure performance as results can often be influenced by other factors, for instance the stakeholder's wider relationship with Network Rail, or events in the last few weeks rather than over a longer period. Administering surveys and processing stakeholder feedback can also be time-consuming and expensive to oversee.

Notwithstanding the comment above, we do see the merit in tracking satisfaction via an annual survey, which is then reported via the scorecard and/or through the annual report. Disaggregating such a figure by stakeholder type will be important, especially given the range of differing aspirations.

The difficulty in compiling objective measures to track many activities points at the need for a high-level NSO working group to discuss in detail the NSO performance, identify issues and opportunities to improve outcomes. These satisfaction figures could provide a helpful indicator and flag potential issues for further investigation within such forums.

Train path optimisation

The area of train path optimisation is currently missing from the list of NSO activities and the potential metrics. This is a different measure to the capacity identification and allocation metric as it considers the quality of the paths. Journey time was an issue that was highlighted in the Department for Transport's Rail Freight Strategy issued in September 2016, as important to enable freight operators to offer services competitive with other modes and there is further work in this area being funded by DfT through Transport Systems Catapult.

A metric that considers average speed of services (with the ability to disaggregate to freight services) is important – especially given current priorities. This data should be straightforward to construct, and could either measure average speed or amount of pathing time in schedules per 100 miles.

Managing short-term capacity allocation

Although this is an area where the consultation did not identify any possible measures, the allocation of short-term capacity is absolutely key for freight operators, in order to be able to respond to customers' changing business needs.

The NSO already tracks a number of measures in relation to allocation of short-term capacity, although these are not always consistently shared. Successful offers to Network Code timescales – measuring the RSB, A for C and Informed Traveller processes would be helpful indicators to include within the NSO scorecard and/or annual report.

Responses to ORR's potential metrics

Freightliner recognises the ORR has done a significant amount of work in detailing the main NSO activities and developing potential measures to track performance. The table below details our comments on the measures identified.

NSO activity (as identified in consultation)	Comments	Possible measures
Lead the long term planning process	Satisfaction measure is difficult as results of LTPP may not be universally approved. Capability measure might be more appropriate.	Progress against the NSO's deliverables for producing route studies but noting this does not measure quality. (as suggested in consultation).
Recommend projects for changes to the network		
Integrate new enhancements into network capacity	Suggest the responsibility for this activity should sit with Project Sponsor within the Routes. NSO has a key role to play, however responsibility for delivery should sit with the Sponsor.	
Undertake root and branch capacity studies on a planned and ad hoc basis	Would expect capacity studies to be undertaken on a planned basis as well as ad-hoc. A key output of this would be the identification of strategic paths in the timetable (already identified in the consultation). Would suggest that improvements to TPRs should not be included here.	Reporting on a programme (agreed in advance) of root and branch timetable analyses is a simple measure (although it does not measure quality). Having such a programme would be a step change from where we are now. Strategic capacity metric would be helpful in this respect. Consultation suggests: *NSO reporting on strategic capacity availability / needs, possibly as regular (e.g. annual) report.* It may be helpful to track successful offers for new strategic capacity against total strategic capacity paths bid. Alternatively the number of strategic paths claimed could be tracked, which will provide a proxy for the amount of useful strategic capacity within the timetable.
Manage TPRs	Changes to the metric comparing notional capacity to capacity in use may be influenced by improvements to TPRs but that ratio is influenced by many more factors. As changes to TPRs either	Capability measure that considers progress against the NSO's deliverables in revising TPRs through TRIP (or subsequent programme) could be tracked (as envisaged in the consultation).

NSO activity (as identified in consultation)	Comments	Possible measures
	improve or worsen the capacity metrics, it would be hard to use such a measure to track how TPRs are managed.	
Developing access policy and access planning Consider change to: Supporting access decisions and supporting the development of new business.	Suggest this activity should be focussed on the NSO's role in supporting access decisions and supporting the development of new business (as opposed to developing access policy).	A volume metric may be a helpful, e.g. changes to KGTM tracked over time. That would provide a useful (if simple) proxy as to how well the NSO is assisting operators to identify new business.
Performance analysis		Delays caused by planning issues (i.e. 502A delay).
Producing working timetable, including scheduling engineering access	Capacity identification and allocation metrics are discussed in detail above. Noting concerns raised about PDI-F metric in the previous NSO consultation response.	Train metres per hour captured at various locations across the network (suggested by TRL). Have previously suggested a more meaningful metric to PDI-F could be based on the outputs of the IAP workstream.
Manage the operational timetable, including scheduling nearer-term engineering access	Outcomes of this activity already tracked within the 'Performance analysis' activity.	
Manage short-term capacity allocation (STP for passenger services and the spot market for freight)	As discussed above – this is an important area for FOCs to be able to respond to customers' changing business needs.	Successful offers to Network Code timescales – measuring the RSB, A for C and Informed Traveller processes.
Operators' satisfaction with NSO services	A satisfaction level for NSO stakeholders including operators is important.	Preferable to be able to disaggregate by freight and passenger operator.
Overall measures of capacity	Discussed in detail above.	Consider outputs of the TRL work. Explore option to track train metres per hour captured at various locations across the network.
Other measures: NSO's role in optimising the timetable.	How optimal the timetable is, is not captured in the measures currently suggested in the consultation. With significant industry support on improving the efficiency of freight paths on the network this should be a	Average speed (disaggregated by freight and passenger trains), with changes tracked on an annual basis. Amount of pathing time in schedules per 100 miles travelled. This is a key issue particularly for freight services. The stop-start nature of paths creates

NSO activity (as identified in consultation)	Comments	Possible measures
	key indicator to track.	inefficiencies and represents a safety issue, with freight trains encountering many more restrictive aspect signals than passenger services.

Q4: Do we need additional mechanisms regarding the NSO's capital budget, to ensure the NSO is properly incentivised to undertake capital expenditure?

It is important that the NSO has scope to be able to make investments in people and systems, recognising that optimising the timetable to get more out of the existing infrastructure will be substantially cheaper than investments in new infrastructure. There are a number of very sophisticated train planning systems being developed to support the deployment of Traffic Management across Network Rail's Rail Operating Centres (ROCS). Some of this technology could also support the NSO in making better decisions over the allocation of capacity.

To ensure that the NSO has appropriate tools at its disposal the NSO needs its own capital budget and we wouldn't want to see the NSO beholden to the Routes for this investment. The consultation provides a number of options for the protection of the NSO's capital budget, either through the creation of a RAB, or through enhanced change-control mechanisms for capital budget or through the creation of a memorandum account. Freightliner recognises that how the investments are booked is quite a technical area and would defer opinion on the specific mechanism.

We do though firmly support protecting the NSO's capital expenditure and ensuring that the NSO is adequately incentivised to undertake long-term investment in systems and people. It is important though that such investments are treated like other enhancements and have a clear set of outputs against them and an appropriate governance structure.

Currently operators have very little awareness of the NSO's capital investment plans. Given the need to integrate operators' own train planning systems with those of the NSO, and the benefits of working collaboratively in the bid/offer process, Freightliner would like greater involvement in this area. Such oversight could be provided through the proposed regular NSO engagement forum.

Q5: Should the NSO be subject to financial incentives so that its revenue varies to reflect the success of its performance?

Freightliner welcomes the confirmation within the consultation document that the ORR is not planning on setting direct charges on operators for NSO services.

In terms of financial incentives, we recognise that many of the NSO's costs are fixed – largely people and systems. As the NSO is not a particularly elastic business, exposing it to potential penalties (e.g. a share of Schedule 8 liabilities) could worsen outcomes and could risk over-incentivising performance.

Freightliner does see merit in exploring options for an upside-only scheme that incentivises better outcomes. This could be a share of the volume incentive in its current or future guise, or an incentive linked to recognising improvements in the allocation and identification of capacity or the quality of train paths in the timetable.

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Go-Ahead

Siobhán Carty
Office of Rail and Road
One Kemble Street
London
WC2B 4AN

10 January 2017

Dear Siobhán,

PR18 Consultation: Development of the regulatory settlement for the Network Rail national system operator in CP6

Thank you for the opportunity to respond to the ORR's PR18 consultation on the regulatory settlement for the National System Operator (NSO) in CP6.

Govia is one of the leading rail operators in the UK and is a joint venture between the Go-Ahead Group (65%) and Keolis (35%). Govia has extensive experience running complex and challenging rail operations. Govia currently runs three major rail franchises: Govia Thameslink Railway (GTR), Southeastern and London Midland. Govia is the UK's busiest rail operator, currently providing around 35% of all passenger journeys. As a key provider of rail services, we welcome the opportunity to respond to your consultation regarding the 2018 periodic review.

This response represents the views of the three Govia-owned Train Operating Companies as well as Go-Ahead Group plc. Go-Ahead has participated in the industry response prepared by RDG and this is intended to supplement that response.

Our responses to the specific consultation questions set out by the ORR are answered below:

Question 1: What are your views regarding our proposals on i) using, amongst other things, capability-based measures of the NSO's operational performance; and ii) the extent to which NSO operational performance measures should be disaggregated (e.g. to each route or operator)?

We support the use of capability measures for the NSO; which could perhaps be linked to the new CP6 performance metrics - especially around the delivery of Right Time, capacity and passenger delays. We believe Right Time is the most reflective of the efforts of the NSO to manage the timetable and would therefore be an appropriate measure. A potential metric to assess overall network journey times might also assist with reducing the risk of path degradation (and inefficient use of capacity) through the excessive application of additional pathing time.

We would strongly support a measure around maintaining staffing levels and ensuring that those staff are adequately trained such that they are fully competent in the roles they hold. The volume of staff turnover and the capability of the staff within the NSO function have been raised as significant issues repeatedly across the industry, it is important therefore that this is addressed.

Disaggregation is important to demonstrate that the NSO is acting in a consistent and even-handed way; we believe this disaggregation should be at least to route level.

Question 2: What role should the NSO's stakeholders play in informing the development of NSO operational measures performance and in holding the NSO to account over CP6?

The NSO must be held to account by a cross-industry group, including passenger operators (franchised and open access), freight operators and Network Rail Routes, however this does not necessarily need to be a new group as it could perhaps fit into the existing RDG framework.

The measures for the NSO should broadly reflect the outputs required for it; a stakeholder group could then further define and enhance the measures required for the NSO to meet its remit.

Question 3: What are your views on our initial ideas regarding the possible NSO measures, as set out in Table 2.1?

We would suggest that there needs be a measure of stakeholder satisfaction with the stated outputs of schemes. Often re-signalling schemes reduce capacity, for example the Cannon Street line speed on the Southeastern network. The quality of capacity studies should be measured as much improvement is needed in this area. With respect to Engineering Planning, the right balance of engineering access and performance needs to be addressed at Route level and not by the NSO which lacks knowledge of local conditions.

More industry measures around what the industry is seeking to achieve would be helpful. There should perhaps be a measure which identifies how the NSO has improved the amount of available capacity on the Network and how that has translated into performance. Similarly, there should be a measure of the total capacity of the Network against the plan, particularly around areas such as London, Manchester, Birmingham, Leeds, Edinburgh and Glasgow.

Nonetheless, it should be noted that there is a risk that introducing more specific measures such as capacity usage could be misleading when viewed in isolation, as the overall quality of the timetable offer may be sacrificed in order to release additional capacity.

Would there be an overall benefit to the rail network and its passengers, for instance, if an additional path is found on a route that has required a vast amount of additional pathing time added to a number of other services to flex them out of the way? For this reason, of the initial ideas suggested in Table 2.1 for ways to measure the NSO's operational performance, item 19 is the most valuable (overall operator satisfaction), as this would effectively cover a wider area of focus in terms of how the NSO is performing for its customers (covering LTP, STP, access planning, capacity utilisation, project outputs etc) and the overall quality of timetable offer.

Question 4: Do we need additional mechanisms regarding the NSO's capital budget, to ensure the NSO is properly incentivised to undertake capital expenditure?

The biggest challenge when it comes to determining the balance between 'used' and 'notional' capacity has always been an inability within the industry to accurately calculate what the 'true' capacity of the network actually is. This is due to a lack of adequate supporting technology and also some element of subjectivity. Historically this has led to some investment decisions on network enhancements (such as the ECML Joint Line upgrade) that could have been avoided through improved timetabling.

It was expected that Network Rail's Train Planning System (TPS) would solve this problem, however for a number of reasons it has not fulfilled the promised outputs intended. To support accurate (and justified) longer-term decisions on investment it is clear that the TPS therefore needs to be improved or replaced (it would also be beneficial for the industry to move to an integrated system), however producing a form of separate RAB is perhaps unlikely to encourage efficient investment as this is currently hampered by a lack of alternative systems available on the market.

