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Our Ref/Ein Cyf:
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Dear Mr Gusanie

Periodic Review 2013: First Consultation

Sewta (South East Wales Transport Alliance) welcomes the opportunity on the first consultation document of ORR's Periodic Review 2013.

Sewta is a consortium of 10 local authorities; the Councils of Blaenau Gwent, Bridgend, Caerphilly, Cardiff, Merthyr Tydfil, Monmouthshire, Newport, Rhondda Cynon Taf, Torfaen and the Vale of Glamorgan. Sewta works with stakeholders, partners and the Welsh Assembly Government to improve regional transport in south-east Wales. Sewta represents the regional transport interest of 1.4 million people and is the largest of the four transport consortia in Wales.

Our response will draw on 2007 Sewta Rail Strategy, the Sewta Prioritised Investment Programme and 2010 Sewta Regional Transport Plan. All underpin our overall view that rail has key role in meeting the needs of the region.

It will also be based on our experience in the delivery of a number of rail schemes across the region, our familiarity with Network Rail's GRIP Process in developing those schemes, and ultimately our position as funders of enhancements to various aspects of the rail network.

While the Periodic Review is of necessity a complex economic process, we believe it (and likes of Network Rail) should not lose sight of the end-user. The railway exists to transport people and goods, and it is crucial the periodic review looks to understand and deliver the needs and aspirations of rail passengers and freight customers. Reference is made in paragraphs 3.11 and 3.12 to the need to encourage innovation in the railway industry, in delivering a system which encourages greater use being made of the railway instead of "less environmentally friendly transport modes". Any obligations or recommendations which result from the Periodic Review should not prevent train operating companies and Network Rail from innovation, preclude reasonable service improvements and look to positively encourage the rail industry to grow the rail network.

Chapter 3 – Objective for PR13

Q1 Do you agree with our proposed objective for the review? if not, what issues would you add or subtract?

In general we support the objective, and feel that there would be broad agreement for ensuring that the rail network is funded and specified in such a way to be of benefit to both its customers and the taxpayers.

However, we feel there is a potential that comparisons between the efficiencies of Network Rail and other railway systems of the world will shift the focus away from the other, arguably more important aspects of the Periodic Review's objective. A view which is supported by noting the level of previous debate about the robustness of comparisons between international rail operators.

We would agree that Britain's railway system has the potential to be run more efficiently, and it is pleasing that Network Rail continue to recognise this in their remit and strategic business planning documents. As the new structure of Network Rail evolves, and as management and operational policies are devolved to a route and more local level, this would in our view support a focus for Network Rail's efficiencies to be compared on that same level. This would mirror the range of comparisons [with other local authorities) which local authorities have to follow, in delivering of their individual services.

Chapter 5 (high-level timetable)

Q2 Do you have any views on our proposed timetable for the review? Do you need further information to plan your involvement with PR13?

In general and taking into account the rail industry and UK government's rail programmes, the proposed timetable for the review appears the best that could be achieved. We would however make the observation that the funding programmes of other potential stakeholders for the timescale of CP5 (2014-2019) is unlikely to have been confirmed by September 2013 - the final opportunity to comment on the draft determination. It is therefore important that within CP5 there are mechanisms and the flexibility for changes to be made to the outputs of Network Rail to take advantage of any new funding streams and opportunities which were not finalised before the start of CP5.

Chapter 6 Regulatory framework and key issues and annex B (*Price control separation and Network Rail devolution)*

Q3 Do you think that our approach to the disaggregation of Network Rail financial (and other) data to operating route is appropriate? Is the information we are requiring Network Rail to produce set at the right level? Do you have views on the information train operators should produce?

In general we would support in the first instance, the disaggregation of operating expenditure and income secured by Network Rail by route basis. In our experience in both developing and then implementation of rail projects, we would have benefited from having greater disaggregation of the costs and income specifically relevant to the schemes we developed. To that end, we would support further disaggregation of income and expenditure data at a level below that of each Network Rail route. This would be of benefit given the range of administrative areas that cover Network Rail's Wales route, but more importantly the split between funding in each of those areas. For example, some administrative areas qualify for European funding; others do not.

We would also suggest that the data should be further disaggregated between the track and signalling infrastructure, and stations. This would be helpful given the different funding streams available which invariably have a range of conditions attached, and moreoever our particular experience in implementing enhancements at rail stations.

