

## ORR's consultation on Periodic Review 13

### City of Edinburgh Council comments

The ORR sets out the following context for this stage of PR13:

'At the heart of the review is our assessment of what Network Rail (who manages the rail infrastructure) must achieve from 2014, the money it needs to do so, and the incentives needed to encourage delivery and out-performance. But the review goes beyond Network Rail and looks at how it should work more closely with train operators, suppliers and others to reduce costs and deliver more for customers.

Our Objective for the periodic review

"To protect the interests of customers and taxpayers by ensuring our determination enables Network Rail and its industry partners to deliver or exceed all the specified outcome and output requirements safely and sustainably, at the most efficient levels possible comparable with the best railways in the world by the end of the control period..."

*Question 4 (regarding Chapter 6 and annex B) asks which aspects of the price control should be separated for England & Wales and Scotland, eg should the efficiency assumption be separate?*

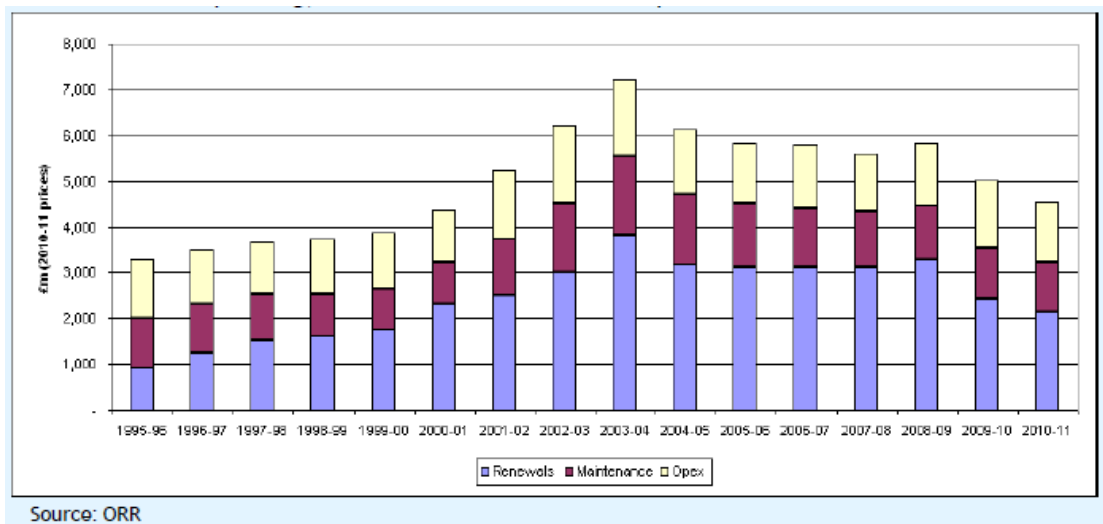
It then sets out objectives and possible outcomes of price control separation and financial desegregation;

- inform decisions on the structure of the rail industry
- improve industry planning, partnerships and co-operation; transparency, incentives, accountability, and the ability to undertake comparative competition
- facilitate regional efficiency and revenue sharing mechanisms
- support increased route level accountability, decision making and contestability
- control monopoly power
- control or preclude cross-subsidy
- align with separate policy or funding responsibilities

There is already is a degree of desegregation and separation in Scotland. Nevertheless, in the absence of concrete examples, and evidence, the question is what price control separation and financial desegregation would actually deliver. In the absence of a case being presented for the suggested changes, the question arises whether such changes would merely introduce more 'red tape', and thus cost.

Where there is no clear argument, justification or direction, the case for regulation is weakened. Since the cost of the industry is a major current issue, this is a challenge the Office of Rail Regulation needs to address, since regulation itself imposes costs on the industry.

We note the graph titled 'Network Rail's operating, maintenance and renewals expenditure since 1995-96', which is used as a key indicator throughout the consultation documents. It is useful and informative, but it indicates that Network Rail's increased expenditure is primarily due to increased renewals.



As infrastructure has been under-maintained for decades, it is quite possible that increased renewals activity, and therefore expenditure, is desirable. That does not deny the need for more efficient renewals, but it does mean the issues behind the graph are complex. We can also conceive of a scenario where it would be desirable for maintenance expenditure to remain steady (rather than decline), which the graph suggests is the case.

Of the three components of each bar, we suggest that only in respect of operational expenditure is a reduction inherently desirable.

## Specific questions

### Chapter 6 and annex D

*Q13 Do you have views on how the effectiveness of Network Rail's incentives to make best use of capacity could be improved?*

It appears that Network Rail is currently incentivised to discourage greater use of the network; it generally initially resists proposed new services, though this is often resolved after further examination. This resistance appears to derive from a concern that new services will reduce overall reliability, resulting in penalties on Network Rail. We acknowledge that additional services in principle impose greater reliability risk. However, it appears that the balance of incentives currently results in Network Rail being excessively averse to risk.

*Q14 Do you agree that we should include a regional efficiency benefit sharing mechanism calculated at the Network Rail route level?*

The concept of 'regional efficiency benefit sharing' is not clearly explained. However, we understand that there is already a mechanism already in place at GB level, but it has not been activated yet. In the absence of a clear justification, we cannot comment. If a clear justification does not exist, the concept would be yet another complicating factor in the industry, and therefore not supportable.

*Q16 Do you believe that Network Rail should share in train operator revenue and/or costs? Are there further issues about introducing a revenue/cost sharing mechanism which you would highlight?*

In principle it seems unusual that a supplier should share directly in its customer's revenue and/or costs. In other industries, the incentive for the supplier is that a successful customer will need more 'supplies'.

However, as noted above (Q13), Network Rail is an unusual 'supplier' insofar as it appears reluctant to provide more 'supplies', and therefore revenue/cost sharing may provide a mechanism for overcoming its aversion to risk.

*Chapter 6 and annex E*

*Q21 Do you think that we should retain the single till approach rather than moving to a dual till approach?*

We do not consider that the documents make a case for moving to a dual till approach, and in the absence of such a case, it cannot be supported.

*Chapter 6 and annex F*

*Q28 What are your views on a reservation charge (financially neutral for freight operators)?*

There is evidence that freight operators need to be incentivised to seek paths only where they will actually use them. This proposal may therefore be appropriate.

*Q29 Should passenger open access operators pay charges that exceed variable costs. How should charges be calculated?*

Paragraph 6.61 indicates that the ORR is examining the structure of charges to encourage competition, ie so open access operators can compete more directly with franchised operators if they pay higher track access charges. The open access policy, including the 'not primarily abstractive' test, would be reviewed in line with a new approach.

We do not see why the abstractive test should be exchanged for additional charges. Requiring open access operators to pay the same charges as franchised operators simply rectifies an existing imbalance. It does not require a compensating action.

Furthermore, we strongly challenge the implied objective of encouraging open access operators to compete more directly with franchised operators. Open access has been beneficial to the industry and passengers by opening up **new** markets, not where they compete directly. It should be remembered that the industry is largely funded by taxpayers. It is therefore entirely appropriate that, through the franchises appointed by taxpayers' representatives (i.e. in government), the public purse receives preferential treatment.

*Q30 What are your views on the proposals to improve incentives to reduce traction electricity consumption?*

The incentive to reduce electricity consumption exists wherever the consumer is charged per unit consumed. If these charges are correctly aligned, there should be no need for additional incentives. Indeed, operators might respond to additional incentives to reduce traction electricity consumption by using diesel-powered traction; which is not a desirable outcome.