Question 5: Should the NSO be subject to financial incentives so that its revenue varies to reflect the success of its performance?

Holding the NSO accountable for its element of Schedule 8 must be the right thing to do, as much from a Route point of view as well as an operator. Providing an income stream from the Capacity Charge however is perhaps a risk to achieving the right trade-offs between capacity and performance. The NSO needs to conduct this work in an impartial way and this may be compromised by providing an income stream from an action which may be detrimental to performance.

There is a wider risk, however, that may arise from allocating the NSO's revenue requirement as a discrete entity, in that its determination will inevitably be calculated with an overall assessment of efficiency. The risk that comes with managing to a budget in any organisation is that it will trigger a focus on managing the NSO to its efficient cost requirement, not necessarily to focus on the quality of its outputs.

With the Train Planning function this would not represent a sensible way forward – as previously noted one of the biggest challenges facing Network Rail's train planning function is the ability to train, develop and most importantly retain skilled train planning staff to improve the overall quality of outputs and the NSO's performance. This needs to involve a review and potentially some restructuring of the train planning organisation to present a more attractive career progression to junior planning staff, so that skilled planners are retained within the function rather than being naturally drawn towards other positions in Network Rail. This might (and arguably should) involve a review of the salary banding and rewards for planning staff to reflect the train planning role as a skilled, important position within Network Rail. It is therefore critically important that any financial determination for the NSO recognises that in the first instance its competency and the quality of its outputs needs to be improved.

Therefore, whilst we agree that in some circumstances penalties can act as an incentive for Network Rail, we would be concerned that this approach (with a drive towards a specific, efficient revenue budget) within the NSO could lead to an inadequate number of planners being in place in an industry which has already shown it does not have enough experienced planners. Further pressure being placed on teams to deliver could potentially lead to an increase in the level of mistakes. For these reasons, the NSO team should perhaps have an incentive only regime.

If you would like to discuss this response in further detail please contact Chantal Pagram, Head of Rail Policy (████████████████████).

Yours sincerely,

Charlie Hodgson
Managing Director, Rail Development

Network Rail's response to ORR's PR18 consultation on the development of the regulatory settlement for the Network Rail national system operator in CP6.

January 2017

This is Network Rail's response to ORR's consultation on the regulatory settlement for our evolving System Operator (SO) function – referred to in the consultation as the Network System Operator (NSO).

It is important to note that elements of the System Operator are still subject to review and evolution as part of our transformation plan and we welcome the recognition of the work that is being undertaken through the System Operator fit for the future (SOfff) programme in the consultation. We will, through various fora and bilateral discussions, be working with our customers, funders and the ORR to finalise the role of the System Operator and its future scorecard.

The System Operator will no doubt need to continue to review and adapt to business and industry change across the next control period. It is therefore important to recognise the need for flexibility in the regulatory arrangements for the System Operator, so that this emerging function can adapt to meet any changes in the requirements and stakeholders it will need to service in CP6.

Question 1: What are your views regarding our proposals on i) using, amongst other things, capability-based measures of the NSO's operational performance; and ii) the extent to which NSO operational performance measures should be disaggregated (e.g. to each route or operator)?

Network Rail recognises that the structured continuous improvement of System Operator capability is key to delivery for our customers in CP6. We are in the process of identifying the improvement programmes that will enable this continuous improvement and will discuss them with ORR during the coming months as part of the development of the Strategic Business Plan. It is likely that the most effective way to monitor the capability improvement of the System Operator is through the progression of these programmes and the milestones for their delivery that we expect to include in the System Operator Scorecard.

The appropriate level of disaggregation of operational performance measures will be entirely dependent on the measure in question. It is important to distinguish between measures that are best used to monitor the performance of the System Operator in its role of taking a holistic view of the network - and measures that could be more appropriate for research and analysis and could be used at a disaggregated level to facilitate a conversation about service delivery with a route or train operator.

The former would be included in Network Rail's System Operator scorecard and ORR could use this as the basis for monitoring the System Operator's performance. The latter may be used on an ad hoc basis, in studies, or in defined areas/topics allow for monitoring at a more local level and could be used separately

by our routes or customers through our day to day business with them to hold us to account. While the capability for the System Operator to interrogate information at a sub-national level is important, there is a danger that a standing requirement for the reporting of disaggregated measures could work against the network aspects of the System Operator's responsibilities. It is particularly important that any disaggregation should not disadvantage or exclude national/cross-route operators.

Question 2: What role should the NSO's stakeholders play in informing the development of NSO operational measures performance and in holding the NSO to account over CP6?

Emphasis should be on the System Operator's engagement with funders, Network Rail routes and train operators in the preparation of route business plans and scorecards, flexibly managing processes, identifying physical and operational options for increasing capacity, improving production of timetables and developing joint industry working and ownership.

Much of this activity is already delivered through a number of fora where our customers and stakeholders are consulted on the role of the System Operator and the delivery of its responsibilities. In our view, these fora can shape the development of measures to provide assurance that the SO role is being fulfilled effectively. Examples include:

- Cross-industry boards and working groups overseeing the long term planning process
- Consultations on capacity policies and timetable development
- Consultations on operational and emergency management processes e.g. Railway Operational Code framework
- RDG fora which represent all franchise owning groups including Planning Oversight Group (POG) and Contractual and Regulatory Reform Working Group (CRRWG)
- Cross-industry groups that plan major change e.g. Industry Planning Groups (ISGs) and Event Steering Groups (ESGs)
- Industry bodies dealing with capacity issues including Class Representative Committee (CRC) and Access Disputes Committee (ADC)
- Route boards where passenger interests will be more clearly represented in future.

As these examples indicate, the System Operator has a wide range of stakeholders and customers who are appropriately consulted at different times through the operational cycle of the system operator's planning and capacity allocation activities. We will engage with our customers in spring 2017 through these existing fora to consult them on the measures that we are proposing and would also use these fora for our customers to hold us to account over CP6.

To ensure that all relevant stakeholders are able to provide appropriate input to this process we are considering how an additional consultation event in spring 2017 could add value to this process.

Given this level of engagement around the establishment of the System Operator and its scorecard and with the extensive range of ongoing industry, funder, customer and stakeholder interactions (not least through the long-term planning processes and capacity allocation) Network Rail considers that the creation of any additional forum for the sole purpose of enabling stakeholders to hold the System Operator to account in CP6 would be superfluous and likely ineffective given the large numbers of stakeholders involved overall.

Question 3: What are your views on our initial ideas regarding the possible NSO measures, as set out in Table 2.1?

Through the SOfff programme and the development of the Strategic Business Plan, the System Operator is working with its customers to identify the areas that are most important to them for CP6 and how measurement of delivery in this area can best be achieved. We look forward to continuing our engagement with ORR throughout this process to develop the scorecard used by Network Rail to measure the System Operator delivery, aspects of which can be used by ORR in order for them to discharge their regulatory duties.

In consideration of the proposed measures in Table 2.1 of the consultation we would therefore be keen to focus our future discussions with the ORR on the detail of measures related to the following suggested areas:
- Safety, Sustainability and People
- Train performance (the elements of which are influenced by System Operator activities only)
- Financial performance
- Programme and project milestones (to include, but not necessarily be limited to, capacity planning activities, long term planning activities, early stage development activities, capability improvement activities)
- Sub-national transport body engagement
- Franchise engagement
- Delivery to customers

The timing of such discussions needs to take into account our commitment to develop these measures in consultation with our customers but we would welcome further discussions with ORR on this subject.

It is important to note that the System Operator is not accountable for the following areas raised in the table and which therefore should not be included in the System Operator scorecard:

- Delivery of enhancements against delivery milestones
- Publication of analysis of key aspects of performance (e.g. poorly performing routes/services, performance at key interfaces)
- Provision of services to the routes regarding national performance issues and how to optimise these

While we support outcome based measures where possible and practical, in a number of areas it is likely that the most effective measures will be through the monitoring of milestones of programmes of work – for example, capability improvement programmes, early stage development of projects, participation in preparations for the franchise process.

There is limited recognition of the System Operator's primary role of managing the network in a holistic manner – this is the key benefit of a network System Operator and the capability to balance outcomes and trade between the outcomes of different measures in order to optimise the use of the network will be further explored.

Customer satisfaction is a powerful measure of System Operator delivery that will be most effective if used in a targeted manner. It is likely that frequently surveying customer satisfaction on a wide range of different areas will lead to the same contacts within customer organisations being asked similar questions on what may be intended to be a range of different issues – but which in effect may become generalised scores for what are likely to be closely related areas of activity. Network Rail will consider, with its customers, the areas of activity that would best benefit from a customer satisfaction metric as well as the frequency and the appropriate target audience order to obtain meaningful data.

There is an assumption that the overarching purpose of the System Operator is to deliver an increasing number of train paths on the infrastructure and that the use of a quantitative metric to describe the capacity uptake of the system is the best way to measure this. Against an adjustable and balancing set of measures this may be appropriate, however there are limitations to such an approach including the fact that service design may be driven by franchising authorities and limit the ability for the System Operator to generate efficient, performance neutral (or positive) additional train paths. In addition, new paths may be lower priority for some customers when compared to network performance, certainty of service patterns, or average velocities. Any measures which focus on this area need to recognise the limitations of this single measure and need to be adjustable otherwise a regulatory approach may drive perverse, or non-customer focused behaviours to purely maximise capacity uptake.

Given the importance of the System Operator's interaction with system operation activities performed by project funders, franchising authorities, and the ORR in its access rights activities, there may be potential for the development of some measures that indicate the level of engagement and interaction between the System Operator and other system operation bodies. While such measures may not suitable for the regulation of the System Operator (given that any engagement is dependent on third parties), they could provide important context in terms of the framework within which the System Operator is working. These could potentially be monitored through the existing System Operator Dashboard. Such areas of reporting could include the degree to which the System Operator is engaged in the franchising process and its advice used by the awarding authorities, its role in supporting funder's infrastructure investment decisions, or advising on capacity matters to the ORR.

There are more detailed comments on Table 2.1 in Annex A

Question 4: Do we need additional mechanisms regarding the NSO's capital budget, to ensure the NSO is properly incentivised to undertake capital expenditure?

Network Rail welcomes the decision by the ORR not to introduce external charges for Network Rail's customers. Additional governance should not be necessary and risks creating additional bureaucracy. We also agree with setting a separate settlement specifically for the System Operator (sitting alongside the settlement for the routes as part of Network Rail's wider determination) and our view is that this settlement should also provide Network Rail with the flexibility to evolve the System Operator's responsibilities and resources during CP6.

We would expect to develop a capex budget and monitor delivery of milestones. We would measure financial performance through a financial performance measure which we would expect to be included on the System Operator scorecard and which could be used in management incentives.

We are currently considering the value that a RAB would add to the management of capex within the System Operator function and we would also welcome further discussion with ORR to investigate how a System Operator RAB would work in practice to determine fully the benefits and disbenefits of such an approach.

Question 5: Should the NSO be subject to financial incentives so that its revenue varies to reflect the success of its performance?

We would expect the System Operator scorecard to include some measure of financial performance which will provide an appropriate incentive in this area. We consider that there is sufficient change over the next few years in the development of the System Operator function, the development of the scorecard and any changes to the financial reporting or framework regime without introducing an additional level of complexity through revenue incentives. Indeed, many of the suggested incentives are only in part influenced by the System Operator and are subject to other operational activities. There is risk of driving perverse behaviours and of unintended consequences of implementing an incentive regime against an evolving function and set of metrics.

We believe that it would be most effective to embed any new measures and consider during CP6 whether further financial incentives could help improve System Operator's performance.

We look forward to continuing the discussion on the ongoing development of the System Operator regulatory framework over the next few months and trust that the above provides a useful contribution.

Annex A

Detailed comments on ORR's PR18 consultation on the development of the regulatory settlement for the Network Rail System Operator in CP6.

We hope that the comments set out in the table, below, will be helpful in continuing the discussion on the ongoing development of the System Operator regulatory framework. In the most part they are limited to factual accuracy, positioning and where we think further clarity would be helpful. Please let us know if you would like to discuss any of them further.