Turning to the issue of the information that train operators should provide, from our experience we understand clearly the commercial sensitivities that would exist. Such concerns could however be dealt with by ensuring that funders, as we have done in the development of our schemes, are afforded the opportunity to enter into a confidentially agreement with train operators over use of any commercial data, to allow us to sufficiently and robustly develop any schemes.

It is of course currently the case that a great deal of information about the costs of operating railways is already in the public domain. The public register of franchise agreements, notices of franchise awards which detail the subsidy or premium profile, Network Rail's publication of track access charges and studies such as that undertaken by the Confederation of Passenger Transport in public transport operating costs, currently provide a large amount of data, from which it is possible for the lay person to garner a picture of the costs of operating a rail service. There are however gaps in that, from it being extremely complex and data is not consistent across all the various sources. (Our experience for example shows a gap, albeit a reducing one, between train passenger data provided by train operators to that offered by ORR.)

Q4 Which aspects of the price control should be separated for England & Wales and Scotland, e.g. should the efficiency assumption be separate?

Q5 Do you think there should be further separation of the price control for Network Rail's operating routes and, if so, which aspects of the price control should be separated?

We would support the continuation of separate price controls for track and station access charges, and would support this being further separated by each of Network Rail's operating routes, and ideally further disaggregated to align with different areas of policy and funding responsibilities.

As policy and funding responsibilities are further devolved, of particular relevance to use in Wales, there may well be a need to price control to be separated between England and Wales. Whilst there is a need for more dialogue on this issue, we would suggest that the Review needs to make some form of passive provision for further separation of price control to be undertaken.

Chapter 6 and annex C (Setting Outputs)

Q6 Is the current approach to defining obligations in terms of outputs the best approach? What outputs should be defined? Should there be a move to more use of outcome based obligations? Would another approach be appropriate such as specifying inputs or intermediate measures?

Q7 What are your views on how we should compile and present 'scorecards' of Network Rail's performance in CP5?

Q8 Should we make more use of 'whole system' outputs over which Network Rail does not have full control, or focus on more narrowly defined outputs which the company is fully responsible for?

Q9 How should output obligations be defined in the context of devolved Network Rail routes with separate price controls?

Q10 How should the balance between the number of output obligations and their individual significance be struck?

Q11 Should Network Rail's output obligations include a specific safety requirement,different from its legal obligations?

Sewta attended the ORR seminar on the Periodic Review in July in Cardiff, and our comments on Network Rail's obligations will be based on the discussion at the seminar and our specific experience developing the Regional Transport Plan. This aspect of our reply will be consolidated, rather than answering each question specifically.

It is important that Network Rail has challenging targets, alongside of the other bodies involved in delivering a rail service. Whilst Network Rail has a direct requirement to meet the industry's internal customers' needs, it should not be forgotten that the rail service is a means to an end, for providing transport for the end users, be they passengers or freight users, and doing so that provides good value for money for the taxpayer. The railways have to work in meeting wider strategic transport objectives (such as modal shift), economic and social objectives (improving access to employment, education and services) and environmental, helping the UK and devolved administrations reach their various climate related targets.

It is therefore important that Network Rail's obligations work back from that position. This would support initially the use of outcomes in defining Network Rail's obligations. In terms of what those outcomes could be, we would suggest some linkage to wider transport planning, economic, social and environmental objectives. Specific to railways could be an objective to maximise the number of rail passengers and goods carried, done so punctually and reliably. The publication of data such as PPM, usage figures and analysis of passenger satisfaction provided by the National Passenger Survey, would allow this outcome to be measured and done so by route, journey and station allow the end user to analyse the performance against their particular requirements.

In so doing it would need some further consideration of how operational performance is measured. On this, three key points need making

1. That PPM at TOC level can be very high, but disguise very poor performance on a particular route or routes. Where a TOC has a high frequency 'metro' style route where a lot of trains meet PPM this can be a particular problem. We would encourage ORR to consider, particularly in relation to some of the larger TOCs with different service types whether the global PPM figure for each TOC is sufficient to safeguard the interests of passengers using Network Rail's lesser performing routes.