Reference	Comment
p.3 para 7	Post devolution, the access planning example provided is a route accountability. Broadly there is a void to fill / structure to provide surrounding our approach to managing access planning and the role of SO.
p.7 para 1.7	We welcome the comments, particularly from DfT and FTA which reinforce that the SO role works well with increased devolution.
p.8 para 1.8	We welcome that the starting point for this settlement is similar to that for the routes' settlement; welcome a transparent approach and ORR support for longer term investment in processes and technology.
p.9-11 para 1.11	We recognise the description of our long term planning role but not the inclusion of performance analysis in medium term functions in list of short term incidents.
p.9-11 para 1.11	'Scheduling access to undertake engineering work' is listed as a medium-term SO activity – how does this fit with devolution of Access Planning? (see also earlier point)
p.9-11 para 1.11	Production of Capacity Studies is recognised, but note no reference to Performance Analysis – what capabilities and accountabilities are expected here?
p.9-11 para 1.11	Definition of the operational timetable brings publication to Day A for Day B – should this be an area for consideration?
p.10 footnote 5	The applicable timetable has to be *agreed*, not necessarily be 'in place', by 22.00hrs the night before operation.
p.12 Figure 1.1	'Manage performance analysis (e.g. route cause analysis of delays' – we believe this should be 'root' rather than route and should refer to NSO caused delays only, not analysis of wider root causes?
p.12 Figure 1.1	Scheduling of engineering access is a route accountability following imminent transfer of Engineering Access Planning team. We recognise that this is a system operation role, but not an NSO role.

p.13 Box 1.2	The description of SOfff is an edited version of what we are doing, not including all of the sub-projects e.g. improvements in route based planning.
p.20-22 Table 2.1	Points 5&6 - If one of the objectives is to improve the way the network operates as a whole, we need a way of measuring that. For example, we would argue that it is essential we integrate HS2 with the conventional network and offer a seamless journey for passengers, but these measures don't appear to pick that up and there doesn't appear to be reference in the document to developing such a measure.
p.20-22 Table 2.1	Point 5 – we agree that this would be worth investigating but caution is needed surrounding integration of enhancements into network capacity. This should be articulated along the same lines as the trade-offs narrative and informed by a baseline.
p.20-22 Table 2.1	Point 7 - we are unsure how this could be assessed / or what it is referring to, is this capacity studies in Production for STP?
p.20-22 Table 2.1	Point 8 - this task has not been sized or scoped and there would be large resource implications for calculating 'notional capacity' for the whole network and would possibly require detailed of technical debate about exactly how we measure it. Further discussion would be welcome on whether this is an improvement in the TPRs or an improvement in accuracy of the TPR values, and the compliance of the timetable to that definition?
p.20-22 Table 2.1	Point e – we would consider that the management of TPR outcome based measures are not relevant to TPRs.
p.20-22 Table 2.1	Point 10 - Timeliness and quality of advice would be dependent on amount of warning / amount of other advice being sought at the same time.
p.20-22 Table 2.1	Point g - Possible capability / progress based measure; Delivery of *relevant* milestones, not specific to CPIP.
p.20-22 Table 2.1	Point 12 - Publication of analysis may be a system operation responsibility, but we do not believe that it is a SO responsibility.
p.20-22 Table 2.1	Point 13 - this task has not been sized or scoped and there would be large resource implications for calculating 'notional capacity' for the whole network and would possibly require detailed of technical debate about exactly how we measure it.
p.20-22 Table 2.1	Point 16 – We would question whether 'level of complaints' equates to level of adherence. We do recognise that there is inconsistent adoption of Access Frameworks within the devolved routes, and any measure must use the as-is as a baseline.
p.20-22 Table 2.1	Point 19 - There is a need to recognise that an effective SO may not always be a popular SO, and this will have to be taken into consideration when understanding the relevance of a satisfaction measure.

p.23 para 3.2 bullet 2	When considering the need to invest in SO capability there is also a need to recognise the importance of investing in whole industry capability, including systems, data and people competencies.
p.24 para 3.7	We believe there is also a need to recognise IT and data management and assurance costs as being critical SO operating costs
p.27 para 3.13	As per our work in this area, the relationships between delay and planning in terms of gain share should be avoided due to DPI growth and the exposure created from non-SO (or NR) activity. We would also welcome discussion around whether the SO could also earn additional revenue by the introduction of a 'fair use policy' such that the track access charges provide an included level of capacity planning services, but re-work or additional services resulting from an operator triggered demand may result in cost recovery from the NSO.
p.27 para 3.16	This value would presumably be settled each CP so that the amount of funds available were appropriate for the amount of work we'd need to do?

Rail Delivery Group

Response to ORR's Consultation on development of the regulatory settlement for the Network Rail national system operator in CP6

Date: 11th January 2017

Rail Delivery Group response to ORR's Consultation on development of the regulatory settlement for the Network Rail national system operator in CP6

Organisation: Rail Delivery Group

Address: 200 Aldersgate Street, London EC1A 4HD

Business representative organisation

Introduction: The Rail Delivery Group (RDG) was established in May 2011. It brings together Network Rail and passenger and freight train operating companies to lead and enable improvements in the railway. The purpose of the RDG is to enable Network Rail and passenger and freight train operating companies to succeed by delivering better services for their customers. Ultimately this benefits taxpayers and the economy. We aim to meet the needs of:

- Our Members, by enabling them to deliver better outcomes for customers and the country;

- Government and regulators, by developing strategy, informing policy and confronting difficult decisions on choices, and

- Rail and non-rail users, by improving customer experience and building public trust

For enquiries regarding this consultation response, please contact Garry White.

Elizabeth de Jong

Director of Policy, Rail Delivery Group

1.1 Overview

This paper sets out industry responses, collated by the RDG, to the questions posed in the Office of Rail and Road's (ORR) consultation on the development of the regulatory settlement for the Network Rail national system operator in Control Period 6 (CP6).

Previously, in our response of August 25, 2016 to the ORR's Working Papers 2 & 3, the RDG provided its broad views on both System Operation as a whole and on the System Operator activity within Network Rail. On November 17 the ORR set out its conclusions around the key issues, opportunities and future challenges from that process and indicated where it intend to focus the development of the regulatory framework for the national system operator (NSO) business unit within Network Rail.

Industry engagement and discussion with the ORR on the subject of System Operator Regulation has continued through the industry working group that the RDG established as part of its coordinated input into PR18.

To date there have been a total of seven RDG 'Better SO Regulation Working Group' meetings – each of which has been attended by the ORR. As we have previously stated, the RDG values this engagement, believing it to have been of value in the development of the ORR's approach to the subject matter under discussion.

This response provides a high-level industry view on the questions raised, but also comments on broader issues explored by the working group, and includes views both where there is industry agreement and, in places, where there is no settled view on the consultation's questions.

In parallel to this response, reference should also be made to relevant commentary related to System Operator elements of the RDG's Periodic Review 2018 (PR18) work streams on output reporting and route based regulation.

Finally, while we recognise the progression reflected in the ORR's consultation on System Operation towards focusing the PR18 discussion on the NSO function in Network Rail, a number of members wish to draw attention to similarities in respect of NSO and Technical Authority (TA) activities performed at a national level. TA activities may be undertaken either independently or in support of NSO work including long-term planning activity and developing technical limits on capacity and capability of the network. Where activities have a bearing on the outputs that the system can deliver - as well as the costs incurred in delivering those outputs – arguments can be made for both a similar approach to the NSO regulation in CP6 - or ensuring a clear line of sight through Route and NSO regulation to these activities.

We confirm that we are content for this response to be published on the ORR website.

1.2 Chapter 1 Comments

1.2.1 "The current approach to regulating and monitoring the NSO"

As we previously indicated in our consultation responses on System Operation and the SO activity undertaken by Network Rail, the RDG recognises the changing environment and associated changes in approach needed to NSO regulation in this area. We have welcomed the mapping out of the various aspects of NSO activity regulation and monitoring and agree that the accountability of NSO activity within Network Rail (along with SO activity undertaken elsewhere) needs to be clearer.

The relatively low industry expenditure on NSO highlighted in this section is a reminder that any final approach should be proportionate in terms of cost and regulatory burden on industry and funders. It should therefore focus on 'how' the NSO carries out its work without imposing significant regulatory reporting activity. To achieve this, the alignment of key regulatory measures with the NSO's Scorecard would be sensible way forward.   The regulatory framework might otherwise result in the NSO placing more importance on regulatory reporting over effective and efficient engagement with routes and customers (operators).

1.2.2 "Our decision to have a separate NSO settlement"

The NSO has a clear responsibility to ensure that the network is planned and capacity managed as a single inter-related system that is fairly optimised and sustained for the benefit of all. The RDG welcomes the decision confirmed in this section that the ORR intends to set a separate settlement for the NSO which will sit alongside the settlement for the routes as part of Network Rail's wider determination; historically elements of System Operation have been relatively hidden within the industry and a separate settlement will place these in a more prominent perspective and help drive improvements.

While the settlement for the NSO should closely mirror that of the routes, we recognise that the NSO is not an "additional route" so will have different measures and indicators of success to routes (e.g. no measures of national performance).

As Network Rail's transformation programme continues to drive forward devolution we agree that the role of the NSO has and will become increasingly distinct - and necessary to support routes, train operators and the network as a whole.

Consistent treatment with the routes as a starting point – including customer engagement in the development of Scorecards - is a welcome principle as are the goals of improving transparency, sharpening incentives and supporting longer term investment.

On the question of supporting longer term investment, we agree that the NSO has a key role in identifying investment options, but question whether it should be held solely to account if infrastructure capacity is not subsequently used as intended or if industry demand at the point of allocation does not allow the full realisation of intended use. This recognises that decisions will be influenced by other bodies, or factors outside the control of the NSO.

It is assumed that the NSO settlement(s) will cover both the England and Wales, and Scotland.

1.2.3 "The System operator activities for inclusion in the NSO settlement"

We generally agree with the long, medium and short-near term NSO activities which do themselves relate to Network Rail's Network Strategy and Capacity Planning function. We note that Network Rail's 'SO: Fit for the Future' programme is proceeding with the company's review of the way that its business is structured and resourced for the delivery of system operation activities and to set out its vision for the NSO going forward.

Network Rail has presented an overview of this programme to the RDG SO working group and intends to continue to engage with us during 2017 as it develops the NSO's Scorecard and completes its work on the development of a strategic plan. The RDG group welcomes this engagement and members have highlighted the importance of being involved in the development of the NSO performance measures. Members recognise that the regulatory framework may need to evolve to incorporate the changes that emerge from this work.

Additional clarity in this area should also be used to clearly demarcate the NSO's responsibilities and authority vis-a-vis the routes and the extent to which choice and discretion in areas of NSO responsibility are delegated to, or held by routes.

The NSO itself should seek to evolve recommended projects for change to the network and driving forward the evolution and cooperation in related areas of capacity development (including through influencing other system operational decision making bodies). It is welcome that this process of developing recommendations should be industry led via the NSO's planning activities (including planning for route asset management and access planning) the involvement of which provides operators, and stakeholders with a clear line of engagement in capacity studies and network development, irrespective of whether that engagement is route-led or not.

Therefore, the regulatory framework, while moving towards a distinct settlement for the NSO activities is welcome, its organisation and funding need to be future proof and flexible - and the regulatory settlement accommodating of this.

1.3 Chapter 2 Comments and question responses

Q1 What are your views regarding our proposals on i) using, amongst other things, capability-based measures of the NSO's operational performance; and ii) the extent to which NSO operational performance measures should be disaggregated (e.g. to each route or operator)?

RDG members believe that measures being developed should as far as possible align with the network / system level responsibilities of the NSO and focus on reporting outcomes at this level. Where it is appropriate to disaggregate information the frequency, level, and form of disaggregation should be on a case-by-case basis and judiciously used.

We welcome the ORR's support of the role of the scorecard in providing the SO (and Network Rail generally) "with a single, coherent business tool which will also support regulatory reporting and monitoring." In so far as possible we believe that effort should be made to avoid generating separate measures relating to NSO's operational performance (including possible regulated outputs) and separate reporting on costs and revenue.

While the NSO should be able to seek additional revenue from the provision of commercial services, we would anticipate the overall shape of the core costs of the NSO activities to be relatively inelastic – reducing the potential for revenue based incentives as we discuss later.

At this stage in the evolution of the NSO, outcomes and outputs may still in a number of areas be immature or under development. It would therefore seem prudent to use capability measures in a number of areas.

In some areas it may be possible to provide an indication of the benefits realised as programmes are delivered which could assist in provision of information to judge the performance of the NSO.

We note that some system outcomes are already reported in Network Rail's Annual Return and while unsuitable for NSO measurement, the System Operator Dashboard includes measures of multi-party System Operation with market splits that may be suitable for more detailed commentary.

Some Members were disappointed that the previous Dashboard did not consider the measures that were important to their businesses and also expressed concern that some of the measures proposed appeared to be outside of the control of the NSO. Members suggested that this highlighted the need for on-going engagement with stakeholders to develop suitable operational measures of NSO performance.

Similarly, the TRL work that has been discussed, while understood to not be suitable for specific NSO regulation, may provide some potential ideas for indicators of a pan-system nature that could be used in non-regulatory reporting – particularly when looking at defined sections (e.g. key sections of lines).

In the development of measures it is important that a range of activities are covered from long-term activities through to measures that have a relationship with the day-to-day railway – albeit at system level. The nature of these activities will drive their reporting patterns.

At a sub-national/ non-regulatory level it may be possible that key data could be available that would enable customers to interrogate the NSO's performance – but we would be concerned if overly localised attempts to report outcomes were to become inconsistent with the overall NSO's purpose. The degree to which any measures can, or should, be disaggregated depends on the data in question, its use, and the extent to which any disaggregation takes a focus away from the NSO's primary objective of taking decisions on a whole-network basis. The NSO needs be not just able, but supported in managing competing priorities and exercising judgement calls to balance the competing needs on the network.

It is important that interactions with different customer groups can be understood and the effect of trade-offs made by the NSO during the course of its work are transparent.

Reporting may provide an opportunity to monitor the relationship between Customers, DfT, Transport Scotland, other funders and the routes – including some areas of System Operation between system bodies – such as the NSO's contribution to the franchising process and the flexibility provided for SO in capacity allocation.

While there are aspirations for developing measures of capacity use by the NSO, we welcome the recognition in the consultation of the underdeveloped nature of such metrics – and the noting that: "A metric of Capacity in Use and Notional Capacity, whereby changes in the ratio between the two metrics over time could highlight improvements in timetabling. This is discussed in the corresponding TRL report; a significant amount of work would be needed to 'scale' this metric into measures that work at a network-wide level."

That being said some members were supportive of further investigation of the train metres per hour metric that TRL suggested in their report. Continued investigation could send positive signals in areas such as train lengthening and suggest appropriate balance to compensate for freight train's different speeds and characteristics.

If the TRL work were to be pursued we believe it would be in best undertaken as explicit decision support tools in support of the NSO's ability to investigate and challenge current usage of capacity, but that it should not be used to report in a systematic way as measures of outcome.

Q2: What role should the NSO's stakeholders play in informing the development of NSO operational measures performance and in holding the NSO to account over CP6?

Emphasis should be on the NSO's engagement with funders, NR routes and train operators in the preparation of Route Strategic Business Plans and Scorecards, flexibly managing processes, identifying physical and operational options for increasing capacity, improving production of timetables and developing joint industry working and ownership.

Operators have noted in our discussions that they would seek to look after commercial interests primarily in their bilateral relationships with the NSO. There are also a range of multi-lateral relationships in place between stakeholders and the NSO through processes and activities that take place as part of the planning and capacity allocation processes.

The list below shows a number of these relationships, and many of them are important to enable the NSO to have appropriate means to engage with stakeholders in a manner that reinforces the NSO need to discharge its licence and determination obligations impartially.

Existing arrangements include:
- Long Term Planning Process activities which include opportunities for a wide spectrum of stakeholders and transport bodies including;
  - Route Studies
  - Market Studies
  - Network Strategies
- Consultations on capacity policies and timetable development
- The Capacity allocation process
- Railway Operational Code and emergency management planning and consultations
- RDG forums which represent all franchise owning groups including;
  - Planning Oversight Group (POG)
  - Contractual and Regulatory Reform Working Group
- Industry Forums which will encompass all affected timetable participants including:
  - Industry Steering Groups,
  - Event Steering Groups.
  - Route Investment Review Groups
- Industry bodies dealing with capacity issues including
  - Class Representatives Committee
  - Access Disputes Committee
- Established industry forums for Passenger and Freight Operators, and
- Route boards where customer interests will be more clearly represented in future.

Members are concerned that any additional meeting architecture should be complementary to both bilateral relationships and existing industry forums, and avoid adding unwarranted levels of bureaucracy and risk diffusing management controls.

Members have commented on the importance of having high-level strategic discussions of NSO performance and opportunities to improve outcomes. They have noted that despite the existence of current forums none, other the working group itself, currently discuss the outputs of the NSO.

The SO working group has recognised that there may be a role for an existing RDG group to include periodic discussion of matters pertaining to the NSO and seek the benefits of customers coordinating their interactions with the NSO (e.g. for Scorecard discussions) where the NSO will have one scorecard (not one for each customer).

Existing RDG groups (such as POG) or a new RDG group if established in a way that avoids cutting across the 1:1 relationships that the NSO has with its customers may be able to support regular strategic NSO discussions or review performance at an industry level. There may be opportunities to address any omissions in industry dialogue through the current POG review of aspects of its own structure and consider how best to enable regular strategic NSO discussions or review performance.

Network Rail has committed to discussing the development of the NSO Scorecard with industry members. It is expected that the development of the NSO Scorecard will be in line with the approach adopted within Routes with a strong customer engagement in setting Scorecards.

In any event, the NSO however should not formally report to such a group. In terms of the governance of the NSO itself, in our discussions a number of RDG members were clear that this has to be Network Rail's own governance.

It has been noted that the SO does need to have in place channels of communication at System level to discuss with other system operation and key stakeholders how they can better support the NSO in achieving its goals. Here, again, bilateral or other regular forums for discussion may be suffceint..

Given the above, not all RDG members are convinced of the need for new bodies to act as forums for the NSO's stakeholders to specifically engage in any form of governance or reporting, while others recognise a need for stakeholder discussion to be supported either by existing or new forums.

The scorecard is expected to include measures of customer satisfaction in respect of its work; this needs to be an overall assessment since it recognised that the decisions the NSO takes will not always result in universal approval.

Q3: *What are your views on our initial ideas regarding the possible NSO measures, as set out in Table 2.1?*

Members have discussed initial reactions to the possible measures set out in table 2.1 and the responses expressed in discussion with the ORR and each other can be seen in the summarising notes of that discussion (as published on ORR's website). Reviewing this discussion therefore provides insight into the views of the participating RDG members and largely addresses the areas covered. The RDG SO Group is willing to address any specific areas that may require more developed feedback, as appropriate.

Members have noted that there is relatively little suggested in table 2.1 on optimisation or specific improvements to the quality of process or outputs. A number of suggested measures such as 'Lead the long term planning process (LTPP)' are process-driven activities where the success of outputs in themselves are difficult to measure but products could have clearly defined objectives milestones against which delivery could be assessed. The evolution of industry planning processes in the future would need to be able to be accommodated by the regulation of the NSO as arrangements evolve towards a pipeline-based approach to industry planning. The outcome-based approach does not necessarily support quantitative measurement.

Members would look to see a higher profile given to overall quality of outcome in the suggested measures. Emphasis should be made in considering the suite of proposed measures that good system operation outcomes require holistic thinking of the outcomes measured rather than a line-by-line assessment. Overly focussing on any one specific measure may drive sub-optimal use of the network as a whole.

We believe this means it is important to focus on the quality of the NRSO's output (e.g. through a performance measurement that considers planning delays which will pick up any deficiencies in the Timetable Planning Rules (TPR)) – meaning a regulatory target specifically on data or TPRs is not needed). The measures developed should be based around Network Rail's NSO's business scorecard which would also be the basis for reporting the NSO's performance.

Overall, members welcome the emphasis given to the use of customer satisfaction in the assessment of NSO activity – as they do with the development of route Scorecards. Though will need to be given to the fact that in balancing competing needs, some customers are likely to be dissatisfied with capacity allocation decisions at different times. Therefore, while important that this be built into Network Rail's final NSO scorecard caution should be exercised in the extent to which it is attempted to disaggregate these assessments into satisfaction with a variety of different processes.

Capability measures and process improvements such as Timetable Planning Rules could be best captured through relative developments than absolute measures. This should be achieved through reporting of milestones on the delivery of programmes established in the NSO business plan to support processes of continuous improvement and project delivery – rather than inventing new, subjective or theoretical metrics around capacity and capability.

Given that the NSO has a key role coordinating with all parties undertaking SO activity (particularly funders, franchising authorities and the ORR) members consider that there would be merit in exploring the development of measures that indicate both the outward engagement and incoming response (for information) across these key interfaces.

In respect of the NSO's role in allocating capacity on the network members have highlighted the importance of providing a balancing measure in this area that incentivises Network Rail to better trade-off performance and cost with capacity. The lack of a balancing indicator has consistently been recognised as being an issue and the regulation of the NSO represents an opportunity to construct a more appropriately balanced scorecard to address this.

This should encourage communications in support of planning of the network – e.g. long-term planning provides opportunities to develop capacity through a range of options for various public and private funders' interventions, and the alignment of franchise requirements with route plans.

Members are keen that scorecard measures the areas important for their businesses. In this context members have suggested considering the efficiency of train paths by tracking average speed, as well as the role that the NSO has in supporting operators to develop new business.

1.4 Chapter 3 comments and question responses

Q4: Do we need additional mechanisms regarding the NSO's capital budget, to ensure the NSO is properly incentivised to undertake capital expenditure?

In respect of the three approaches (RAB, change control, memorandum account) put forward by ORR, there is not a clear consensus from members around which (if any) of these approaches is preferable, however we feel it is more important that the ORR takes into account the following comments.

Investing in NSO people and systems (whether opex or capex) is important and RDG members recognise the need to provide an environment that does not penalise this investment, recognising that there may be wider, cash-constrained circumstances.

The NSO should not be beholden to the routes and resources need to be in place to provide for those systems that need to be kept and developed centrally. The fact that there will be transparency on the NSO capex, both in its Strategic Business Plan (SBP) and in its reporting of actual spend, will provide far more incentive for SO spend than exists currently, and the fact that stakeholders will be involved in the development of the SBP for the NSO and ongoing planning activity, will similarly help hold the NSO to account in making necessary investments in systems etc. Elsewhere, some members have expressed the view that since the SO has few assets so no capex is required.

Generally, members believe that it would be better to let the NSO become fully established initially, including how it engages with Routes and stakeholders, before any more complex regulatory arrangements are put in place, to avoid distracting management focus.

Related to this, in response to the ORR's summer consultations, the industry commented that the NSO should be well funded to allow for expected increases in workload and permit pro-active work such as timetable re-casts. Support for this was based on an expectation of the potential returns from broader research rather than just considering very costly engineering schemes. The regulatory settlement for the NSO should reflect this.

Additional governance should not be necessary and risks creating additional bureaucracy. The settlement should also provide Network Rail with the flexibility to evolve the SO's responsibilities and resources during CP6 and allow for continuous review and rebalancing of resources as the organisation develops, with industry consultation.

Q5: Should the NSO be subject to financial incentives so that its revenue varies to reflect the success of its performance?

We welcome the confirmation that the ORR does not intend to set direct charges on operators for NSO services. Having already taken a decision not to apply a charging framework, RDG members would also suggest that the ORR need not develop incentives aimed at varying the NSO's revenue.

Equally, we do not believe that incentive based variances are suitable given the level of fixed costs.

In our discussions with the ORR it was also commonly agreed that given the nature of the NSO activities, it may be difficult to have outcome-based measures in all areas that capture the effectiveness of the NSO's operational performance. Indeed, we recognise that many of the suggested incentives are only in part influenced by the NSO and are subject to other operational activities.

Some members highlighted that given the inelasticity of the business, it would not be advisable to expose the NSO to financial risks, however there could be merit in exploring an up-side only financial incentive scheme. There may be some commercial opportunities for the NSO to develop its service offering for customers and potential applicants which could provide opportunities to grow income. However, we would stress that "core" services should not be charged for and should be "free at the point of use", otherwise there is a slight risk that a lack of clarity as to what is already funded could lead to requests for payment for "core" services.

There will be a range of services that the NSO could, and in some cases such as the national timetable should, provide to other infrastructures in order to retain the benefits of an integrated network – some of which could similarly be addressed in the settlement, and others would be for direct charging.

Incentives

Given the relative immaturity of the NSO, RDG members see limited opportunity for the use of incentives in regulation of the NSO in CP6 – and would not wish to see NSO revenue linked to metrics (many of which are still under development). Pursuing this approach could put investment at risk - and the benefits of an upside only scheme are unclear.

In contrast, members see the advent of a separate settlement as providing opportunities for efficiencies, with savings reinvested into improving NSO activities.

Many of the potential mechanisms identified in discussion (such as metrics linked with Schedules 4 and 8) rely on delivery at operational level such as Route performance and therefore fall outside the sole control of the NSO. The appropriateness of such mechanisms is therefore questionable, except to provide illustrations of trends, and could lead to the adoption of adverse behaviours.