2. That any measure involving PPM has the potential to encourage Network Rail and TOCs to find ways to improve PPM performance that is not a 'real' improvement in performance. Without suggesting that all such instances are unjustified, in this category would be differentials between working timetable and public timetable at destination; leaf-fall related timetable adjustments; increases in running times generally; reductions in calls at intermediate stations etc. Many of these will be justified, but we encourage ORR to consider how it can monitor – and if necessary challenge – use of inappropriate means of achieving PPM targets.

3. That many trains meet PPM at destination, but have run significantly late, perhaps up to 20 minutes late, or do not stop at intermediate stations. We encourage ORR to be aware that some passengers will have suffered significant inconvenience (e.g. missed connections) because of poor performance en route even if PPM measured at destination is very high.

In our involvement with Network Rail and the train operating companies in the developing of RUSs and timetables, we have been constant in our belief that performance measures can sometimes be a perverse disincentive to encouraging use of the rail network. We would suggest that more could be done in looking at those sections of the network operated by different operators to ensure that the optimum timetable is being achieved.

Furthermore, we know of examples where Rules of the Route/Plan measures implemented and introduced by Network Rail and train operating companies have an unintended consequence of worsening journey opportunities for passengers. An example of this exists at Bridgend where the local Rules of the Route on platform occupation and junction margins prevents under the current timetable, trains from Maesteg connecting with the Vale of Glamorgan service and access to Cardiff International Airport.

Equally, there is the impact of differential train timings on sections of track used by a number of different services and operators. Between Newport and Cardiff, and in spite of the fact that rolling stock has the same operating speeds, there are occasions when one train will take six minutes longer to travel between Newport and Cardiff, than the previous train. The comparison is most marked around those trains running beyond Cardiff and services which are scheduled to terminate at Cardiff.

However, aA previous operator on the services, now under the Cross Country franchise, frequently stated that they could not provide more stops at Chepstow and other stations on their Cardiff to Nottingham service because of an insufficient turn-around time at Cardiff Central. However, when an analysis was made of the timetable it was shown there to be a six minute PPM allowance for CrossCountry trains between Newport and Cardiff – sufficient time to have allowed for stops at the likes of Chepstow and Caldicot. It was left to Sewta to identify this potential for the current rail infrastructure to be utilisted far better, to increase services at no extra cost. Neither Network Rail or the train operating companies were incentivised because of the focus on achieving PPM, to look at this one area.

We feel a review of the Rules of the Route and other regulation measures could for relatively little cost, increase the overall capacity of the network and bring with it extra benefits for passengers. Similarly, we do not feel that there is a sufficient dialogue between the train companies over the interaction between their respective timetables. Were this addressed, we would suggest that things like missed connections could be eradicated.

As the Wales Route Utilisation Strategy stated, the general principle adopted throughout the RUS has been, "*to consider simpler and low cost intervention to more complex and expensive solutions…. [with] timetabling solutions been sought as preferable to infrastructure works*."

In summation, Sewta believes that an obligation should be put on Network Rail as overseer of the timetable on the rail network has a key role in delivering a better public timetable designed foremost for the benefit of the passenger.

Although they are improving, there are still examples in Network Rail's work and a public perception that more could be done by them to provide the essential building blocks and conditions for a reliable, efficient and safe rail service for the variety of end users. Therefore, the use of whole industry outputs would we suggestion be essential in ensuring that Network Rail fully appreciate the importance of their monopoly position as infrastructure provider.

For the industry itself, we are mindful of the many contractual arrangements between Network Rail and train and station operators, and would therefore understand the use of a range of technical and operation outputs to make up Network Rail's scorecard for CP5. Nonetheless, mindful of the end user, particularly in relation to passenger traffic, it may be more appropriate for a two stage scorecard. One being based on the key measures of performance of a train service – which ultimately is what the end user of the railway is most interested in. A second level would be of specific railway operational outputs based around areas such as number of track circuit failures, track geometry.

We would also suggest that there be a clearer distinction be made between presenting Network Rail's performance in relation to stations, as opposed to its operational activities. Stations are the first place at which most rail users make contact with the rail network and as such those first impressions and important for the overall well-being of the railway network. However, and despite significant investments from the likes of local authorities and devolved administration, the National Passenger Survey scores for stations remain the lowest scoring of all the areas covered, and not showing any trend upwards. This leads one to reach the conclusion that despite all the incentives, those relating to the state and condition of rail stations may not be sufficiently challenging or penalising enough, to get Network Rail and rail industry to devote sufficient resources on this key part of the rail network.