On balance, members considered that certainty on budget at this stage in the development of the NSO should be the principal consideration - above the potential for revenue based incentives.

We trust that the above provides a useful contribution to the ongoing development of the NSO regulatory framework and we look forward to discussing further with you in the ongoing RDG – ORR discussions in the PR18 SO Working Group.

PR18 Consultation – Development of the regulatory settlement for the Network Rail national system operator in CP6

Response from Rail Freight Group

January 2017

1. Rail Freight Group (RFG) is pleased to respond to the ORR's consultation on draft guidance on Network Rail's Strategic Business Plans (SBPs). No part of this response is confidential.

2. RFG is the representative body for rail freight in the UK. We have around 120 corporate members who are active across the rail freight sector, including train operators, end customers, ports, terminal operators and developers, rolling stock companies and support services. Our aim is to increase the volume of goods moved by rail.

General Comments

3. RFG supports the development of a strong NSO function at Network Rail, with appropriate regulation to support its delivery for customers. Overall, we broadly agree with the approach outlined in the consultation.

4. Some functions of the NSO are, and have always been, central to the operation of the railways. However, the establishment of a specific function brings greater transparency and focus which is welcome. As such, we recognise that the necessary work programme, and hence regulation, is likely to evolve over time. We consider that the appropriate measures for CP6 are likely to reflect the initial establishment of NSO and may need to be reviewed in future.

5. The functions of NSO are critical to the successful operation of freight on the network, recognising its cross route nature, and the more variable basis of customer demand. The regular day to day processes for freight timetabling are better than some years ago, and operational performance on the network is strong. However there are acknowledged issues, including slow progress on identifying and managing strategic capacity, and the quality of freight paths which leads to inefficiency. There is also a lack of information, for example on the capability of the network to accommodate longer trains.

6. To some extent, the ability to resolve such issues may be hampered by a lack of data and of technology, and an over reliance on manual work within NSO functions. Compared to (say) approaches to e-commerce deliveries and other elements of logistics planning, the process deployed may well offer opportunities for modernisation. We therefore agree with the debate in the consultation around incentivising improvements.

7. As with our response on SBP's, we remain concerned to understand the overall governance structure between the separately regulated parts of Network Rail. In the case of NSO for example, it is unclear what authority they will have over the planning of engineering access on a co-ordinated basis, which is critical for

freight. Areas like this should be clarified, and the respective roles of FNPO and NSO defined.

8. The consultation also suggests that NSO will play a role in enhancement projects, as a client. The details of this need to be established with regards to understand the respecting roles of NSO, FNPO and geographic routes.

Specific Questions

Q1/Q2/Q3 – Measures

9. We agree that the NSO should have some capability based measures particularly in the early stages of its formal establishment. Any such measures should encourage the NSO to develop how it undertakes its functions to promote productivity.

10. Any output based measures should include both the capacity of the network, and the quality of that capacity for users.

11. Any outputs should be sufficiently disaggregated that the impact on freight can be established. This could be through alignment with FNPO, or some other approach. Disaggregation by geographic route could be helpful where NSO activities are delivered by the routes.

12. The approach to stakeholder consultation should also be aligned with that for the other routes. As set out in our response on SBP, there is a need to clarify the overall governance structure, and understand how best freight should be consulted by each part. Freight operators will have a particular interest in ensuring that NSO delivers for their needs, and some customers are also keen to ensure that it can provide specific outputs for their traffic.

13. It is important that the NSO's stakeholders can influence the operational measures of the NSO. The scorecard needs to consider the areas of the NSO's scope that are important for rail freight, particularly how the NSO supports new business, improves the efficiency of paths, identifies capacity on the network and implements a robust strategic capacity process.

14. Measures which have been previously suggested by freight operators include those on the table below. We note there is broad alignment with the measures in Table 2.1, with the exception of measures to improve the efficiency of freight paths which should be included.

Measures	Possible metrics
Capacity allocation and identification	- Train slots offered to satisfy customer requirements - Root and branch timetable analysis - Programme of strategic capacity development

Measures	Possible metrics
Timetable optimisation	• Average freight train speed (10% increase?) and / or other measures of freight efficiency • Root and branch timetable analysis (as above)
Customer satisfaction	• Helping operators to deliver – measured by customer survey
Performance	• Delay minutes caused by planning errors per 100 miles
Adherence to milestones	• LTPP programme • Timetable production • Access planning

15. Ongoing high-level engagement with the NSO will be necessary in CP6 to review the performance of the NSO, oversee its capital investment plans and discuss how stakeholders can support better outcomes. There is not currently a high-level industry forum that considers these issues, particularly in relation to the train planning function of the NSO.

Q4/Q5 – Financial Framework

16. We agree that NSO must be sufficiently funded for its day to day activities and also for necessary developments. This is likely to include capital expenditure. However, we also believe that the regulation of NSO, and all non-asset owning parts of Network Rail should not become over complex, which risks leading to a loss of focus on the principle activities.

17. Any financial incentive linked to revenue would need to be linked to the holistic set of measures. We would be concerned if, for example, a financial measure was wholly around number of paths without regard to quality. It may be more appropriate to leave financial incentives to later control periods, once the establishment of NSO is concluded and stable.

ORR Consultation Response – Regulatory settlement for National System Operator in CP6

Rail North – Jan 2017

ORR Responsible Officer; Siobhan Carty

Introduction

This paper is the sixth recent instalment from the ORR regarding the future of the next periodic review, PR18, effective from April 2019 – March 2024 (also known as CP6). As Rail North / TfN, we have prepared previous responses to the initial consultation in August 2016 and subsequent papers too.

This outline and response has been prepared to cover the future funding, and regulatory monitoring of the national system operator (NSO). The central themes to be considered by Rail North within this paper relate to the use of operational performance measures to **lead the long term planning process,** to **recommend projects for changes to the network,** the ability to **integrate new enhancements into network capacity,** and **how well they can undertake capacity studies on an ad hoc basis.** This response also seeks views on whether and how the **NSO could be properly incentivised to undertake capital expenditure**, and should their revenues reflect performance.

Overview

This consultation document builds on an original paper, and industry engagement day held by the ORR about principles of NSO and metrics last year. As both Rail North and Transport for North have evolved as key industry bodies in the last 12 months, an emerging relationship with Network Rail has started to form, in particular with the NSO business unit, as we have started work on the long term rail strategy for the North, implemented a Rail North franchise management team for the Northern and TPE agreements, and developed the Northern Powerhouse Independent Economic Review Report (IERR) too.

The timing of the paper is set against a back drop of the change in funding status for Network Rail now, with binding borrowing limits in place for each control period, and the books 'needing to be balanced' irrespective of increasing costs or requests to deliver additional benefits materialising. This is of importance to Rail North / TFN as we are outlining the case regarding future funding and use of metrics to inform decision making both for future control periods, to support the management / letting of franchises, and future provision of passenger services to be provided too.

Response

As the network becomes more complex, with significant patronage growth over the last decade, and for future forecasts across the North of England, the role Rail North / TfN has to play in a future devolved industry, with Network Rail and the TOCs will become increasingly important. A first step in this emerging relationship has been a commitment with NR to co-author the Northern Route Study too. There has also recently been a MoU signed between DfT and Network Rail to further clarify roles

between the DfT and Network Rail as Client, and Deliverer, and this should provide additional governance, balances and checks for the delivery of larger, complex enhancement schemes over multi control period timescales.

The role and functions Rail North / TfN's proposal seeks to establish, will, we believe engender stronger, collaborative working relationships with Network Rail and enable shared development of economic analysis, modelling, etc to ensure the enhancement priorities for the North's network are better aligned with sub-national needs, and a stronger case for investment is presented to government.

There are 2 key areas for consideration asked of this consultation response relating to the system operators activities that form part of a separate settlement, the measures to be used of the NSO's performance, and the treatment of the NSO's costs and revenue. This submission has been structured to return the views of Rail North / TfN specifically regarding the 5 questions as proffered in table 1 on page 5 of the document.

Measures

1. ***What are your views regarding our proposals on i) using, amongst other things, capability-based measures of the NSO's operational performance; and ii) the extent to which NSO operational performance measures should be disaggregated (e.g. to each route or operator)?***

The use of measures and in particular visualisation for the delivery of performance improvement in operations across Network Rail is already commonplace, and the 6 monthly systems operator dashboard has been in place for a while, and this has already helped in terms of transparency across the industry. As the SO fit for the future programme develops further, we would envisage the wider spread use of measures to monitor and manage improvement of operational performance, particularly on the number of timetable change programmes, and wider efficiencies that are being led by NSO. Rail North / TfN would welcome more detail on this programme, in particular any proposals on their current role as 'client' for future enhancements.

The measuring and monitoring of delivery against regulated milestones and outputs is also lead by NSO historically, and this has been implemented at route level with the establishment of change management offices (CMOs) to track and drive delivery of both national and local initiatives. It is possible that future NSO specific measures could be aggregated to route and TOC level given the way in which specific timetable improvements or deployments are developed and align to each route or TOC, but this is not necessarily that easy or straightforward across the country, or for all particular areas (Cross Country and Arriva Trains Wales being 2 prime examples in the North).

One such set of measures that could be assessed would be timetable errors that a particular initiative or change programme is looking to rectify, or a milestone based set of measures regarding future timetable deployments (like a readiness checker). These types of measures, aggregated to TOC (Franchise) or route level would work well for Rail North / TfN as they could then be monitored or aligned to franchise

commitments, and something that could be developed, or monitored collaboratively with Network Rail / NSO.

The demarcation of a separate funding settlement for NSO and their activities is of key interest as almost all of those cited in the consultation paper align closely, even overlap with Rail North / TfN aspirations;

- Long Term Planning & Funding (incl Route and Market studies)
- Network Strategy & Planning
- High Speed Rail Development
- Analysis & Forecasting
- Capacity Planning

The development of long term plans aligns to our Rail North / TfN strategy that is currently being prepared, and agreement being reached with Network Rail on supporting the Northern Route Study from Jan 2017. The implementation of future network strategy, as well as integration of HS2 is critical for the North as well, both to reflect growth forecasts and the current enhancement portfolio, but also to support the Northern & TPE franchises in achieving their patronage increases and deliver their committed obligations within their agreements.

We feel that Rail North / TfN are well placed to work with Network Rail on these matters and provide a broader consideration by aligning both Rail and Freight aspirations, with the Roads, Ports, and spatial frameworks to ensure a wider socio economic case can be achieved.

The logic for this consultation being about the need to improve transparency on decision making is welcomed, and we would anticipate that any mechanism to enable incentivisation for existing use of capacity / improve performance (timetable planning!!) would be replicated by HMT / DfT with Rail North, enabling us to reinvest any future funding or profit in our network. It is also our intention for this approach to enable better informed decision making, by ensuring long term investment is made with improved data, analysis and tools.

2. ***What role should the NSO's stakeholders play in informing the development of NSO operational measures performance and in holding the NSO to account over CP6?***

While Rail North / TfN are co-managing the franchise agreements for Northern and TPE contracts, and also seeking to co-author the HLOS settlement as part of the CP6 investment planning process, we are very keen to ensure that we form part of this development and target setting for any future measures to be applied across the industry. The close working envisaged as part of transport for North's role in developing the future portfolio of enhancements across the North would align well to future delivery of performance improvement measures and initiatives with NSO in CP6 too.

The good working relationships established with our combined member authorities, and the TOCs would serve the development and delivery of operational performance measures well, as they bear a wealth of knowledge and could provide valuable input

to the process. The nature of this relationship we feel is best served in a collaborative manner, and the issue of holding to account is more of a regulatory, enforcement matter than that of a collaborative and engaged stakeholder as we see our position. The use of a balanced scorecard twice a year is supported, but would very much depend on the output and commentary arising from any such publications. For Rail North / TfN, we would be more interested in any subsequent recovery, or improvement plans to address where targets have slipped or not been met.

There will be a need for frequent dialogue between all parties, particularly where any non-compliance to targets or milestones has an adverse impact on franchise agreements. Any financial implications or claims from the TOCs arising from non-delivery of NSO initiatives or NR IP programmes should be discussed in some form of forum to agree any subsequent actions or steps required.

For each of these proposals, we would be interested in further developing both a more formal bilateral relationship, and even topic or region specific working groups (as Rail North are already currently sat on the North of England PDG and Programme Board). We would welcome the opportunity for further engagement on the above and look forward to the next stages of the consultation in spring 2017.

3. **What are your views on our initial ideas regarding the possible NSO measures, as set out in Table 2.1?**

The measures as proposed in the consultation are quite broad, capture both capability, and outcome based measures, and do cover the majority of the services that NSO works on presently. There is a slight concern that the outcome based measures are quite qualitative, and are at risk of becoming overly subjective, dependent on when the engagement or assessment was undertaken with particular stakeholders. For the very earliest stages of route and market studies, the measures could look at how many of the schemes proposed are taken forward, and some form of management control regarding the delivery of the output be that either internally, or by external consultants.

Where measures look at enhancements and management of these, again, the measures should be SMART, and specific to the NSO role – less so about slippage overall where this is more likely in the control of NR's IP, or external parties, and focus more on things such as change control and NCNs / SCNs, and their impact. An example could be what is the financial impact been of scope changes on enhancement schemes during GRIP 3. This could be expanded further when working with bodies such as Rail North / TfN to include the cost for slippages or variations on existing franchise agreements too. There are also a number of benefits management measures that could be deployed and are either in use with the Route CMOs, as part of MSP4NR, or is common in wider PMP practices. These are particularly effective at determining whether the investment has returned the benefit originally anticipated or forecast.

Measures relating to the development and management of timetable, or change programmes, should again be SMART, and focus on quantitative where practicable – number of timetable changes invoked, number of journey time or line speed

improvements offered up, and areas such as timetable readiness as milestones too. There is also likely to be a potential measure regarding the management of short notice changes to timetables, and engineering access.

Funding

1. ***Do we need additional mechanisms regarding the NSO's capital budget, to ensure the NSO is properly incentivised to undertake capital expenditure?***

The volume of the current capital expenditure by NSO as being £8m pa is relatively low, and spread across a diverse range of activities within their portfolio. The increased involvement of key stakeholders and transparency should address any concerns regarding incentivisation to spend and invest in scheme development, or timetable improvements.

The existing use of ring fenced funds within the Network Rail Delivery Plans is not always immediately clear, and further proposals to make this clearer would benefit the industry as a whole. This may change where more input to HLOS and SOFA is proposed with future Rail North / TfN involvement as part of the CP6 funding submission.

Where devolution across Network Rail is being developed further, we would be interested to see how and where the £25m current operating annual expenditure is planned to be managed and whether this would be devolved to Route Managing Directors, and what opportunity this might open up for wider alliancing with both Rail North / TfN and the industry on particular schemes and enhancements at the earliest stages practicable.

The application of change control processes and measures has been touched on elsewhere in this consultation response, and is welcomed if it will drive the right behaviours in managing scope creep.

2. ***Should the NSO be subject to financial incentives so that its revenue varies to reflect the success of its performance?***
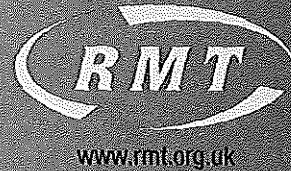
The use of financial incentives is welcomed broadly across the industry provided that any such additional payments can be recycled for further investment in the network. The current specific £8m pa capital expenditure pot is quite small and any such monitoring of this is likely to lead to a change in behaviours. It is also important to consider what or how any incentivised funding may be spent by NSO – would this be to undertake more studies, more stakeholder engagement, to speed up timetable rectifications?

As the consultation paper has already highlighted, there are a number of pre-existing measures already in place that should serve as sufficient incentive to improve performance and delivery, namely the capacity charge, volume incentive (albeit this is very rarely achieved), and schedule 8. The last measure is interesting in that a number of change and LEAN initiatives have been successfully deployed with a

business case that is 'self-funding' against future schedule 8 delays that can be reasonably forecast. It is perfectly reasonable to establish incentivised measures in this manner accordingly too, albeit this may be better delivered at route level.

Siobhan Carty
Office of Road and Rail

11 January 2017

Dear Siobhan

I am writing in response to the PR18 consultation *Development of the regulatory settlement for the Network Rail national system operator in CP6*.

RMT is concerned about separate settlements for various parts of Network Rail including the NSO and the routes. We believe that such an approach will compound the difficulties envisaged through the proposed fragmentation of Network Rail and prevent active cross-subsidy within the company. Such inflexibility will greatly increase the potential for failure on one or more routes. RMT believes that the need for a framework to help manage or coordinate response to cross-route incidents is greatly undermined by such an approach.

RMT is not opposed to the publication of information regarding the performance of the system operator. However, we believe that the onerous task of producing information "capable of being disaggregated to route, operator and funder-level (e.g. England & Wales and Scotland)" should be conditional on an additional levy on operators to cover any additional or bespoke information they require. This would be in line with the suggestion in Working Paper No. 3 of "the NSO raising at least some of its revenue directly from operators, potentially through the creation of a new charge".

RMT believes that NSO engagement with its customer and stakeholders should include the trade unions and that this should be specifically included in the particulars of the performance measurements.

Additionally, RMT believes that the ORR should specifiy trade union representation on the "new working group and/or panel made-up of the NSO's stakeholders".

Yours sincerely

Mick Cash
General Secretary

<u>Response from SEStran to November 2016 consultation on the development of the</u>
<u>regulatory framework for the Network Rail system operator</u>

In respect to some of the specific issues raised in your consultation paper, I would like to offer the following high level comments.

In terms of the proposal for disaggregation of measures, SEStran would welcome further articulation of how this will be reflected to stakeholders across the different geographies of the UK. We would hope that any capability measures would focus on outcomes and would be disaggregated to a geography that allows local transparency and scrutiny by stakeholders. In terms of capability measures it may be helpful in future to provide further worked examples.

We would also welcome further discussion and detail on how effectively the application of a "penalty clause" approach on underperformance would work towards driving better performance. It doesn't immediately seem apparent from the proposals as to how varying revenue, presumably negatively, would help deliver the overall goals of the process. It is presumed that the performance would be rated against the scorecard proposals of Section 2. Also as mentioned in Section 3 about organisational risk, we would welcome further detail on the proposed assessment/analytical frameworks for deriving a financial penalty effectively for NSO. The opportunity to earn additional revenue for the NSO potentially sets a right organisational culture in progressing its objectives alongside a potential penalty clause. Further, it would be helpful before providing a final comment to have further information on where any revenue would be "lost" to where its removed due to NSO under-performance and where further monies would be earned from and against what scorecard to achieve additional revenues. There would also need to be a balance on incentives on some volume measures which could have negative impacts on other performance measures.

In terms of the scorecard, for stakeholders it may be helpful to have a "red/amber/green" summary but this may not fit with a revenue varying approach. Further, it will be important presumably to recognise and articulate to stakeholders that some NSO outputs will be positive but not necessarily tangible or easily measurable.

With regard to the proposals for NSO regulation and monitoring, if NSO performance is an indicator, would any process devised need to ensure avoidance of any unintended "double regulation" of a singular process or a situation where an impact of a certain decision by the NSO may only partly reflect its role as outlined in the document.

Concerning the long-term system operation settlement, we would also suggest that in the LTPP process there is specific reference to the need to work with regional land-use and transport planning authorities.

It would be helpful to have NSO performance to below Scotland level and we welcome the suggestion to disaggregate information further, which would help in the making and

evidence proofing of some of NSO's difficult trade-off decisions between different customers and geographies.

We welcome the suggestion for further ways of NSO to secure stakeholder input and enable further engagement. Certainly at a more local level, the existing RTP rail forums in Scotland may provide a further engagement route.

With reference to limits of regulations, it would seem there might be parallels with other regulated industries where Network Rail remains a single company which could be learned from and perhaps inform a tailored and more focussed approach to regulating.

Kind Regards,

George Eckton
SEStran
Partnership Director

Emily Bulman
Office of Rail and Road
One Kemble Street
LONDON
WC2B 4AN

9 January 2017

Dear Emily

Periodic Review 2018: draft guidance on Network Rail's strategic business plans

Transport Focus is the independent consumer watchdog representing the interests of rail passengers throughout Great Britain; bus, coach and tram passengers in England outside London; and users of motorways and major 'A' roads in England. We are pleased to respond to this important consultation.

We strongly support the thrust of the document, in particular the focus on a strategic business plan (SBP) for each Route and for the National System Operator (NSO). Passengers' needs will vary from route to route and it is important that these are reflected in Network Rail's plans. Ensuring that the NSO has robust plans to meet passengers' needs is also vital, particularly around train planning capacity and capability.

The following points appear to us to be key:

Engagement with passengers
ORR has signalled, rightly, that it wants to see evidence that Network Rail has engaged with stakeholders in drawing up the SBP plan for each route (including the NFPO) and the NSO. It is extremely important that passengers are consulted effectively and that their voice is not drowned out by rail industry interests and other stakeholders. We believe that there is no substitute for involving those who actually use services in the planning and development of those services. This view is strengthened by the fact that passengers are funding an ever-increasing proportion of the railway – yet as it stands the main funder of the railway has no formal relationship with the infrastructure provider.

Transport Focus is uniquely placed to help Network Rail engage with passengers and understand their priorities at and below Route level. While we can provide some insight based on existing research, if each SBP is to properly reflect passengers' views we believe additional research and passenger engagement is required. Transport Focus would be pleased to discuss options with

Network Rail, which might include 'sense checking' the broad thrust of each SBP against passenger opinion.

We also think there are considerable benefits in Network Rail engaging over *how* improvement works should be delivered. This was something covered in the Bowe review which concluded: "The failure to engage effectively with users in this planning of delivery has two impacts. First, it can be seen as contributing to cost escalation, via inefficient planning of possessions and the associated performance payments required to operators through their track access agreements with Network Rail. And second, it may contribute to passenger dissatisfaction on the occasions when things do go wrong". We believe a good route SBP will explain how Network Rail intends to achieve this.

National System Operator
We support ORR's requirement for a SBP specifically for the NSO. Transport Focus is particularly keen to see Network Rail set out how it intends to improve its train planning systems capacity and capability in CP6. The areas of particular focus should include:
- Delivering a timetable passengers can rely on 12 weeks in advance (T-12) – a long-standing principle, adherence to which continues to elude parts of the industry
- Becoming truly agile in responding to the need for timetable changes resulting from severe weather, strikes and infrastructure damage etc. – the underlying architecture continues to require two working days to change the timetable (so called Day A for Day C)
- Building a comprehensive understanding of where, and why, aspects of the timetable never deliver on time arrival (i.e. right time) – and so aid long-term performance improvement

Our expectation is that addressing these issues will involve a fundamental assessment of whether Network Rail has the right IT capability and appropriate human resources in these areas.

We suggest that an important metric for the NSO will be the level of timetable change that occurs post T-12.

Transparency
We support the proposal that, in addition to publishing high level plans, a wide range of supporting material should be available to stakeholders (Para 20). We suggest that in the finalised guidance this is couched as "is publicly available", rather than potentially limited to formal 'stakeholders'. As part of the drive to engage with passengers it will be important that there is an 'easy read' version of the key documents.

Maintenance and capital renewal
We strongly support ORR's desire to ensure that the right level of funds are available to maintain and renew the existing railway (Para 28).

Seizing opportunities to improve services
We would encourage ORR to signal that it expects each SBP to demonstrate how Network Rail will, as part of a long-term strategy, enhance its product as it carries out capital renewals in CP6. The practice of renewing track and signalling to deliver the same line speed and capacity as was inherited by Railtrack in 1994 cannot be sensible. Doncaster to Grimsby is a case in point: completely resignalled in CP5, but trains capable of 100mph continue to amble along at the historic 55 or 60mph line speed. Is it not reasonable to expect an efficient infrastructure provider to renew the asset so it has greater capability than before? Transport Focus wishes to see each SBP demonstrate how renewals will deliver a long-term improvement in the product, even if through incremental change over many years.

Prioritisation

In Paragraph 37, we recommend that you add "Transport Focus's research into passengers' priorities for improvement" in the list research to be drawn on.
http://www.transportfocus.org.uk/research-publications/publications/rail-passengers-priorities-for-improvements-october-2014/

Health and safety

As referred to in my opening paragraph, Transport Focus represents the interests of users of England's motorways and major 'A' roads. In that capacity we take an interest in road safety, getting home safety being an important consumer need. The number of people killed or seriously injured on the Highways England network is also a metric used by ORR in its role as Highways Monitor. Being aware of initiatives taken by many of Highways England's suppliers in this area, we suggest you consider asking for SBPs to set out Network Rail's approach to encouraging safe driving for work, including within its supply chain.

Land disposal

Transport Focus encourages a high bar when it comes to making the case for disposal of Network Rail land. The risks of constraining long-term growth, whether in terms of track, depots, stations or car parking, should not be underestimated. Once land has a supermarket or office block built on it, it is lost to passengers for ever.