A greater separate focus on station performance would also be necessary given that stations are the most significant area to attract external funding particularly from likes of European funding. Given that such funding streams come with their own conditions and performance monitoring, this would be useful.

There is also an argument for the station conditions scores to be assessed independent of Network Rail. This could be achieved through the NPS or through say involvement of external bodies (particularly devolved administration and local governments.) External monitoring along with a focus on incentivising improving and enhancing station facilities, may well combine to ensure that the condition and passengers perceptions of stations improve which can only be of benefit to the whole industry.

If PPM is revised as we suggest being more journey and station specific, the same should apply to any obligations or outputs regarding stations. Firstly, by disaggregation at route level but mindful of the local nature of stations, at station level.

In terms of penalties for Network Rail not achieving any of those obligations, we don't have a particular preference. Accepting that the rail network is made of many linkages and therefore as only as strong as the weakest link, one criticism of the railway is that it has moved away from considering itself as a whole industry and works in silos, unconnected areas. Whilst any failure to deliver an obligation should be analysed, it needs to be kept in perspective and with the end user in mind.

Chapter 6 and annex D (improving incentives)

Q12 Do you have views on how the effectiveness of the existing financial incentives can be improved?

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

Q14 Do you agree that we should include a regional efficiency benefit sharing mechanism calculated at the Network Rail route level? Are there further issues about how a regional efficiency benefit sharing mechanism should be introduced which you want to highlight?

Q15 What are your views on exposing franchised passenger train operators to changes in Network Rail's costs at a periodic review?

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?

Q17 We would welcome your views on possible bespoke arrangements for enhancement efficiency benefit sharing and whether there is a need for additional measures to increase the contestability of expenditure?

Q18 Are there further new incentives which you believe should be introduced and what would the benefits be?

Q19 Are there other interactions between incentives (and the wider regulatory framework) which we need to take into account?

Our general view would be that the current structure of Network Rail makes it difficult to identify normal financial incentives for the company; compared to the incentives that a normal commercial company with shareholders would follow if having to delivery operational infrastructure and a service for its direct customers and indirect end users.

One solution may be to provide an inbuilt deficit within Network Rail's budget, which would be compensated by the company achieving increases in its efficiency carrying out its work. Or, Network Rail could be offered grants to match fund any increase in income from train operating companies as a result of the extra services provided, with this grant monies being used to fund further improvements.

Similar arguments apply in determining how Network Rail's structure and indeed the current franchising system could provide the conditions for costs, revenues, and therefore surpluses and losses to be shared between Network Rail and the train operating companies. It does however follow that there remains a need to have some mechanism which offers the opportunity for any savings or surplus secured by Network Rail in delivering its obligation, to be returned to the customer and end user. Where this enables a reduction in subsidy or grant, such a move would be welcomed given the current financial pressures on many budgets.

Network Rail should however only be able to share in additional income whether they have materially contributed to the infrastructure enhancements that have enabled the service improvements that generated the additional income. This has the benefit of possibly incentivising Network Rail to make capacity enhancement improvements to the network, though there needs to be a mechanism to ensure that Network Rail does not benefit from double counting – receiving profit sharing payments and additional income from the variable charge.

Whilst allowing for Network Rail's unique structure and position of monopoly provider of rail infrastructure, the potential that concessions may be offered to other operators to undertake some of NRs current activities provides a scenario where incentivising NR needs looking at. One mechanism might be to use as a benchmark NRs operating costs and expenditure for a route and then through market testing see if any alternative operator could be found. It is worth noting how local authorities and other statutory bodies have already undergone significant changes in this area where once a range of services were carried out by a monopoly, are now undertaken by a varied cross selection of bodies – from commercial companies to not for dividend enterprises.

In such a scenario there will need to consideration of the likely scale of the benefits and incentives, but one that immediately springs to mind is around the area of station buildings. It is not always clear that NR are sufficiently incentivised to improve and enhancement facilities as they will not add to their operating surplus. The franchising system tends also not to allow the train operating companies leasing the stations off Network Rail, to invest in station facilities if it were their own permanent asset.