Other

Table 1. While paragraph 33 makes it clearer that stakeholders includes passengers, but we think it would be helpful to also make this clear in a footnote to Table 1.
Table 2, top right box. Where the draft reads "clear link with passengers and freight customers priorities", we think it would be helpful if the final guidance made it explicit that this covers passengers' priorities as well as train companies' priorities.
Paragraph 93. We think it would be helpful if in the final line it were explicit that "customers and other stakeholders" includes passengers.

I hope this is helpful.

Yours sincerely

Guy Dangerfield
Head of Strategy

Transport for London

ORR System Operation,
Office of Rail and Road,
One Kemble Street,
London,
WC2B 4AN.

Transport for London
Palestra
London
SE1 8NJ

11th January 2017

Dear Siobhan,

Development of the regulatory settlement for the Network Rail national system operator in CP6

This letter sets out TfL's responses to the questions raised in the ORR's consultation on the development of the regulatory settlement for the Network Rail national system operator in CP6. TfL is content for its responses to be published and shared with Third Parties.

Question 1: What are your views regarding our proposals on i) using, amongst other things, capability-based measures of the NSO's operational performance; and ii) the extent to which NSO operational performance measures should be disaggregated (e.g. to each route or operator)?

TfL considers that it is appropriate for the NSO's performance to be monitored through capability based measures, alongside measures of how well their stakeholders believe they are performing and other benchmarking activity. All performance measures should be disaggregated to operator level to ensure that the NSO pays sufficient attention to the requirements of each operator. This is particularly important where operators cross Route boundaries to ensure that the move towards Route based regulation does not cause the interests of individual operators to be undermined. Mitigating this risk forms a key part of the NSO's role in terms of integrating plans and scheduling across different routes and Infrastructure Managers.

Performance data should be provided at a sub operator (i.e. service group) level where appropriate to ensure that the causes of poor performance can be analysed and rectified in an effective and efficient manner.

MAYOR OF LONDON

Question 2: What role should the NSO's stakeholders play in informing the development of NSO operational measures performance and in holding the NSO to account over CP6?

The NSO's stakeholders should be consulted over the development of the operational performance measures at all levels of disaggregation to ensure they reflect the plans and priorities of operators and their funders. The stakeholders consulted on this matter should include Transport for London, Arriva Rail London and MTR Crossrail.

Question 3: What are your views on our initial ideas regarding the possible NSO measures, as set out in Table 2.1?

TfL considers that the outcome and capability/progress based measures proposed in Table 2.1 are appropriate, subject to the following comments:

- It is important that any outcome based measures do not incentivise the creation of additional capacity/paths at the expense of even interval services. Even interval services are important to maintain the attractiveness of rail services in urban areas;
- Improvements to the quality of the Timetable Planning Rules (TPRs) should be prioritised as these are key to ensuring that the capacity of the network is maximised without compromising performance. The current TPRs are often inaccurate and do not represent the true capability of the network, leading to suboptimal scheduling and poor performance. All relevant parties within the rail industry should be required to cooperate with this objective;
- The inaccuracies in the current TPRs have been exposed during planning work recently undertaken for the Thameslink Upgrade. It was originally considered that the planned service pattern on the Midland Main Line could not be operated because the TPRs would not allow the planned mix of Thameslink and East Midlands Trains services to operate on the route section through Kentish Town and West Hampstead. Subsequent assessment of signal clearance times demonstrated that the proposed service pattern was achievable and that the TPRs were themselves inaccurate. It is important that the value of major infrastructure upgrades is not compromised by inaccurate timetable planning data;
- Improvements to the quality of input data should also prioritise the achievement of a better understanding of customer demand flows throughout the week at stations and on board trains, as well as delivering a common definition of the capacity of the different types of train using the network. Another area that could be improved is the availability of unit costs for the provision and maintenance of new infrastructure and rolling stock. Data on all these elements is currently sub optimal which adversely affects the quality of planning decisions across the rail network. All

relevant parties within the rail industry should be required to cooperate with this objective.

Question 4: Do we need additional mechanisms regarding the NSO's capital budget, to ensure the NSO is properly incentivised to undertake capital expenditure?

The NSO capital budget should be funded to a level that is appropriate to enable it to deliver its regulatory targets. Progress against these targets should be monitored to ensure that the funds provided have been spent as expected to deliver the targets set. Funding for the NSO should be ring fenced to ensure that it cannot be moved elsewhere to support capital projects or other investments to the detriment of the development of the NSO's capability.

Question 5: Should the NSO be subject to financial incentives so that its revenue varies to reflect the success of its performance?

The NSO should not be subject to such financial incentives as it is unlikely that they will have much influence over its performance. Such incentives could have perverse effects if they reduce the funds available to the NSO if performance is relatively poor, making it harder for the NSO to invest to improve. A better approach would be to closely monitor performance against the regulatory targets that are set for the NSO, with management attention being applied to improve performance that is below target, backed by pressure applied by the stakeholders who have been adversely affected.

Yours sincerely,

Alan Smart,
Principal Planner – Rail Development,
Rail and Underground Transport Planning, Transport for London.

Date: 11 January 2017

Dear Sir/Madam,

Thank you for the opportunity to respond to the consultation on the National System Operator and the Strategic Business Plan Guidance. The attached response represents the view of Transport for West Midlands (TfWM), part of the West Midlands Combined Authority (WMCA) and also aligns closely with that of our partners at West Midlands Rail Ltd.

A couple of specific areas are worth highlighting in the introduction to our response.
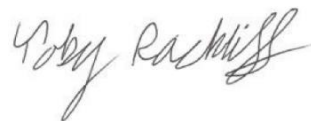
The West Midlands Combined Authority area lies at the heart of both the national rail network and our regional Travel to Work area. It is an area which has seen the highest rail passenger growth of any UK region and also lies at the centre of the UK's rail freight (especially intermodal) network.

The NSO's role in planning for and managing the impact of HS2 on the West Midlands rail network is going to be particularly critical in CP6. This is going to lead to a fundamental restructuring of rail services on a number routes and will also result in HS2 classic compatible services linking into the current network.

A number of complementary infrastructure schemes (such as Midlands Rail Hub) are also likely to progressed alongside HS2 resulting in further changes to services.

It is therefore essential that the NSO is able to meet the scale of the challenge that HS2 will present and that TfWM and our partners at West Midlands Rail are fully plugged into the service planning processes, especially in relation to maximising the benefits of the capacity released by HS2 to deliver improved regional connectivity.

Yours sincerely,

Toby Rackliff
Rail Strategy Manger
Transport for West Midlands
Part of West Midlands Combined Authority

TfWM Response to ORR Consultation on: National System Operator
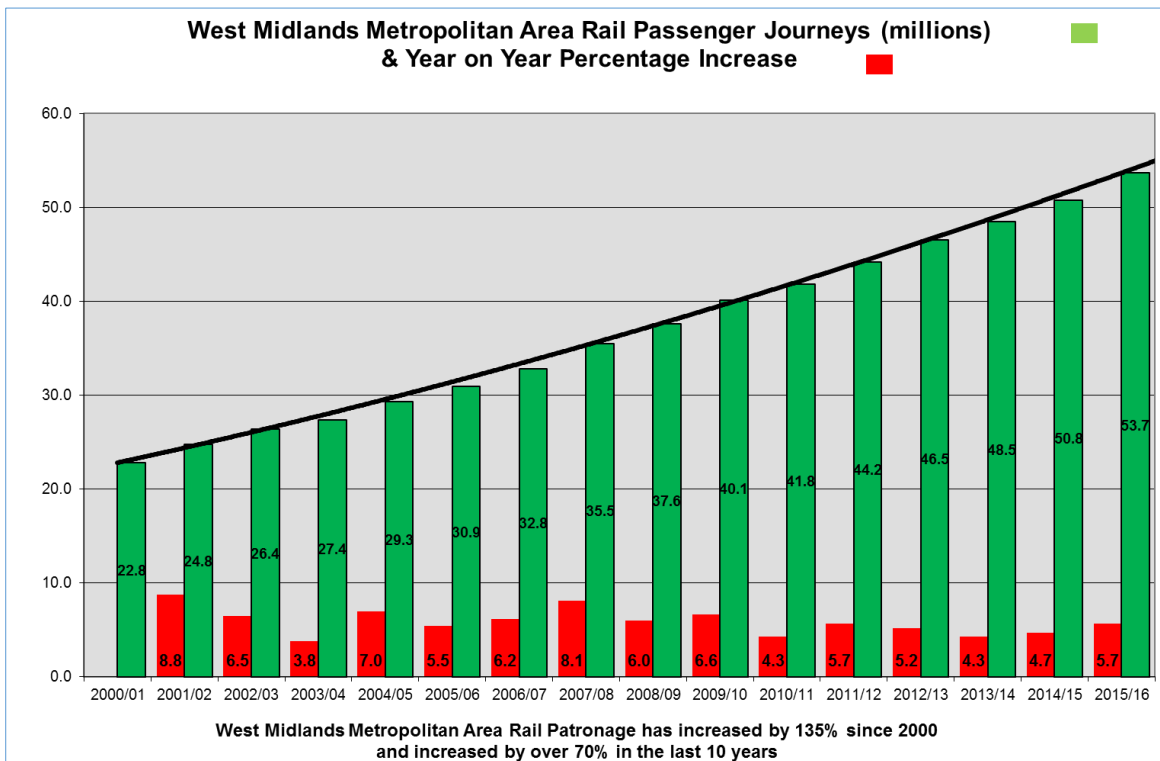
Introduction

Transport for West Midlands (TfWM), part of the new West Midlands Combined Authority (WMCA), is responsible for guiding and delivering the combined authority's transport strategy to develop a network that fully integrates the region's road, rail, bus and tram systems.

Through our predecessor body, the former West Midlands Integrated Transport Authority (WMITA), TfWM has also been closely involved in the development of the new *West Midlands and Chilterns Route Study*, which seeks to "*identify the capacity and capability the rail network needs*" in order to:

- deliver economic growth by connecting people to jobs & business to markets
- meet the challenge faced by increasing passenger demand

We particularly welcomed the recognition in the Route Study that:

- West Midlands passenger growth continues to exceed the national average
- the level of on-track capacity to meeting growing demand for services into central Birmingham has remained largely unchanged for decades

West Midlands Metropolitan Area Rail Passenger Journeys (millions) & Year on Year Percentage Increase

West Midlands Metropolitan Area Rail Patronage has increased by 135% since 2000 and increased by over 70% in the last 10 years

The "Options for Funders" in the *Route Study* reflects the scale of the passenger growth being experienced across the West Midlands rail network, as well as the need to be "HS2 ready" for the arrival of the new high speed rail line in 2026 and the significant role that the network plays in supporting regional economic growth.

TfWM is also actively working with the **Midlands Connect** partnership (which includes Network Rail) to develop and deliver an improved rail network that supports the region's economic growth aspirations through improved rail connectivity and capacity between our major centres.

In the more immediate term TfWM is working with its partners in WMR Ltd on ambitious plans to significantly enhance rail services within the West Midlands area through both the West Midlands franchise and the other franchises that provide services in the region.

However, TfWM is concerned that the high costs (and potential for project delays) involved in providing rail network enhancements is a major barrier that the rail industry needs to work together to overcome.

TfWM therefore welcomes the opportunity to comment on the NSO consultations which will hopefully address many of our concerns.

National System Operator Consultation

TfWM supports the move towards greater devolution within Network Rail but recognises that it has an essential National System Operator role.

The need to effectively balance of the requirements of long-distance freight and passenger services with those of local and regional passenger services is essential. With a severely capacity-constrained network in the West Midlands, how trade-offs between competing demands are managed (and regulated) is of critical importance.

TfWM considers it essential that there a clear framework within which the NSO function operates and that its relationship with the individual Routes is also clearly defined, especially in relation to responsibilities for strategic planning and scheme development.

We strongly support the setting of incentives that encourage the identification and utilisation of spare capacity on the network - for example through the timely updating of timetable planning rules following resignalling and other investment schemes.

We strongly support the delivery of more flexible signalling and safety rules where these are directly limiting the capability of the network and the NSO needs to champion initiatives such as changes to permissive working arrangements at stations in order to optimise the use of rolling stock and network capacity (e.g. through greater use of portion working or shared platforms). The culture of both safety and performance risk aversion that can exist within the geographical routes needs a counterbalance with the NSO to champion more effective use of network capacity.

Given the critical function the NSO function delivers it is important that TfWM and our partners at WMR have a strong relationship with it and this needs to be managed alongside our relationship with the London North Western Route. TfWM would also welcome the opportunity to be part of any working group or stakeholder panel that is developed to monitor performance of the NSO.