We would be concerned if train operating companies during the length of a franchise were exposed to significant changes in Network Rail's costs. That is partly because a fear that the need to cater for this risk may well lead to the train operating company adopt a risk averse position, work to a fixed economic profiled and if faced with an increase in Network Rail's costs, look to reduce services in order to maintain that same business profile. We already see this when train company's other costs (such as staff, fuel) impact on their business plan and lead to commercial decisions to reduce services within a franchise. That said, should Network Rail deliver efficiency savings and help the industry reduce its costs, it should be the case that such savings are not automatically diverted to the train operating company and to their profit and loss accounts, but reinvested back into enhancing the rail network.

Chapter 6 and annex E (Financial framework)

Q20 What are your views on the duration of the control period?

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

Q22 Do you think that our overall approach to risk and uncertainty in PR08 was appropriate and are there any improvements that could be made for PR13?

Q23 Network Rail faces a number or risks. At this stage, do you have any views on how general inflation risk and input price risk should be addressed?

Q24 We plan to retain the same high-level approach to amortisation in CP5 that we introduced in CP4. What are your views?

We have no specific preference for the actual duration of the control period. We would only suggest that given the range of different periods covered by those bodies with separate policy and funding responsibilities, there needs to a mechanism with the control period to allow for any obligations and defined outputs for Network Rail to be revisited.

It is worth stating that control periods of over 5 years in length could mean that some governments, would not have any direct influence over guiding the future direction of a major public asset in the railway.

In your commentary, mention is made to the concern that as the bulk of public financial support is paid directly to Network Rail, it gives an impression that the organisation's principal responsibility is to government rather than the train operating companies. Any proposal to reverse this method of paying Network Rail would be of concern to those outside the rail industry. Payment of a large fixed charge by the Government is not unreasonable bearing in the mind the benefits which will be obtained by the Government (and indirectly public), such as reducing congestion, pollution and limiting expenditure on new road construction. The Government and wider public are just as much customers of Network Rail, and the industry itself, and as such Network Rail should be held accountable to Government and the public.

We would support the retention of the single till approach with one condition. The commercial side of Network Rail, particularly in and around stations, can sometimes focus on the profit/surplus incentive, above the less commercial activities which land at stations can sometimes be used for. This may include the provision of land for car parking, better bus interchange which in experience do not generate the same level of return on an asset, which a more commercial enterprise would. If Network Rail's obligations, outputs and obligations are disaggregated by route in the first instance, this may help ensuring that the commercial side of Network Rail's activities may become more mindful of a need to consider the whole railway network and invest some of the commercial surplus in improving operational facilities.

In terms of risk, although their performance in this regard is improving, promoters and funders of rail schemes (of which Sewta is one), have some concerns about the way in which Network Rail's stance on risk, leads to them to delivering improvements in an efficient and timely manner. In particular, promoters and funders of schemes have expressed concerns over three issues:

First, there is a lack of clarity over Network Rail's obligations and the complexity of the industry processes, Second, there remains a culture of risk aversion within the company, and finally, there is a perception of high charges levied by Network Rail for providing services key to taking forward schemes.

The Network Rail approach is to allocate risks to the party best able to manage and mitigate them. This aversion to risk has tended to hold up projects and in order to address these issues, we would support a fund which uses payments from scheme promoters to cover Network Rail's own costs and liabilities, and encourages Network Rail to become less risk averse as a result.

Previous use of either a Network Fee Fund: or Industry Risk Fund: - with a level of contributions from the funder or developer of a scheme, and sharing of liabilities would act as an incentive to manage industry risks where possible and deliver those schemes which are likely to be implemented.

Caps would be set to reflect a reasonable balance of protection both for Network Rail and its customers and would seek to act as an incentive for all parties to meet their contractual obligations. However if the liability caps are breached and both funds are exhausted, Network Rail has stated it would fund the over- spend on such schemes by including them as part of its Regulatory Asset Base. This mechanism would allow Network Rail to fund the investment shortfall on the basis of expected revenue from franchised operators.

However, for works funded by third parties, the requirement to sign up to the one sided Network Rail model agreements presents local authorities with a problem, as is shown below.