The NSO's role in planning for and managing the impact of HS2 on the West Midlands rail network is going to be particularly critical in CP6. This is going to lead to a

fundamental restructuring of rail services on a number routes and will also result in HS2 classic compatible services linking into the current network.

A number of complementary infrastructure schemes (such as Midlands Rail Hub) are also likely to progressed alongside HS2 resulting in further changes to services. It is therefore essential that the NSO is able to meet the scale of the challenge that HS2 will present and that TfWM and West Midlands Rail are fully plugged into the service planning processes.

A specific objective for the NSO relating to maximising the benefits of the capacity released by HS2, especially for local and regional services, might also be appropriate for CP6, alongside the effective integration of HS2 services onto the existing network.

Siobhan Carty
Office of Rail and Road
1 Kemble Street
London
WC2B 4AN

By e-mail:- ORR@orr.gsi.gov.uk

Your ref:

Our ref:
PR18/NSO-RS

Date:
11 January 2017

Response to the ORR`s PR18 consultation on the development of the National System Operator (NSO) regulatory settlement

Thank you for the opportunity to respond to your consultation on the development of the National System Operator (NSO) regulatory settlement for Control Period 6 (CP6).

Set out below are some general points that we would wish the ORR to reflect on as well as some more specific points relating to the key themes and issues as set out in the consultation paper and the accompanying conclusion note on the ORR`s Working Paper 2 (WP2): *Initial views on potential issues and opportunities in system operation*. These comments should be taken in conjunction with our previous consultation responses on the system operator function, including those in relation to recent working papers.

System operation that works for Scotland`s railways

We note the ORR`s view that the system operator function will become more important over time given the increased demand forecast across the network in future years and the changing needs of freight customers and operators, both driving a need for innovative solutions and more efficient system operation to unlock vital additional capacity in the network.

Precise customer needs will, however, continue to vary across the network and in Scotland the challenge of meeting these needs may not be best served through strict adherence to a standardised GB-wide approach. We therefore reiterate the comments that we made in previous consultations on system operation; the Scottish Government strongly supports the further devolution of all functions and responsibilities to the Scotland route, including those related to the system operator function, unless there is a clear, compelling case to retain central control. It is therefore critical that the NSO is able to support the effective devolution of functions to individual operating routes over time and can be flexible to structural changes as they arise.

Where clear system operator activities have been established, it's vital that these are governed and regulated appropriately and subject to proper scrutiny and challenge. This will clearly require improved collection and use of data and information to improve decision making and help to deliver better outcomes and greater efficiencies for customers.

We broadly support the ORR's proposal for separate settlement for the NSO and the high-level objectives of improved transparency, strengthened incentives, and measures to support long-term investment in better data, processes and technology, as set out in section 1.9.

Measuring the NSO`s performance

Transport Scotland broadly supports the proposal to include capability based measures. We recognise that in many instances the NSO does not fully control, or is not wholly accountable for, many of the outcomes of the whole system operation. Accordingly we agree with the ORRs expectation that there may be a role for the use of capability-based measures in assessing the NSO`s performance as well as outcome-based measures.

We also support the principle of operational performance measures being disaggregated to route and, if possible, operator levels. This will be critical both for the accountability of the NSO and to support stronger relationships between the NSO and routes, ensuring effective system operation that appropriately reflects and responds to local needs and priorities.

Stakeholder engagement in assuring NSO performance

Transport Scotland believes that it is vital that the NSO is able to engage effectively with individual routes, supporting the devolution process and better enabling the routes to deliver for their freight and passenger customers.

We note the likely use of the NSO-specific scorecard to track some aspects of the NSO performance and would reiterate comments that we have made previously that NR must deliver a more involved level of stakeholder engagement in developing these scorecards than has been delivered to date in relation to route based scorecards.

Transport Scotland's input to the NSO scorecard will be critical, particularly as we look to ensure national engineering works are planned in a way that, for example, ensures one through strategic route between Scotland and London is made available at all times.

The NSO`s financial framework

We support the principle of setting a separate baseline revenue allowance for the NSO. We would not expect this to increase the costs payable by the Scottish Government and indeed we agree with the view expressed that management and reputational incentives may be more effective than financial incentives at this stage.

As outlined previously, a key deliverable for the NSO in the coming years will be to help enable the delivery of additional capacity to meet rising demand. This will require the successful management of trade-offs, such as increased costs, increased network usage and consequent performance risks, arising from the unlocking of this additional network capacity. However, as the ORR`s WP2 conclusion paper notes, such trade-offs are not properly balanced at present and this is something we would expect the ORR to review.

We thank you for the opportunity to comment on this paper and look forward to discussing these issues further as the PR18 process develops.

Yours sincerely,

Steven McMahon
Head of Rail Strategy & Funding

ISO14001 at V.Q.

An agency of
Buidheann le

The Scottish Government
Riaghaltas na h-Alba

Office of Rail and Road
By email

West Midlands Rail Ltd
16 Summer Lane,
Birmingham
B19 3SD

11 January 2017

WMR Response to PR18 Consultations on National System Operator and Strategic Business Plan Guidance

West Midlands Rail welcomes the opportunity to respond to consultations on the National System Operator and the Strategic Business Plan Guidance.

Please find our response to both consultations attached to this letter.

Yours Sincerely,

Malcolm Holmes
Acting Programme Director, West Midlands Rail

WMR Response to ORR Consultations on the National System Operator and Strategic Business Plan Guidance

January 2017

West Midlands Rail (WMR) is the body created to pursue the devolution of local rail services in the West Midlands. It is a limited company formed by 14 local authorities and the West Midlands Combined Authority who form the WMR Board. WMR is currently working with the DfT on the re-letting of the West Midlands Franchise and will have an active role in its future management.

WMR has ambitious plans to significantly enhance rail services within the West Midlands area through both the West Midlands franchise and the other franchises that provide services in the region.

WMR will be actively working with Network Rail and other rail industry bodies to deliver an improved network and improved services and welcomes the opportunity to comment on PR18 consultations which will set the framework for NR and wider rail industry funding and operation in CP6.

WMR will actively look to pursue the funding and specification of enhanced rail services where these meet our economic and social objectives, are deliverable, have a good business case and WMR is able to secure funding. Like all funders, WMR is concerned that the high costs involved in providing rail services and network enhancements is a major barrier that the rail industry needs to work together to overcome.

1 National System Operator

WMR supports the move towards greater devolution within Network Rail but recognises that it has an essential National System Operator role. With the West Midlands' location at the heart of the national rail network the need to effectively balance of the requirements of long-distance freight and passenger services with those of local and regional passenger services is essential. With a severely capacity-constrained network in the West Midlands, how trade-offs between competing demands are managed (and regulated) is of critical importance.

WMR considers it essential that there a clear framework within which the NSO function operates and that its relationship with the individual Routes is also clearly defined. There are currently some blurred lines between the Routes and the NSO especially in relation to responsibilities for strategic planning and scheme development.

We would strongly support the setting of incentives that encourage the identification and utilisation of spare capacity on the network- for example through the timely updating of timetable planning rules following resignalling

and other investment schemes. Examples exist in the West Midlands of the headways in the Timetable Planning Rules still being shown as based on absolute block signalling following a resignalling that occurred over five years ago meaning that the capacity benefits from the investment have not been fully realised.

The NSO also needs to be encouraged to champion the delivery of more flexible signalling and safety rules where these are directly limiting the capability of the network. An example of this would be the systematic removal of permissive working arrangements at many stations which can prevent train plans that optimise the use of rolling stock and network capacity being developed (for example through greater use of portion working on services). The culture of both safety and performance risk aversion that can exist within the geographical routes needs a counterbalance with the NSO to champion more effective use of network capacity.

Given the critical function the NSO function delivers it is important that WMR, as a key stakeholder, has a strong relationship with it and this needs to be managed alongside our relationship with the London North Western Route.

WMR would welcome the opportunity to be part of any working group or stakeholder panel that is developed to monitor performance of the NSO.

In the West Midlands the NSO's role is going to be particularly critical in CP6 as during this time the impact of HS2 on the network will need to be developed and managed. This is going to lead to a fundamental restructuring of rail services on a number routes and will also result in HS2 classic compatible services linking into the current network. A number of complementary infrastructure schemes are also likely to progressed alongside HS2 resulting in further changes to services. It is therefore essential that the NSO is able to meet the scale of the challenge that HS2 will present and that WMR as the specifier of local rail services is fully plugged into the service planning processes.

A specific objective for the NSO relating to maximising the benefits of the capacity released by HS2 might also be appropriate for CP6, alongside the effective integration of HS2 services onto the existing network.

2 Guidance on NR's Strategic Business Plans

WMR welcomes the general approach proposed for the production of NR Strategic Business Plans which supports the greater devolution of the Routes within NR.

Given the geography of the routes it is important that boundary issues are effectively managed in the business plans and that there is an effective process in place to ensure there is clarity on responsibilities between the Routes at these boundaries. It is also important that where there is a sensible remapping of route geography that the business planning process is able to

facilitate this and we don't end up setting up structures that make change difficult. A specific example of a boundary issue in the West Midlands exists in the Worcester area which is peripheral to the Western Route and should logically form part of the LNW route in the event that signalling renewal reaches the area (if not before). There therefore needs to be robust processes in place to identify the costs and the revenues (from access charges, etc) associated with individual parts of the network that might transfer between routes.

The proposal for a Freight and National Passenger Operator (FNPO) route and plan also has major overlap issues that need to be carefully managed and planned for. The Crosscountry franchise currently provides over 20% of train services into Birmingham and it is important that this capacity is holistically planned alongside the other TOCs that operate on LNW route into the city. It is unclear, for example, where plans and expenditure relating to investment at stations that are served solely by Crosscountry would sit.

When it comes to plans for managing capacity in the West Midlands, this is something that would need to sit within the national system operator (NSO) strategic plan, the LNW route strategic plan and also within the FNPO strategic plan. It is therefore essential that NR has a very clear process for managing these overlaps. WMR is keen that NR's stakeholder engagement processes can effectively manage this issue and stakeholders don't have to become involved in multiple engagement processes.

WMR welcomes the focus on engaging with stakeholders when developing plans, and balancing the needs of different stakeholders is going to be a major challenge for Network Rail. The needs of a TOC that has a contractual relationship with NR (albeit usually only for the duration of a franchise) could be quite different to a long-term funder and investor in the network such as WMR or Midlands Connect. Understanding the needs of passengers will also be important, however it is important that any passenger engagement does not cut across work that either operators or funders may also be carrying out.

WMR would expect to be part of any Stakeholder Boards that are created that cover the WMR area, alongside other appropriate partner authorities such as Transport for West Midlands.

The need for clear objectives, scorecards and metrics is supported. From a WMR perspective, the three main issues that the CP6 plans need to support are:

- Delivery of commitments contained within the new West Midlands franchise – including supporting a significant uplift in train capacity and enhanced services (e.g. on Sundays)

- Support for rail investment schemes being funded and promoted by devolved bodies such as Midlands Connect

- Planning for a post-HS2 WM rail network

Planning for HS2 and its associated schemes and impacts will be a major issue for Network Rail in CP6 which will cut across multiple routes, although LNW route will see most direct impact. It is therefore essential that the SBPs include very clear guidance and objectives relating to HS2.

For the LNW route specifically it will need to demonstrate how it can align itself with the needs of devolved bodies in both the West Midlands and the North.

How the business plans for the routes will account for the impact that the NSO will have on their cost and revenue requirements also needs to be considered given that the overall timetable and the operation of additional services is largely owned by the NSO organisation and this has a fundamental impact on the individual routes' business plans. If an individual route budgets on the basis of a certain level of service being operated then there needs to be confidence that the timetable delivered by the NSO is aligned with this assumption.

WMR strongly supports objectives related to efficiency and is particularly aware of the high costs of delivering rail projects. WMR partner authorities have considerable experience of the challenges of dealing with Network Rail and delivering rail projects. We would expect the devolved routes to have greater flexibility to challenge national standards that add to cost but which often offer unclear benefits or only a very small theoretical benefit. It is only through the individual routes having the ability to develop the appropriate approach to operational standards and practices, design standards and health and safety standards and practices that are relevant for their area, that national comparisons can be made across routes and best practice identified.

It is also important that the business plans can properly consider any potential impacts of the UK leaving the European Union and whether this offers the ability to move away from some of the less appropriate EU standards that might be adding cost to UK rail operations. We would therefore expect there to be some clear guidance on this issue to be offered in the advice to the routes.