This results in a number of approaches to dealing with risks, either through the application of differential rates of return to the risks associated with a scheme or through the application of a contingency allowance for unquantified and unidentified risk. In consideration of these risks, reference is made to outputs from previous schemes and from comparative businesses.

This equates to contingencies of between a low of 8% and a high of 43% depending on the type of scheme. Sewta's recent experience with Network Rail suggests that 25% is the current norm. Even this does not appear to give Network Rail a sufficient incentive to provide customers' with robust and reliable cost estimates.

In the past, Network Rail has also proposed a schedule of fees for the services that it provides to third parties. These have been assessed for reasonableness by ORR against market tested schemes elsewhere. As a third party, Sewta is grateful for the project management support that it receives from Network Rail but this proposal does nothing to address their one sided view toward risk sharing.

It is hoped that the measures proposed will provide a means of taking those schemes forward, which presently are stalled due to issues of cost and risk allocation. Unfortunately, this is unlikely to be the case as they do not appear to address fully the enhancements by third parties, such as local authorities, or as in the case of Sewta, combinations of local authorities. The remainder of this response therefore deals with the funding issues being faced by local authorities or regional groupings of local authorities, as they seek to take forward rail enhancement schemes.

Over the past few years, moving such projects forward has proved extremely difficult. Together with the form of agreements used by Network Rail, the issues surrounding the apportionment of risk have been the major problems in the process. These problems are not new. Aversion to risk was endemic in Railtrack and continues to be so within Network Rail. Both organisations have signally failed to take account of how local authorities are funded and have perpetuated a situation where public money is being demanded to protect public money from risk.

In Wales, rail schemes are funded through a combination of the Welsh Government's Rail Forward Programme, Regional Transport Grant, and European Covnvergence Funding programme. Local authorities and Sewta will develop rail schemes up to Grip 3 level before passing them for implementation to the Welsh Government. All this means that the scope of the scheme and a reasonably accurate cost estimate has to be submitted within a bid for funding. Under the Network Rail proposals, an agreed percentage will have to be added to these estimates, for payment into the funds to cover risk.

When local authorities expend public money, they are expected to deliver the projects within the level of their grant funding and need to limit cost overruns. Thus in the past, negotiations have revolved around investigating the way in which this could be addressed. Unfortunately, throughout the transition from Railtrack to Network Rail, the requests have not been resolved nor has the suggestion that a different set of agreements is needed for local authority funded schemes, been accepted.

Allied to this is the total lack of understanding shown by Network Rail of how the local authority driven enhancement schemes are funded and the different conditions which govern the grant mechanism. Past experience has seen that a number of such schemes throughout Wales have been lost because of the failure of Railtrack to react to the spending deadlines associated with the grant funding. There is nothing currently to suggest that the Network Rail proposals will address these issues.

From the document it appears still to be the case that whatever happens during the course of a project, Network Rail is protected against financial loss. The same does not appear to be true of any local authority investment. The concerns that have been expressed repeatedly about local authorities being presented with one-sided agreements remain unresolved.

However, it is pleasing to note that under Condition 7 of Network Rail's Network Licence, there is a requirement to improve, enhance and develop the network "so as to satisfy the reasonable requirements of persons providing services relating to railways and funders in respect of the quality and capability of the network".

These requirements have long been restricted just to maintaining the network and the requirement to enhance and improve, is a positive change which is long overdue. Too often the local authorities and regional consortia such as Sewta have been told when promoting schemes - even those with full funding - that there is nothing in it for Network Rail. Hopefully, this revised condition will mean that greater consideration will have to be given to local authority schemes, especially those that are able to be piggy-backed onto Network Rail renewal schemes. This may mean that Network Rail needs to engage on a more formal basis with local authorities to ensure that complementary schemes are identified at an early stage.

If progress is to continue to be made on third party enhancement schemes, the proposed Network Rail funds and template agreements is not the way forward. In place of the proposed agreements, Sewta would therefore suggest the creation of a "catch-all" agreement between Network Rail and the Government and its regional assemblies, which underwrites projects funded by local authority sponsors. In Sewta, where individual Regional Transport Grant schemes costing up to £50 million are programmed, this is essential in order to move forward.

In the absence of such an agreement, separate negotiations have had to take place in order to progress works because the terms used by Network Rail are not appropriate to local authority accounting rules. Therefore, assurance has had to be obtained from the Welsh Government to ensure that any cost over-runs will be underwritten. This method removes the one sided imposition of risk from the local authority sponsor.

Chapter 6 and annex F (Structure of charges)

Q25 Do you consider that our charging objectives remain appropriate?

Q26 What are your views on the geographical disaggregation of variable usage charges?

Q27 What are your views on introducing a charge levied to reflect network scarcity?

Q28 What are your views on a reservation charge (assuming it would be set to be financially neutral for freight operators)?

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

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

Q31 Should we put a cap on certain freight charges in advance of our determination and should these be linked to other changes?

Q32 Do you have views on the interactions between these possible changes and when they should be implemented – for example whether some changes should only be introduced after other changes have 'bedded in'?

Throughout our response we have constantly focussed on the need for the rail network to be there with the end user (be it rail passenger or freight user) in mind. We would therefore general agree when the objective of any charging structure is to ensure the network is used efficiently and allows to accommodate additional demand for more trains, and thus more rail travel.

We would however hope that the costs caused by the use of the infrastructure, which is passed on to the train operating companies in way of track access charges, are realistic. We would hope that the levels of investment in recent years in track renewals, resignalling schemes would have incorporated within the implementation process some focus on reductions in long term maintenance and operational costs. It is hoped that a £200 million resignalling scheme such as that which is about to commence around Cardiff, will lead to lower maintenance costs for a long period, 30 years. This can only be good for the efficiency and value for money of the rail network.

Looking at the charges proposed for network scarcity and reservation of paths, reference is made to possible impact on performance and the need to somehow impose a charge where one operator's service leads to congestion and therefore impact on other operators. We would hope that Network Rail's role as overseer of the timetable, which we earlier emphasised should be strengthened, would not agree to a particular service which would have such a deleterious effect on other operators service. That said the focus on performance impacts in the rationale for network scarcity and reservation charges should not be overstated. Our experience on a number of enhancement schemes, where the cost of performance impacts outweighs the benefits of a proposal to increase in service (which would increase the numbers of passengers travelling by train) seems a perverse situation, and surely not what track access charges were ultimately designed to do. Given the different economic profile of new services and need for sufficient time for those services to become well patronised, we would be concerned at the potential that a scarcity charge could have on the viability of these new services.

That said, one potential benefit for the use of reservation charges is in relation to those paths which still held on to by freight operators, at no cost. For example, on the Aberdare line a number of freight paths are not used but result in gaps in the passenger timetable. If reservation charges were introduced, it is our view that this would change the economics of retaining unused paths and allow much better use to be made of the available capacity.

Turning to issues related to the scarcity charge, we would suggest that the structure of charges allows for Train Operating Companies to introduce service improvements which are over and above their franchise commitments, but at times of the day, early morning, late evening, or Sundays when their impact on the rail infrastructure is less than say at a peak commuter times. Allowing the TOCs to incur just a marginal increase in track access costs for such services, could improve the viability of these services.

South Wales has yet to benefit from open access passenger operator's services. We do accept the rationale that open access operators pay more of the costs to run their trains on the network, with one proviso. That the condition which imposes restrictions on where those operators can stop should be relaxed and ultimately removed. It again seems perverse where an operator has identified a commercial gap in the franchise specifications, can be prevented from filling it by conditions imposed on it. That said, we would be cautious that open access operators are left to cherry pick the good services and the impact these may on the finances of the incumbent TOC, and any consequent ability or willingness of them to provide other service enhancements.

We have one comment about the proposed freight charges. We seek clarification on what is proposed for freight only lines should they be returned to be multi-use lines operated by passenger trains as well as freight trains. Although Sewta is primarily interested in development of passenger services, we are mindful of the importance, and growing importance at that, of moving freight by rail. Therefore any proposal for freight operators to see their travel access costs increase on previously freight only lines, because of the operation of passenger trains raises concern at the potential that the freight operator may consider moving their goods by another mode. In most cases this would be by road, and for many local authorities their greatest challenge from a highways perspective is in relation to looking at ways of taking HGVs off the local and regional road networks.

We trust these comments are of use, and have no objection to any of our reply being made publicly available

Yours sincerely

Mark Youngman
Chair, Sewta Rail Working Group